

**WESTERN AUSTRALIA
SALARIES AND ALLOWANCES TRIBUNAL
DETERMINATIONS
PURSUANT TO THE
PARLIAMENTARY SUPERANNUATION ACT 1970
AND
SECTION 6A
OF THE
SALARIES AND ALLOWANCES ACT 1975,
1 JULY 2002**

PREAMBLE

The *Parliamentary Superannuation Legislation Amendment Act 2000* was proclaimed in October 2000. This Act had the effect of significantly altering the *Parliamentary Superannuation Act 1970* (the Act) and the *Salaries and Allowances Act 1975*. The resulting legislation has widened the jurisdiction of the Tribunal in respect to Parliamentary Superannuation in Western Australia.

The superannuation responsibilities of the Tribunal now cover the pre-existing contributory scheme, which closed on 10 October 2000, and the new non-contributory scheme for Members coming into the Parliament after that date. Certain Members elected prior to the closing date had the option of staying in the closed scheme or transferring to the new scheme, which is intended to provide superannuation in line with community standards.

The Tribunal gave notice, by advertisement in "The West Australian" in late September 2001, of its intention to conduct a review into those aspects of parliamentary superannuation now within its jurisdiction. In particular the Tribunal referred to Section 28 of the Act that enabled the Tribunal to change the closed contributory scheme. The Tribunal also wrote to every person who is a recipient of a parliamentary pension, part pension or spouse pension. A total of 109 letters were sent.

Five submissions resulted from the advertisement and letters. One submission came from a person not a recipient or member of the Parliamentary Superannuation Scheme.

Areas of concern the Tribunal was requested to review included:

- The specified age of 65 years for lump sum commutation purposes;
- Pension adjustment for pre 1986 retired members. The percentage of salary provided as a pension altered in 1986 but those Members who had retired prior to the change did not benefit from the changes;
- The method of adjusting pensions. Under the Act, pensions are

adjusted in accordance with movements in the Consumer Price Index (CPI). One submission sought a change in this method to one where the adjustment equated with movements in parliamentary salaries;

- The contributory arrangements for Members who had reached the maximum pension percentage at 20 years service.

In conducting this review, the Tribunal has met with the Parliamentary Superannuation Board and representatives from the Western Australian Parliamentary Former Members Association and received valued assistance from staff at the Government Employees Superannuation Board.

Turning to the review, it is important to re-emphasise that the contributory scheme is closed. Members entering the Parliament at or after October 2000 have different superannuation arrangements. Notwithstanding the closure of the contributory scheme, Section 28 of the Act, as amended, gives the Tribunal clear authority to review aspects of the closed scheme and make determinations deemed necessary. The Tribunal has reviewed those aspects of the closed scheme over which it now has determinative authority. It is also important to note that a number of the matters re-examined in this review have been examined previously by Government, the Tribunal (or both), sometimes on several occasions.

CONTRIBUTORY SCHEME

SPECIFIED AGE - SECTION 16 (2)

The relevant parts of Section 16 of the Act states:

“16. Commutation of certain pensions

- (1) *Subject to subsections (3) and (4), a person who ceases to be a member after the coming into operation of the Parliamentary Superannuation Amendment Act 1980¹ may elect, by notice in writing served on the Board within 3 months of his so ceasing to be a member or such longer period as the Tribunal determines, to convert to a lump sum payment, determined in accordance with subsection (2), his annual pension entitlement or a portion thereof.*
- (2) *A lump sum payment under subsection (1) shall be —*
 - (a) *in the case of a person who has not attained the specified age when he ceases to be a member or who attained the specified age less than a year before he ceases to be a member — the amount of the annual pension entitlement of the person converted under subsection (1) multiplied by 12 or such other figure as is applicable to the person under a determination made under the Salaries and Allowances Act 1975 for the purposes of this paragraph;*
 - (b) *in the case of a person who attained the specified age at least a year before he ceases to be a member — the amount of the*

annual pension entitlement of the person converted under subsection (1) multiplied by a factor calculated by deducting from 12 or such other figure as is applicable to the person under a determination made under the Salaries and Allowances Act 1975 for the purposes of this paragraph half the number by which the age, in complete years, attained by the person when he ceases to be a member exceeds the specified age.

(2a) *Until otherwise specified in a determination made under the Salaries and Allowances Act 1975, “the specified age” for the purposes of subsection (2) is 65 years.”*

The above reference to the *Salaries and Allowances Act 1975* came about in 1986 following the proclamation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*. Following an inquiry by the Tribunal a determination was issued on 25 February 1987 confirming the specified age to be 65 years, as originally enacted.

By way of explanation the following description details the issue and some of its history.

Under the Act, once a person has achieved seven years service in the Parliament a pension of 46 per cent of salary can be obtained, subject to certain other requirements. This percentage increases by 0.1859 per cent per month until a maximum of 75 per cent of salary is achieved after 20 years service.

At the time of the introduction of the Act in 1970, once a person had reached age 65 years, the maximum that could be accessed, as a lump sum was 25 per cent of the pension entitlement multiplied by 10. Changes in 1980 brought about an increase to 50 per cent of the pension entitlement multiplied by 10 minus 0.5 by which the age in completed years exceeds 65. Effectively this was the commencement of the specified age. In 1986 further changes increased the multiplier or commutation figure to 12 and confirmed the 0.5 reduction in the commutation figure for every year in excess of 65 years of age.

In 1986, the Tribunal became responsible for determining matters relating to the Act, which had previously been determined by the Parliament. A review increased the basic and maximum pension percentage rates and provided a variable multiplier for persons 64 and younger.

The pension entitlements in the Act are not affected by age.

There is a larger reduction in commutation once a Member reaches age 66 years and many letters have been received over the years indicating that this may be discriminatory. Legal advice obtained is that the current provision does not contravene discrimination legislation.

Commutation factors have been the subject of past and present actuarial and other advice. Whilst Members have questioned the existence of a diminishing multiplier after the attainment of the specified age, particularly those of 65 years of age and above, the principles of commutation of a pension entitlement require factors such as the cost and benefit to the State and the recipient and life expectancy to be taken into account.

The Tribunal has, after due consideration, concluded that the principles contained in the advice to it and the history of the reasons to allow commutation are sound and should be maintained.

PENSION ADJUSTMENT - PRE 1986 RETIRED MEMBERS

In 1987, following amending legislation which transferred the determination of pension entitlements to the Tribunal from the Parliament the Tribunal raised the basic pension entitlement to 46% of salary for qualifying Members. The Tribunal did not have authority to make determinations in respect of pensions payable to Members who retired prior to 1986 and no changes, legislative or otherwise, have been made since then.

The Tribunal has again considered this matter in the light of the most recent amendments. Legal advice is that the Act does not permit any change to the method by which pre 1986 pensions are calculated and no determination can be made on this matter.

PENSION INDEXATION - SECTION 15

The Act requires that pensions be adjusted in accordance with movements in the Consumer Price Index (CPI). The Act, states:

“15B. Increases in pensions which first become payable after 1/1/1976

[(1) Repealed]

- (2) Subject to this section, every pension payable to a person shall be increased in each period of 6 months ending on 30 June or 31 December, with effect on and from the first pay day occurring not less than 3 months after the commencement of that period, by the percentage by which the Index for the quarter ending at the commencement of that period is greater than the Index for the quarter ending 6 months before the commencement of that period.*
- (3) A pension shall not be increased under this section in a period referred to in subsection (2) if the pension first becomes payable in that period or less than 3 months before the commencement of that period.*
- (4) Where a pension first becomes payable not less than 3 months but less than 6 months before the commencement of a period, the increase of the pension under this section in that period shall be by one-half of the amount of the increase that would otherwise apply under subsection (2).*

- (5) *Where the Index for the quarter ending at the commencement of a period referred to in subsection (2) is less than, or equal to, the Index for the quarter ending 6 months before the commencement of that period —*
- (a) *no increase in pensions shall be made under this section in that period; and*
 - (b) *where applicable, the percentage by which it is less shall first be taken into account before making a subsequent increase in pensions under this section.*
- (6) *The provisions of this section apply with such modifications as are necessary to pensions payable to the widows of members or former members.”*

Submissions made to the Tribunal sought adjustments in keeping with movements in parliamentary salary.

Movements in parliamentary salaries can occur for reasons other than a simple updating of purchasing power. For example, in 1999 this Tribunal conducted a major review of the work value performed by Members. As well as increasing salaries that review removed post retirement travel entitlements. Former Members already in receipt of a pension lost no entitlements. Whilst such entitlements were not, and are not, taken into account in determining parliamentary salaries they are mentioned to demonstrate what the Tribunal regards as the dangers inherent in using the remuneration package of one era to adjust the entitlements of another.

This particular request has been made to previous Governments and no changes have occurred.

In considering this issue, the Tribunal has paid regard to the current method of using CPI and the purpose behind twice yearly adjustments. Although other indices are available, at this time, the Tribunal considers that the CPI remains the most appropriate and best available indexation factor for pensions where the purpose of indexation is to maintain a person's real purchasing power in retirement.

There are distinctions between salary and pension and the Tribunal considers the current methods utilised to adjust both are appropriate and has not determined any change in the method contained in Section 15 of the Act. If in the future CPI does not achieve the intended adjustment it is open to the Tribunal to make adjustments as it sees appropriate.

CONTRIBUTIONS AFTER 20 YEARS SERVICE - SECTION 11

Members of the closed scheme are required to contribute 12.5 per cent of their salary to superannuation whilst serving in the Parliament. If the length of service exceeds 20 years the contribution reduces to 6.25 per cent of basic

and any additional salary received. The Member receives increased pension benefits as the salary increases and normally as the result of the higher office held.

Section 28 of the Act in subsection (3)(a) allows the Tribunal to introduce *"reductions (including to zero) in the amount of contributions to be made to the scheme in respect of members;"*

The Tribunal has considered contribution rate after 20 years service and has determined 50 per cent of the normal contribution to be the rate. The Tribunal notes that this rate has lasted 30 years without amendment by the Parliament.

CURRENT SUPERANNUATION ARRANGEMENTS

In December 2000 the Tribunal issued a determination under Section 29 of the Act providing a Superannuation contribution rate to be made on behalf of Members at 9 per cent of basic and additional salary in accordance with Section 6(1)(a), (ab) and (b) of the *Salaries and Allowances Act 1975*.

The Tribunal has again examined the contribution rate and its obligations under Section 29 of the Act.

Information provided to the Tribunal since that determination confirms that the current contribution rate is insufficient. Superannuation Guarantee Ruling 94/5 makes it clear that allowances are salary or wages, unless they are fringe benefits under the Fringe Benefits Tax Assessment Act 1986.

Paragraph 7 of the Ruling refers to *"an allowance is a payment to an employee for a predetermined amount to cover an estimated expense (eg. clothing allowance) or to compensate for particular working conditions (eg. a site allowance). It is paid regardless of whether or not the employee incurs the expense."*

Superannuation in Australia is a very complex issue and the complexities multiply when attempting to prescribe uniform treatment to a range of persons in different age groups. Also, the *Superannuation (Guarantee) Administration Act 1992* poses potential difficulties, particularly with regard to allowances paid to Members. For example, electorate allowances differ and it would be unreasonable for Superannuation contributions to vary based on electoral demographics.

In reaching its determination the Tribunal has had regard to –

- a) Superannuation Guarantee Legislation
- b) Maximum Contributions Base considerations
- c) Prescribed Reasonable Benefits Limits
- d) Uniformity of application
- e) Superannuation practices generally.

Having regard for all the above factors and the administration of the

superannuation benefit, the Tribunal has determined that the rate of contribution to be made on behalf of Members be increased to 12.5 per cent with effect from 1 July 2002.

A consolidation of all determinations made by the Tribunal under the Parliamentary Superannuation Act 1970 where still relevant is contained in attachment 1.

The determinations will now issue.

Signed at Perth on 1 July 2002

R H C Turner AM
Chairman

J A S Mews
Member

SALARIES AND ALLOWANCES TRIBUNAL

**WESTERN AUSTRALIA
SALARIES AND ALLOWANCES TRIBUNAL
DETERMINATIONS
PURSUANT TO THE
PARLIAMENTARY SUPERANNUATION ACT 1970
AND
SECTION 6A
OF THE
SALARIES AND ALLOWANCES ACT 1975
1 JULY 2002**

Determination made under Section 11 (1) of the Parliamentary Superannuation Act 1970

In this determination the original determination made by the Tribunal on 25 February 1987 is added to in Section 1.

After (a) insert,

- (b) Where contributions have been made to the Scheme for 20 years, the amount to be contributed in accordance with paragraph (a) shall be reduced by one-half.

Signed at Perth this 1st day of July 2002

R H C Turner
AM Chairman

J A S Mews
Member

SALARIES AND ALLOWANCES TRIBUNAL

**Determination made under Section 29 (3)(a) of the Parliamentary
Superannuation Act 1970**

With effect from 1 July 2002 the rate of contribution to be made on behalf of the Members is 12.5 per cent of the parliamentary salary determined in accordance with Section 6(1)(a), (ab) and (b) of the Salaries and Allowances Act 1975.

Signed at Perth this 1st day of July 2002

R H C Turner AM
Chairman

J A S Mews
Member

SALARIES AND ALLOWANCES TRIBUNAL

ATTACHMENT 1 CONSOLIDATION

**THE SALARIES AND ALLOWANCES TRIBUNAL HAS MADE
NUMEROUS DETERMINATIONS RELATING TO THE
PARLIAMENTARY SUPERANNUATION ACT 1970 SINCE 1987.
THE FOLLOWING CONSOLIDATION OF EXISTING
DETERMINATIONS IS PROVIDED FOR ADMINISTRATIVE
CONVENIENCE**

These determinations do not contain any preamble that may have accompanied each determination at the time of issue. Full information can be obtained by referring to the original determination as published in the "Government Gazette".

DATE OF ISSUE: 25 FEBRUARY 1987

Pursuant to the provisions of Section 6A of the Salaries and Allowances Act, the Salaries and Allowances Tribunal determines the following for the purposes of the Parliamentary Superannuation Act.

SECTION 1. - CONTRIBUTIONS - SECTION 11(1) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

The basis to be used for calculating the amount that, under Section 11 (1) of that Act, is to be deducted, by way of contributions to the Fund, from each instalment of salary.

(a) The rate of contribution shall be equal to 12.5 per centum of the gross amount of the salary instalment before any deductions have been made there from.

SECTION 2. - BASIC PERCENTAGES AND ACCRUAL RATE - SECTION 13(1) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

The specified basic percentage, the further specified percentage, the specified maximum number of periods referred to in Section 13 (1) of that Act for calculating the "basic pension" under that provision.

- (a) The specified basic percentage shall be 46 per centum.
- (b) The further specified percentage shall be .1859 per centum.
- (c) The specified maximum number shall be 156.

SECTION 3. - HIGHER OFFICE ALLOWANCE - SECTION 14(3a) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

The basis to be used for calculating the higher rate of pension to which a person may be entitled under Section 14 (3a) of that Act.

- (a) The rate per annum of pension payable to a person entitled to a pension shall be calculated in accordance with Section 14 (4) of that Act provided that, where the person has contributed to the Fund for not less than 20 years, the ratio of actual salary to basic salary used for calculating the higher rate of pension shall be the highest ratio attained between the date of contributing to the Fund for 20 years and the date of that person's retirement.

SECTION 4. - COMMUTATION AGE LIMIT - SECTION 16(2) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

The specified age referred to in Section 16 (2) of that Act for calculating the amount of the lump sum payment to which a person is entitled upon converting his pension entitlement, or a portion thereof, under Section 16 (1) of that Act.

- (a) The specified age shall be 65 years.

Dated at Perth this 25th day of February 1987.

DATE OF ISSUE: 14 JULY 1988

The Tribunals determination dated 25 February 1987 is amended with effect from 1 January 1988 by adding after Section 4 the following Section.

SECTION 5 COMMUTATION FIGURE - SECTION 16(2)(a) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

The basis to be used for calculating the commutation figure for the purposes of Section 16 (2) (a) of the Parliamentary Superannuation Act, for those persons who are eligible to receive a pension.

- (a) For that class of persons aged between 45 and 65 at the date of their cessation of membership.

$$(i) \quad CF = 12 + \frac{(65 - A)}{10}$$

where CF is the commutation figure to be determined.

A is the members age as at the date of their cessation of membership.

- (b) For that class of persons 45 years of age or less as at date of their cessation of membership the commutation figure shall be 14.

Dated at Perth this 14th day of July 1988.

DATE OF ISSUE: 6 MARCH 1991

DETERMINATION

It is notified for general information that the Determination of the Salaries and Allowances Tribunal published in the Government Gazette No. 20 dated 27 February 1987 is varied with effect from 1 June 1990, as follows:-

Section 3 - Higher Office Allowance - SECTION 14(3a) and 14(4) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

Delete existing provision and insert the following: -

The basis to be used for calculating the higher rate of pension to which a person who was a member of the Parliament at the date of this Determination may be entitled, under Section 14(3a) of that Act, shall be either:

1. (a) The basic pension, plus an additional amount of pension in respect of his service as a Minister of the Crown or in each office held as an Officer of the Parliament at a rate equal to such percentage of the rate, at which additional salary is payable to a Minister of the Crown or by way of additional salary is payable to an Officer of the Parliament, as the case may be, at the date of his retirement in respect of each office held as is determined in accordance with paragraph 2. to be the relevant percentage,'

OR

(b) The rate per annum of pension payable to a person entitled to a pension calculated in accordance with section 14(4) of that Act provided that, where the person has contributed to the Fund for not less than 20 years, the ratio of actual salary to basic salary shall be the highest ratio attained between the date of contributing to the Fund for 20 years and the date of that person's retirement,

whichever is the greater.

2 For the purposes of paragraph 1. (a), the relevant percentage in respect of the service of a person in a particular office is: -

- a) if the period of service of the person in that office is less than a complete year - the percentage, calculated to 4 decimal places, that is obtained by multiplying 6.57% by the number of days in that period of service and dividing the product by 365;
- b) if the period of service of the person in that office is a complete year - 6.57%;
- c) if the period of service of the person in that office is a number of complete years - the percentage obtained by multiplying 6.57% by the number of complete years in that period of service; or
- d) if the period of service of the person in that office is a complete year or a number of complete years and also, apart from that complete year or those complete years, a

number of days - the percentage obtained by adding together: -

- (i) the percentage ascertained in accordance with paragraph (b) or (c) in respect of the complete year or the complete years, as the case requires; and
 - (ii) the percentage, calculated in accordance with paragraph (a) in respect of the number of days.
3. Nothing in paragraph 1.(a) shall be taken to entitle a person to an additional pension at a rate that exceeds –
- a) in a case where the person is entitled to additional pension in respect of one office only - 75% of the rate, at which additional salary is payable in respect of that office at the date of his retirement; or
 - b) in a case where the person is entitled to additional pension in respect of 2 or more offices - 75% of the rate that is the highest rate, at which additional salary is payable in respect of either or any of those offices at the date of his retirement.
4. The basis to be used for calculating the higher rate of pension to which a person, who enters the Parliament after the date of this Determination, may be entitled under Section 14 (3a) of that Act, shall be in accordance with paragraph 1.(a).

Dated at Perth this Sixth day of March 1991.

DATE OF ISSUE: 15 DECEMBER 2000

DETERMINATIONS

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 - SECTION 29 OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

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 - SECTION 10 OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

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).”*

DETERMINATIONS - SECTIONS 10(3) and (5) OF THE PARLIAMENTARY SUPERANNUATION ACT 1970

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.

DATE OF ISSUE: 23 AUGUST 2001

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.

DATE OF ISSUE: 1 JULY 2002

Determination made under Section 11 (1) of the *Parliamentary Superannuation Act 1970*

In this determination the original determination made by the Tribunal on 25 February 1987 is added to in Section 1.

After (a) insert,

- (b) Where contributions have been made to the Scheme 20 years, the amount to be contributed in accordance with paragraph (a) shall be reduced by one-half.

Signed at Perth this 1st day of July 2002.

Determination made under Section 29 (3)(a) of the *Parliamentary Superannuation Act 1970*

With effect from 1 July 2002 the rate of contribution to be made on behalf of the Members is 12.5 per cent of the parliamentary salary determined in accordance with Section 6(1)(a), (ab) and (b) of the *Salaries and Allowances Act 1975*.

Signed at Perth this 1st day of July 2002

END OF CONSOLIDATION