

G WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

7653



PERTH, THURSDAY, 21 DECEMBER 2000 No. 279 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

SALARIES AND ALLOWANCES ACT 1975

DETERMINATION OF THE SALARIES AND
ALLOWANCES TRIBUNAL
11 DECEMBER 2000

DETERMINATIONS OF THE SALARIES AND
ALLOWANCES TRIBUNAL
18 DECEMBER 2000

DETERMINATION OF THE SALARIES AND
ALLOWANCES TRIBUNAL
Section 6A
PARLIAMENTARY SUPERANNUATION

SALARIES AND ALLOWANCES ACT 1975
DETERMINATION OF THE SALARIES AND ALLOWANCES TRIBUNAL
11 DECEMBER 2000

The Tribunal has today issued a report, under Section 7 of the Salaries and Allowances Act 1975, to the Minister recommending an increase in the remuneration to be paid to judges, District Court Judges, Masters of the Supreme Court and magistrates, and members of the Anti-Corruption Commission.

In accordance with past determinations, it is necessary to determine the remuneration for a number of Officers holding offices under Section 6 (1)(d) and (e) of the Act. This is required due to a relativity that exists with these positions and those contained in Section 7.

—————
DETERMINATION

SECOND SCHEDULE

Pursuant to the provisions of the Salaries and Allowances Act 1975 (as amended) the Salaries and Allowances Tribunal determines the following levels of remuneration to be paid with effect from 1 December 2000. No change is made to other positions contained in the Second Schedule and as determined on 23 August 2000.

SECOND SCHEDULE—PART 1

| | |
|--|-----------|
| Crown Solicitor | \$196,173 |
| Parliamentary Counsel | \$196,173 |
| Queen's Counsel | \$186,364 |
| Crown Counsel | \$176,555 |
| Principal Crown Prosecutor | \$176,555 |
| Deputy Crown Solicitor | \$166,747 |
| Deputy Parliamentary Counsel | \$166,747 |
| Assistant Principal Crown Prosecutor | \$147,463 |

SECOND SCHEDULE—PART 2

Supreme Court

| | |
|---------------------------|-----------|
| Principal Registrar | \$168,512 |
| Registrar | \$149,229 |

District Court

| | |
|---------------------------|-----------|
| Principal Registrar | \$156,938 |
| Registrar | \$147,463 |
| Deputy Registrar | \$132,593 |

Dated at Perth this 11 December 2000.

D. G. BLIGHT, AO, Chairman.
R. H. C. TURNER, AM, Member.
J. A. S. MEWS, Member.

WESTERN AUSTRALIA
SALARIES AND ALLOWANCES ACT 1975
DETERMINATIONS
OF THE
SALARIES AND ALLOWANCES TRIBUNAL
18 December 2000

In December 1998 the Tribunal indicated that it would trial a "Personal Merit Allowance" (PMA) for Chief Executive Officers for a period of two years. The initial intent of the Tribunal was to provide an increment to the next salary point following completion of a fixed period of service in a position at the same classification level. A convincing argument was presented to the Tribunal to link the increment to the performance agreement entered into by CEO's with their Ministers. The Personal Merit Allowance evolved from a mix of the two.

Part of the Tribunal's decision came about due to the growing discontent among Chief Executives regarding their remuneration levels. Coupled with this was advice received from the Public Sector Standards Commissioner indicating that the level of applicants for CEO positions was not emanating from the CEO or second line of the executive structure in interstate public sector or private sector organisations. The Personal Merit Allowance enabled an increment within a position that could be achieved mid-term through a contract.

As the trial period draws to a close, the Tribunal, having seen the result of the mix, intends to cease the Personal Merit Allowance in its present format. The role of this Tribunal is primarily remuneration oriented. Performance is not the province of the Tribunal; this is a matter between the CEO and his or her employer.

However, the matter of remuneration for CEO's is of concern to the Tribunal. Annually the Tribunal is requested by the Government to exercise restraint in the consideration of remuneration increases. At the same time, within each twelve-month period, the Tribunal is also requested to provide additional remuneration in order to attract the most suitable candidate for a vacant position as the determined remuneration is considered to be insufficient.

Clearly the overall cost to the State in acceding to individual requests would not be great. However, the requests generally relate to persons untested in the position and the level of remuneration would place them at a higher level than proven performers holding Chief Executive positions. If the level of remuneration is insufficient to attract suitable applicants why should CEO's serving in similarly classified positions content to be second best? In any event, see our later comments on CEO remuneration generally.

The problem faced by the Tribunal is not new. An examination of the history of the Special Division remuneration levels shows that various methods have been adopted over the years to resolve the widening gap between the public and private sectors. As an example, the number of remuneration levels has been increased several times in order to provide greater increases for the State's top positions. As another measure the Tribunal introduced a 10 per cent loading for those persons who held positions without a "right of return" to the Public Sector on completion of their employment contract. This was subsequently increased to 20 per cent in 1994.

Normal salary movements combined with the non-tenure loading are still insufficient at times to attract the person considered most suitable. To assist the Government the Tribunal also determined that subject to a special case being presented to the Tribunal by the employer, a further loading might be approved. This loading of up to 15 per cent has only been applied to two positions. Attempts have been made to have the loading applied to other positions but these have not met the "special case" requirements determined by the Tribunal.

Information obtained from private remuneration consultants and interstate public sector salary setting bodies shows that, on a comparable basis, using common job size methodology, the remuneration of Western Australian Chief Executives has lost ground in recent years. The disparity with the private sector is greater now than at the time of the last major remuneration review in 1990. Interstate Public Sector comparisons are not as disparate as the private sector; however, there is sufficient difference to warrant a review of the Western Australian salaries.

Compounding the above information is the requirement of the Salaries and Allowances Act 1975 for the Tribunal to determine the exact level of remuneration for each office. Flexibility does not exist in the Act to enable the employer some scope to vary the remuneration determined by the Tribunal. The level of remuneration advertised with vacant positions is fixed and no variation can occur without Tribunal intervention.

This type of remuneration setting suited the Public Service at the time the Act was proclaimed in 1975, when appointment to positions from outside the Public Sector was rare. In today's environment this rigid statutory requirement becomes an impediment to efficient management. Chief Executive remuneration in a number of other jurisdictions is attended to by a Tribunal or salary setting body through the provision of remuneration ranges for each classification level. The employer having due regard to the experience, expertise and market viability of the individual determines the salary point within a range.

Given the change in the setting of salaries and wages that has occurred through both Enterprise and Workplace Agreements, consideration must be given to the method of remunerating Chief Executives. The Tribunal has noted that differing increases that have been granted to Public Servants on the basis of productivity improvements or to a lesser extent trade off in conditions. Classification and salary levels once constant across the whole of the Public Sector vary, in some cases significantly, resulting in the possibility of a promotion to another department providing reduced remuneration. A link between the salary movements for staff in a Government Department and the Chief Executive of

that particular Department is not desirable. The remuneration of a Chief Executive should not depend on short-term productivity improvements or cost saving measures adopted within the agency or department.

In conjunction with the next review, the Tribunal will examine a number of remuneration associated issues and provide a report to the Hon. Premier as the Minister having carriage of the Salaries and Allowances Act 1975.

In the interim, the Personal Merit Allowance will be replaced by the provision of an incremental step within each Group that can be accessed on completion of three years service in a position. This will not be linked to performance; it is purely a remuneration issue. If a scheme can be developed that provides a genuine performance related bonus for Chief Executive Officers, the Tribunal will give the matter some further consideration.

The attached determination has effect from 1 January 2001 and reflects the above notice of intention.

Dated this 18 December 2000.

R. H. C. TURNER AM, Chairman.

J. A. S. MEWS, Member.

DETERMINATION

SECOND SCHEDULE

Pursuant to the provisions of the Salaries and Allowances Act 1975 (as amended) the Salaries and Allowances Tribunal determines the remuneration to be paid to the Officers of the Public Service holding offices included in the Special Division of the Public Service and the persons holding Prescribed Offices, shall be in accordance with the following with effect from 1 January 2001.

SECOND SCHEDULE—PART 1

| | | Tenured | Non-tenured |
|----------------|---------|-----------|-------------|
| Group 1 | Minimum | \$103,290 | \$123,793 |
| | Maximum | \$109,572 | \$131,332 |
| Group 2 | Minimum | \$116,125 | \$139,195 |
| | Maximum | \$122,468 | \$146,808 |
| Group 3 | Minimum | \$132,273 | \$158,573 |
| | Maximum | \$144,829 | \$173,640 |
| Group 4 | Minimum | \$160,432 | \$192,364 |
| | Maximum | \$176,306 | \$211,413 |

The above salaries are inclusive of Annual Leave Loading.

OFFICE

CLASSIFICATION

| | | |
|--|---------|---------|
| Aboriginal Affairs Department Chief Executive Officer Mr Lowe carries a personal classification of Group 3 Minimum | Group 2 | Minimum |
| Alcohol and Drug Authority Director | Group 1 | Maximum |
| Agriculture Western Australia Director General | Group 3 | Maximum |
| Auditor General | Group 4 | Minimum |
| Central Drug Coordination Office Director | Group 1 | Maximum |
| Coastal Shipping Commission General Manager | Group 2 | Minimum |
| Commerce and Trade Chief Executive Officer | Group 3 | Maximum |
| Conservation and Land Management Executive Director | Group 3 | Maximum |
| Contract and Management Services—Department of Executive Director | Group 3 | Minimum |
| Culture and the Arts—Ministry for Director General | Group 2 | Maximum |
| Curriculum Council of Western Australia Chief Executive Officer | Group 2 | Minimum |
| Custodial Services, Office of the Inspector of Inspector (plus personal temporary allowance of \$1,120 pa) | Group 1 | Maximum |
| Disability Services Commission Chief Executive Officer | Group 3 | Minimum |
| East Perth Redevelopment Authority Chief Executive Officer | Group 1 | Maximum |

| OFFICE | CLASSIFICATION | |
|---|-----------------------|----------------------|
| Education Department of Western Australia Chief Executive Officer | Group 4 | Maximum |
| Education Services—Department of | Group 2 | Minimum |
| Electoral Commission—Western Australian Electoral Commissioner | Group 1 | Maximum |
| Deputy Electoral Commissioner | | Level 8 WAEC |
| Salary adjusted in accordance with movements in the Electoral Commission Workplace Agreement | | |
| Energy—Office of Coordinator | Group 2 | Maximum |
| Environmental Protection—Department of Chief Executive Officer | Group 1 | Maximum |
| Equal Opportunity Commissioner | Group 1 | Maximum |
| Fair Trading—Ministry of Executive Director | Group 1 | Maximum |
| Family and Children's Services—Department of Director General | Group 3 | Maximum |
| Fire and Emergency Services Authority Chief Executive Officer | Group 2 | Maximum |
| Fisheries Department Director | Group 2 | Minimum |
| Government Employees Superannuation Board Executive Director | Group 3 | Minimum |
| Government Railways Commission—Western Australian Commissioner | Group 3 | Maximum |
| Health Department of Western Australia Commissioner—personal salary payable to Mr A Bansemer | Group 4 | Maximum \$232,554 |
| Health Review—Office of Director | Group 1 | Maximum |
| Housing—Ministry of Executive Director | Group 3 | Maximum |
| Industrial Relations Commission—Western Australian— Department of the Registrar | Group 1 | Minimum |
| Information Commissioner—Office of Commissioner | Group 1 | Maximum |
| Justice—Ministry of Director General | Group 3 | Maximum |
| Crown Solicitor | | \$196,173 |
| Parliamentary Counsel | | \$196,173 |
| Queen's Counsel | | \$186,364 |
| Crown Counsel | | \$176,555 |
| Principal Crown Prosecutor | | \$176,555 |
| Deputy Crown Solicitor | | \$166,747 |
| Deputy Parliamentary Counsel | | \$166,747 |
| Assistant Principal Crown Prosecutor | | \$147,463 |
| Land Administration—Department of Chief Executive | Group 2 | Maximum |
| Land Authority—Western Australian Chief Executive Officer | Group 2 | Minimum |
| Library Board of Western Australia State Librarian | Group 1 | Maximum |
| Local Government—Department of Executive Director | Group 2 | Minimum |
| Lotteries Commission Chief Executive Officer | Group 1 | Maximum |
| Main Roads Department Commissioner | Group 3 | Maximum |
| Mental Health Review Board President | Group 1 | Maximum |
| Midland Redevelopment Authority Chief Executive Officer | Group 1 | Minimum |
| Metropolitan (Perth) Passenger Transport Trust Chief Executive | Group 1 | Maximum |
| Minerals and Energy—Department of Director General | Group 3 | Maximum |

| OFFICE | CLASSIFICATION | |
|--|-----------------------|-------------------|
| Museum—Western Australian Director | Group 1 | Minimum |
| Parliamentary Commissioner for Administrative Investigations Commissioner | Group 3 | Minimum |
| Deputy Commissioner | Group 1 | Minimum |
| Planning—Ministry for Chief Executive | Group 3 | Minimum |
| Police Service—Western Australian Commissioner | Group 4 | Minimum |
| Plus a retention allowance of 15% of determined salary payable to Mr. Matthews. | | |
| Deputy Commissioner Operations/State Commander | Group 2 | Maximum |
| Deputy Commissioner Administration | Group 2 | Minimum |
| Assistant Commissioners (6) | Group 1 | Minimum |
| Premier and Cabinet—Ministry of Director General | Group 4 | Maximum |
| Deputy Director General | Group 3 | Minimum |
| Productivity and Labour Relations—Department of Executive Director | Group 2 | Minimum |
| Public Sector Standards Commissioner—Office of Commissioner | Group 4 | Minimum |
| Racing Gaming and Liquor Executive Director | Group 2 | Minimum |
| Mr. Sargeant is also to receive an allowance equivalent to 5 per cent of the substantive salary for the position whilst a member of the Christmas Island Casino Surveillance Authority | | |
| Resources Development—Department of Chief Executive Officer | Group 4 | Minimum |
| Revenue Department—State Commissioner | Group 2 | Minimum |
| Rottneest Island Authority Chief Executive Officer | Group 1 | Minimum |
| Small Business Development Authority Managing Director | Group 1 | Minimum |
| Sport and Recreation—Ministry of Executive Director | Group 1 | Maximum |
| State Supply Commission Chief Executive Officer | Group 1 | Maximum |
| Totalisator Agency Board General Manager | Group 1 | Maximum |
| Training and Employment—Western Australian Department of Chief Executive Officer | Group 3 | Maximum |
| Transport—Department of Director General | Group 3 | Maximum |
| Treasury Department Under Treasurer—personal salary payable to Mr J Langoulant | Group 4 | Maximum \$243,125 |
| Executive Director (Finance) | Group 2 | Minimum |
| Executive Director (Agency Resources) | Group 2 | Minimum |
| Executive Director (Economic) | Group 2 | Minimum |
| Valuer General | Group 1 | Minimum |
| Water Regulation—Office of Chief Executive Officer | Group 1 | Maximum |
| Waters and Rivers Commission Chief Executive Officer | Group 2 | Minimum |
| Workers' Compensation and Rehabilitation Commission Executive Director | Group 1 | Maximum |
| Workplace Agreements Commission Commissioner | Group 1 | Maximum |
| Worksafe Western Australia | Group 2 | Maximum |
| Zoological Gardens Board Director | Group 1 | Minimum |

1. NON TENURED SALARY

The non tenured salary is payable to—

- (a) A person holding a Prescribed Office under Section 6 (1)(e) of the Salaries and Allowances Act and who is appointed on a fixed term contract without any guarantee of continued employment at the expiration of such term;
- (b) An officer who is appointed under the provisions of the Public Sector Management Act 1994 on a fixed term contract without any right of continued employment at the expiration of such term;
- (c) An officer who does not elect to retain a right of return as provided in Section 58 of the Public Sector Management Act 1994;
- (d) A commissioned police officer whose previous commission is revoked upon appointment as Deputy or Assistant Commissioner and who is appointed for a fixed term with no right of return to commissioned rank.

2. INCREMENTAL INCREASE

A Chief Executive Officer holding an office included in the Second Schedule, Part 1 of this determination, on completion of 3 years continuous service in the same position shall be entitled to receive, by way of allowance, a one step increment to the next classification level.

The next classification level refers to the salary attaching to the next highest salary to the substantive salary determined for the classification attaching to the position. A person holding a position classified at Group 2 Minimum would receive an allowance to Group 2 Maximum. A person holding a position classified at Group 3 Maximum would receive an allowance to Group 4 Minimum. The salary level for eligible persons classified at the Group 4 Maximum level is, tenured \$193,760, non-tenured \$232,343. Persons in receipt of a "personal salary" or a special allowance are not entitled to receive the abovementioned incremental salary unless specifically determined by the Tribunal.

The value of the motor vehicle shall be assessed on the substantive classification determined for the office held.

3. ATTRACTION/RETENTION ALLOWANCE

For the purposes of clarification, the following extract from the 1994 determination is reprinted.

On occasions it has been found that a person with outstanding qualities for a special office and who was adjudged to be by far the best potential occupant cannot be recruited because the salary offered is considered to be too far below what might reasonably be expected for a similar post in the private sector or in the major standard States.

Consternation has been expressed to the Tribunal that the State could lose the services of a much-needed person for the sake of a relatively small sum that would be more than covered by the contribution he or she would make. We understand the problem and wish to assist in its resolution. However, the following points must be made.

When the Public Service Management Bill was before the Parliament much emphasis was placed on the career nature of the Public Service. The Senior Executive Service was said to have been established to furnish high level policy advice, undertake managerial responsibilities and be deployed in such a way so as to promote the efficiency of the public sector.

In that event it could reasonably be expected that top management would emerge from its ranks and that external appointments necessitating higher salaries than those now determined would be few and far between.

However, whenever external recruitment is considered to be essential every effort should be made to appoint at the rates determined by the Tribunal unless an extraordinary reason dictates otherwise. In the interests of the industrial principle of "a fair go all round" and of a contented top management team it is essential that any personal salary above that set for the office should be paid only for a special and distinguishing reason.

As the rates now set at the higher levels are below the market rates we accept that there should be some flexibility to meet the exceptional case. We emphasise, however, that it is the exception and that the undesirable concept of salary "leap frogging" must surely follow if governments and the private sector start bidding in a senior management auction.

As Section 6(i)(d) of the Salaries and Allowances Act 1975 authorises the Tribunal to fix the rates for officers holding offices we decide and advise that the Tribunal will consider approving a total personal salary of up to fifteen per cent more than the rate determined for an office in an exceptional case for the purpose of recruitment or retention of an officer subject to—

1. A substantial case being presented by the employer to the Tribunal for consideration.
2. The Tribunal being satisfied that it is in the overall interest of the State for the salary to be awarded.
3. No offer being made to the potential appointee above the rate determined until the Tribunal has decided the matter.

Unless already in receipt of this allowance, the allowance will not be provided to officers who are re appointed following the expiration of their contract of employment and who have applied for re appointment.

4. REMUNERATION PACKAGE VALUE

(1) In addition to the basic salary determined, for the purposes of determining the value of the remuneration package the amount determined by the Tribunal for the motor vehicle provided and the employer cost of superannuation should be included.

(2) Motor Vehicle: the Fourth Schedule contains the determination as to the value ascribed to the motor vehicle that will be provided or can be taken in lieu of a vehicle for the offices concerned.

(3) Superannuation: Due to the closure of superannuation schemes over the past 15 years, it is not possible to prescribe the value per person of the superannuation benefit. It is generally assumed that where a person was a member of the Western Australian Public Service prior to the 30 December 1995, the value of superannuation is twelve per cent of basic salary. For those who joined the Service after that date the superannuable component is in accordance with that required under the Superannuation Guarantee Levy, which is currently eight per cent of salary.

SECOND SCHEDULE—PART 2

Supreme Court—

Principal Registrar \$168,512

Registrar \$149,229

District Court—

Principal Registrar \$156,938

Registrar \$147,463

Deputy Registrar \$132,593

The holders of Offices contained in the Second Schedule Parts 1 and 2 shall be entitled to the supply of a fully maintained motor vehicle of a type or value specified from time to time by the Tribunal, for business and personal use within Western Australia.

SECOND SCHEDULE—PART 3

Office of the Director of Public Prosecutions—

Director of Public Prosecutions Salary payable from time to time of Puisne Judge of the Supreme Court of Western Australia.

The holder of this office shall be entitled to a motor vehicle of the type provided to members of the judiciary.

Dated at Perth this 18 December 2000.

R. H. C. TURNER, AM, Chairman.

J. A. S. MEWS, Member.

DETERMINATION

THIRD SCHEDULE

Pursuant to the provisions of the Salaries and Allowances Act 1975 (as amended) the Salaries and Allowances Tribunal determines the remuneration to be paid to the holders of offices included in Section 6(1)(c) of the Act, shall be in accordance with the following, with effect from 1 August 2000.

Clerk of the Legislative Council \$110,534

Deputy Clerk of the Legislative Council \$84,191

Clerk of the Legislative Assembly \$110,534

Deputy Clerk of the Legislative Assembly \$84,191

The above mentioned salaries are inclusive of Annual Leave Loading.

The holders of these Offices shall be entitled to the supply of a fully maintained motor vehicle of a type or value specified from time to time by the Tribunal, for business and personal use within Western Australia.

Dated at Perth this 18 December 2000.

R. H. C. TURNER, AM, Member.

J. A. S. MEWS, Member,
Salaries And Allowances Tribunal.

FOURTH SCHEDULE

SALARY PACKAGING

A person holding an office contained in the Second and Third Schedule of this determination wishing to exercise salary packaging options may, in accordance with the "Guidelines for Salary Packaging in the WA Public Sector", access those benefits contained in Group 1 of the guidelines.

In addition to the salaries determined for persons holding offices included in the Second & Third Schedule of this determination, the following amounts represent the cost to government of the motor vehicles approved by the Tribunal for the respective classification levels. The figures have been calculated having regard to the make and model of motor vehicle previously approved for issue to Chief Executives.

| Classification | Cash Value | Benchmark Vehicle (6 cylinder) |
|------------------------------------|-------------------|---|
| Below Group 1 Minimum | \$13,500 | Ford Falcon Gli or Commodore Executive |
| Group 1 Minimum to Group 2 Minimum | \$16,000 | Ford Fairmont (not Ghia) or Commodore Berlina |
| Group 2 Maximum and above | \$19,200 | Ford Fairmont Ghia or Calais |

Due to the changing costs to Government of providing motor vehicles, particularly with the transition from the payment of Sales Tax to the Goods and Services Tax (GST), the above figures will be varied from time to time by this Tribunal. In calculating costs to determine whether an additional contribution must be made by an individual or the surplus paid as part of salary the cost to Government of the vehicle sought, using the formula detailed in this determination, must be compared against the more expensive of the benchmark vehicles mentioned above. The difference becomes the contribution required from the individual or the amount to be paid as part of annual salary.

The Cash value should only be used where a person elects not to be provided with a motor vehicle.

For the purposes of determining the Total Employment Cost (TEC) of a position the above amounts should be included with the determined salary.

Where an office holder wishes to obtain a motor vehicle that varies from the standard above, the motor vehicle costs must include the lease cost, plus Sales Tax plus Fringe Benefits Tax and all other operating costs based on a figure of 20,000 kilometres travelled annually.

Non CEO's who wish to vary from the standard above must also obtain the approval of their CEO prior to for the make and model of vehicle selected

The formula to be adopted in valuing the motor vehicle shall be—

$$L + S + R + aD + \text{FBT}$$

| | | | |
|---------|---|-------|----------------------------|
| Where L | = | | Lease payments |
| S | = | | Sales Tax or GST |
| R | = | | Registration costs |
| a | = | | Running cost per kilometre |
| D | = | | 20,000 kilometres |
| FBT | = | | Fringe Benefits Tax |

FBT is costed at purchase price (inc. Sales Tax or GST) x Statutory fraction x Gross up (1.942) x FBT rate (0.485)

In most instances the Fleet Manager will provide a total costing for each vehicle.

The vehicle will be available for business use whilst the officer is on duty.

Where an officer chooses not to be provided with a motor vehicle, under no circumstances will the officer be provided with a Government vehicle or cab charge for home to office travel or any other private use.

Fringe Benefits Tax Exempt Agencies

Where an organisation is exempt from FBT in accordance with Commonwealth Government legislation, a notional amount equal to the standard FBT must be levied to the cost of the benefit.

OTHER BENEFITS

Salary packaging in respect to superannuation and Novated Leases can be effected in accordance with the "Guidelines for Salary Packaging in the WA Public Sector" document.

Dated at Perth this 18 December 2000.

R. H. C. TURNER, AM, Member.

J. A. S. MEWS, Member,
Salaries And Allowances Tribunal.

SALARIES AND ALLOWANCES ACT 1975DETERMINATION
OF THE
SALARIES AND ALLOWANCES TRIBUNAL

Section 6A

PARLIAMENTARY SUPERANNUATION

Recent legislative changes to both the Salaries and Allowances Act 1975 and the Parliamentary Superannuation Act 1970 have placed significant additional functions on this Tribunal in the area of Parliamentary Superannuation. Not only is the Tribunal required to determine matters in respect to superannuation arrangements for persons entering the Parliament after the closure of the existing pension/lump sum scheme, but also it has been given authority to amend that existing scheme although it is now closed to new members.

The Tribunal has prioritised the action required of it as a result of the amendments and considers that they can be dealt with in stages.

SECTIONS 10 and 29 of the Parliamentary Superannuation Act 1970

Initially the Tribunal has an urgent requirement to deal with matters pertaining to the superannuation that is to apply to incoming Members following the closure of the existing scheme. The amendments further require the Tribunal to make provision for Members elected to the Parliament for the first time either on or after the election held on 14 December 1996 who may wish to cease participating in the contributory scheme.

These matters as per the Parliamentary Superannuation Act 1970 are—

“Section 29 State contributions for MPs who are not participants in the scheme

(1) In this section—

“complying superannuation fund” has the meaning it has in the SG(A) Act;

“individual superannuation guarantee shortfall” has the meaning it has in the SG(A) Act;

“non participant” means a member in respect of whom contributions have never been made to the scheme or a member who has made an election under section 10(2);

“SG(A) Act” means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth;

(2) The State shall make contributions towards superannuation for every person who is a non participant

(3) The State's contributions in respect of a non-participant—

(a) shall be made in accordance with a determination from time to time by the Tribunal but in any event shall not be less than the minimum amount that the State must contribute in respect of the non-participant in order to avoid incurring an individual superannuation guarantee shortfall in respect of the non-participant.

(b) shall be paid at such time or times as the Minister determines but in any event in such a manner that the State does not incur an individual superannuation guarantee shortfall in respect of the non-participant; and

(c) shall be paid to a complying superannuation fund in accordance with the Minister's determination under subsection (4)

(4) The Minister, by a written instrument, shall from time to time determine to which complying superannuation fund or funds the State's contributions shall be paid.

(5) The State's contributions shall be charged to the Consolidated Fund which is appropriated accordingly.”

“Section 10. Certain participants may withdraw from scheme

(1) In this section—

“eligible person” means a person—

(a) who was elected as a member for the first time at the election held on 14 December 1996; or

(b) who was elected as a member after that date and before closing day;

“set period” means the period beginning on closing day and ending on a day determined by the Tribunal and notified to eligible persons at least one month prior to that day.

(2) An eligible person may at any time in the set period elect to cease participating in the scheme by notice in writing served on the Board.

(3) As soon as practicable after closing day the Tribunal shall inquire into and determine—

(a) a formula for calculating the benefits payable to or in respect of a person who has made an election under subsection (2) (**“termination benefits”**);

(b) when and in what circumstances termination benefits shall be paid;

(c) to whom termination benefits may be paid;

(d) the portability of termination benefits; and

(e) any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.

- (4) *A person who makes an election under subsection (2) shall not be entitled to personally receive the termination benefits while the person is a member.*
- (5) *The Tribunal may from time to time determine the rate of interest to be paid where termination benefits are not paid immediately on a person making an election under subsection (2).*
- (6) *Termination benefits shall be paid in accordance with the Tribunal's determination under subsection (3).*
- (7) *This Act, other than section 29, and the scheme do not apply to or in relation to a person who makes an election under subsection (2)."*

The Tribunal wrote to all Members elected for the first time on 14 December 1996 and to the major Parties advising them that an inquiry was to be conducted and submissions were invited. One submission was received from a Member. The Tribunal suspects that as the matter had been debated in the Parliament over a period of time and well reported in the media, that most of the comment had already been made.

In conducting this inquiry, the Tribunal has relied heavily on the intent of the legislation and the views of Members of both Houses of Parliament as expressed during all aspects of the passage of the Act.

The Tribunal thanks the staff at the Government Employees Superannuation Board for their valuable assistance in conducting research and providing expert advice.

The determinations now issue.

Dated this 15 December 2000.

D. G. BLIGHT, AO, Chairman.

R. H. C. TURNER, AM, Member.

J. A. S. MEWS, Member.

DETERMINATION

STATUTORY REQUIREMENT

"Section 29 State contributions for MPs who are not participants in the scheme"

- (1) *In this section—*

"complying superannuation fund" has the meaning it has in the SG(A) Act;

"individual superannuation guarantee shortfall" has the meaning it has in the SG(A) Act;

"non participant" means a member in respect of whom contributions have never been made to the scheme or a member who has made an election under section 10(2);

"SG(A) Act" means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth;

- (3) *The State's contributions in respect of a non-participant—*

- (a) *shall be made in accordance with a determination from time to time by the Tribunal but in any event shall not be less than the minimum amount that the State must contribute in respect of the non-participant in order to avoid incurring an individual superannuation guarantee shortfall in respect of the non-participant."*

DETERMINATION

For those Members elected to the State Parliament as at or after 14 December 1996 and who elect to transfer from the contributory scheme established under the Parliamentary Superannuation Act 1970; and

For those Members elected to the State Parliament after the closing date of the contributory scheme;

The rate of contribution to be made on behalf of the Members is 9 per cent of the parliamentary salary determined in accordance with Section 6(1)(a), (b) and (c) of the Salaries and Allowances Act 1975.

STATUTORY REQUIREMENT

"Section 10. Certain participants may withdraw from scheme"

- (1) *In this section—*

"eligible person" means a person—

- (a) *who was elected as a member for the first time at the election held on 14 December 1996;*
or

- (b) *who was elected as a member after that date and before closing day;*

- (2) *An eligible person may at any time in the set period elect to cease participating in the scheme by notice in writing served on the Board."*

DETERMINATION

The closing day for the set period shall be 30 June 2001.

STATUTORY REQUIREMENT**“Section 10. Certain participants may withdraw from scheme**

- (3) As soon as practicable after closing day the Tribunal shall inquire into and determine—
- (a) a formula for calculating the benefits payable to or in respect of a person who has made an election under subsection (2) (“**termination benefits**”);
 - (b) when and in what circumstances termination benefits shall be paid;
 - (c) to whom termination benefits may be paid;
 - (d) the portability of termination benefits; and
 - (e) any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.
- (4) A person who makes an election under subsection (2) shall not be entitled to personally receive the termination benefits while the person is a member.
- (5) The Tribunal may from time to time determine the rate of interest to be paid where termination benefits are not paid immediately on a person making an election under subsection (2).
- (6) Termination benefits shall be paid in accordance with the Tribunal’s determination under subsection (3).
- (7) This Act, other than section 29, and the scheme do not apply to or in relation to a person who makes an election under subsection (2).”

DETERMINATION

In respect to Section 10 (3)—

- (a) An eligible person, who during the set period elects to cease participating in the scheme and, who has given notice in writing served on the Board shall be entitled to have held in the Consolidated Fund an amount equal to twice the sum of the contributions made by him to the scheme under this Act together with interest determined in accordance with Section 14(3). Termination benefits shall be paid to a person upon leaving the Western Australian Parliament.
- (b) Termination benefits shall only be paid to the Member, or on the death of that Member, to the personal representative of the estate of that Member.
- (c) Termination benefits shall be held in the Consolidated Fund.

Section 10 (5)—Rate of interest

The rate of interest shall be 7 per cent per annum. This percentage shall 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 “Financial Markets—Interest Rates and Yields—Capital Market (F2)” table.
Dated this 15 December 2000.

D. G. BLIGHT, AO, Chairman.

R. H. C. TURNER, AM, Member.

J. A. S. MEWS, Member.



2 0 0 0 0 0 2 7 9 6 6