

## **Determination: Superannuation for Members of Parliament – 2007 March 28th**

### DETERMINATION OF THE SALARIES AND ALLOWANCES TRIBUNAL

Pursuant to Provisions of Section 6a of the *Salaries and Allowance Act 1975* and Sections 28(3)(5) and (6) of the *Parliamentary Superannuation Act 1970*

#### PREAMBLE

The present arrangements for the splitting of superannuation interests for Family Law purposes, provide that the Parliamentary Pension Scheme (the scheme) is subject to the minimum or ‘default’ option under the Commonwealth’s Superannuation and Family Law legislation in respect of valuing and dividing superannuation benefits upon marriage breakdown.

Under this arrangement the non-member spouse’s ‘interest’ in the Member’s benefit is identified and accrues at a prescribed rate. However, the non-member spouse is not entitled to receive their portion of the Member’s superannuation benefit until the time the Member is paid their benefit.

The Commonwealth’s preferred approach is for superannuation benefits to be divided between the parties at the time of the separation. This is referred to as the ‘clean break’ approach and allows a separate superannuation interest to be created for the non-member spouse, over which they then have full control. This interest can be transferred or rolled-out to another superannuation fund.

By removing, where practicable, the link between the Member and the non-member spouse, administration of benefits is simplified considerably and both parties have the flexibility to deal with their respective entitlements without any further reference to the courts or each other. In particular, it avoids the necessity for the non-member spouse to wait until the Member retires before gaining access to their superannuation interest.

Section 28 of the *Parliamentary Superannuation Act 1970* (the Act) was amended with effect from 31 May 2006 to allow the Tribunal to provide for the immediate splitting of superannuation upon marriage breakdown, in line with the provisions of the *Family Law Act 1975* and regulations made under that Act.

The Parliamentary Superannuation Board Actuary appointed by the Treasurer under Section 27 of the *Parliamentary Superannuation Act 1970* determines the Associate Pension (referred to below) and scheme pension valuation factors used for the purpose of this determination. These factors will be reviewed by the Actuary from time to time.

The references to ‘growth phase’, ‘payment phase’, ‘base amount’ and ‘non-member spouse’ have the same meaning as defined in either Part VIIIB of the *Family Law Act 1975* or the Family Law (Superannuation) Regulations 2001.

The following determination allows for immediate splitting of superannuation interests in the scheme upon marriage breakdown, in line with the Commonwealth’s objectives to encourage a “clean break” for separating couples.

The determination will now issue.

Signed at Perth this 28<sup>th</sup> day of March 2007

Professor M Wood  
CHAIRMAN

J A S Mews  
MEMBER

M L Nadebaum  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

## DETERMINATION OF THE SALARIES AND ALLOWANCES TRIBUNAL

Pursuant to Provisions of Section 6a of the *Salaries and Allowance Act 1975* and Sections 28(3)(5) and (6) of the *Parliamentary Superannuation Act 1970*

The Tribunal determines that

(1) where a member or former member of the Parliamentary Pension Scheme is subject to a 'superannuation agreement', 'flag lifting agreement' or 'splitting order' (as defined in section 28(6) of the *Parliamentary Superannuation Act 1970* made on or after the date of this determination, the following arrangements are to apply to provide for the immediate splitting of the member's superannuation benefit:

- Where the benefit is in the growth phase, or a base amount (lump sum) order or agreement is made and the benefit is in the payment phase, a separate lump sum superannuation interest is to be provided to the non-member spouse. This benefit is to be subject to Commonwealth preservation requirements and is to be either paid to a complying superannuation fund nominated by the non-member spouse or, if the non-member spouse is eligible to cash the benefit, they may elect for a direct payment of the benefit.
  - Where the benefit is in the payment phase, the non-member spouse is to be offered the further option of a non-reversionary Associate Pension.
  - The factors used for converting the member's pension entitlement to the lump sum to be paid to the non-member spouse are to be:
    - o In the growth phase the higher of the Parliamentary Pension Scheme commutation factors and the relevant factors set out in the Family Law (Superannuation) Regulations 2001
    - o In the payment phase, the higher of the scheme pension valuation factors and the relevant factors set out in the Family Law (Superannuation) Regulations 2001
    - o In the payment phase where an Associate Pension is selected, by using the Associate Pension factors and, where appropriate, the scheme pension valuation factors.
  - The member's pension entitlement is to be reduced by the percentage required to be converted to the lump sum that is payable to the non-member spouse, or the percentage required under the terms of the order or agreement.
  - If the benefit is in the growth phase, the maximum pension entitlement that the member may accrue is reduced by the percentage utilised for a payment under this determination.
  - If a non-member spouse receives a payment in accordance with these arrangements, then they are no longer entitled to a reversionary pension upon the death of the member under Section 18 of the *Parliamentary Superannuation Act 1970*.
- (2) where the 'superannuation agreement', 'flag lifting agreement' or 'splitting order' was made before the date of this determination, the immediate splitting arrangements as outlined above are to be optional to the non-member spouse.

Dated at Perth this 28<sup>th</sup> day of March 2007

Professor M Wood  
CHAIRMAN

J A S Mews  
MEMBER

M L Nadebaum  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL