

**WESTERN AUSTRALIA  
DETERMINATIONS  
OF THE  
SALARIES AND ALLOWANCES TRIBUNAL  
PURSUANT TO PROVISIONS OF  
SECTION 6A  
OF THE  
SALARIES AND ALLOWANCES ACT 1975,  
AND THE  
PARLIAMENTARY SUPERANNUATION ACT 1970**

23 August 2001

Amendments to the Parliamentary Superannuation Act 1970 and the Salaries and Allowances Act 1975 resulting from the Parliamentary Superannuation Legislation Amendment Act 2000 requires the Tribunal to undertake inquiries and determine a range of matters relating to Parliamentary Superannuation.

The first matter dealt with by the Tribunal in December 2000 involved the determination of the level of State superannuation contributions for Members who entered the Parliament after the closing date of the Parliamentary Superannuation Scheme and transitional arrangements for those Members who elected to transfer to the new arrangements.

The Tribunal will issue a number of superannuation related determinations.

Advice has been received from the Government Employees Superannuation Board indicating that arrangements need to be made to enable members of the Parliamentary Superannuation Scheme to meet liabilities in respect to their superannuation contributions surcharge payment. This falls into two categories, Members who qualify for a pension and Members who do not qualify for a pension but receive a benefit of twice contributions plus interest under Section 14(3).

The first determination will enable those Members who left the Parliament this year and who had not qualified for a pension (Section 14(3) of the Parliamentary Superannuation Act 1970) to leave a portion of their contribution refund in the Scheme in order to meet their expected superannuation contributions surcharge liability under Section 15(7) of *Superannuation Contributions Tax (Members of Constitutionally Protected Funds) Assessment and Collection Act 1997*. The amount retained will purchase a notional deferred pension using surcharge commutation factors.

The notional deferred pension will be commuted to a lump sum when the Member produces to the Government Employees Superannuation Board a copy of the Superannuation Surcharge Final Liability Notice issued by the Australian Taxation Office. A cheque will then be made payable to the Deputy Commissioner of Taxation to ensure that the payment is used for surcharge purposes.

The balance of the notional deferred pension will be commuted using the same surcharge factors and then be refunded to the member at the same time. This payment will be an Eligible Termination Payment (ETP).

The second determination provides a mechanism for those members of the Parliamentary Superannuation Scheme who qualify for a pension under the Parliamentary Superannuation Act 1970 to commute part of their pension to meet any contribution surcharge imposed under Section 15 (7) of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*.

In considering the best method of providing a determination enabling the equitable means of reducing members pensions, the Tribunal has decided to use factors provided from time to time by the Actuary

appointed by the Treasurer under Section 27 of the *Parliamentary Superannuation Act 1970*. The surcharge commutation factors will be reviewed by the Actuary from time to time.

The third matter also concerns the contributory scheme and deals with the newly inserted Section 5 (6) and Section 11 (1) and (2) of the *Parliamentary Superannuation Act 1970*. These Sections state:

- Sec 5 (6) If under section 11 contributions have been made to the scheme in respect of a member then for the purposes of this Act the member is deemed to have made the contributions to the scheme.
- Sec 11 (1) While a person is a member, contributions shall be made to the scheme in respect of the person of an amount calculated on such basis as is determined from time to time by the Tribunal.
- Sec 11 (2) If the contributions in respect of a member are not paid by the State as part of the member's remuneration they are to be deducted from the member's salary.

Clearly the intent of the Parliament in passing this legislation was to allow Members the ability to "salary sacrifice" their compulsory superannuation contributions in much the same way as is available to employees in normal occupations. To this extent, this Tribunal provides a limited form of salary packaging for those persons holding offices under Sections 6 (1) (c), (d) and (e) of the *Salaries and Allowances Act 1975*.

Given that intent there appears to be no reason why Members should not be able to enter into salary packaging arrangements along similar lines to that contained in the "Guidelines For Salary Packaging In The WA Public Sector", as amended 9 December 1998. A copy of these guidelines can be accessed at <http://www.doplar.wa.gov.au/public/circular/1198attach.html>.

The determination enabling Members to take advantage of this provision has been inserted in the determination made under Section 6 (1) relating to Members of Parliament remuneration.

Dated at Perth 23 August 2001.

R H C Turner AM  
Chairman

J A S Mews  
Member

SALARIES AND ALLOWANCES TRIBUNAL

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**Determination made under Section 28 (2) of the *Parliamentary Superannuation Act 1970***

Under Section 28(2) of the *Parliamentary Superannuation Act 1970* the Tribunal may inquire into and determine any matter in connection with contributions to and the benefits payable under the Scheme.

The Tribunal determines that where a person who under Section 14 (3) ceases to be a member and is not entitled to be paid a pension, he or she can elect to retain an amount in the Scheme in order to meet their expected superannuation contributions surcharge liability under Section 15(7) of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*. The amount retained will purchase a notional deferred pension.

The notional deferred pension will earn interest at 7 per cent per annum. This percentage will be adjusted from time to time, in accordance with quarterly movements in the Treasury 10 year bond rate as contained in the Reserve Bank of Australia- Interest Rates and Yields- Capital Market (F2) table.

The notional deferred pension will only be commuted to a lump sum using surcharge commutation factors when the member forwards a copy of the Superannuation Surcharge Final Liability Notice issued by the Australian Taxation Office. A cheque will be forwarded to the member made payable to the Deputy Commissioner of Taxation to ensure that the payment is used for surcharge purposes.

The balance of the notional deferred pension will be commuted using the same surcharge factors and then be refunded to the member at the same time. This payment will be an Eligible Termination Payment (ETP).

The Parliamentary Superannuation Board Actuary appointed by the Treasurer under Section 27 of the *Parliamentary Superannuation Act 1970* determines the surcharge commutation factors used in the purchase and commutation of the notional deferred pension. The surcharge commutation factors will be reviewed by the Actuary from time to time.

**Determination made under Section 28 (3) of the *Parliamentary Superannuation Act 1970***

Under Section 28 (3) (i) of the *Parliamentary Superannuation Act 1970* the Tribunal may inquire into and determine when and in what circumstances pensions may be wholly or partly commuted and how commutations are to be calculated.

The Tribunal determines that members who qualify for a pension can commute a portion of their pension for surcharge purposes to meet any superannuation contribution surcharge under Section 15 (7) of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*. The pension will be indexed and paid in accordance with Section 15B and 25 of the *Parliamentary Superannuation Act 1970*.

The portion of the pension will only be commuted when the member forwards a copy of the Superannuation Surcharge Final Liability Notice issued by the Australian Taxation Office. A cheque will be made payable to the Deputy Commissioner of Taxation and forwarded to the member to ensure that the payment is used for surcharge purposes.

Where the Member had previously elected to take a maximum lump sum benefit, any residual pension will be commuted using the Scheme's commutation factors and then refunded to the Member at the same time as the surcharge payment cheque is forwarded to the member. This payment will be an Eligible Termination Payment (ETP).

The Parliamentary Superannuation Board Actuary appointed by the Treasurer under Section 27 of the Parliamentary Superannuation Act 1970 determines the surcharge commutation factors used in the commutation of the portion of the pension required for surcharge purposes. The surcharge commutation factors will be reviewed by the Actuary from time to time.

Dated at Perth 23 August 2001.

R H C TURNER AM  
CHAIRMAN

J A S MEWS  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL