



## **REPORT OF THE REMUNERATION TRIBUNAL**

### **COMMON ALLOWANCE FOR MEMBERS OF THE PARLIAMENT OF SOUTH AUSTRALIA**

#### **1. PREAMBLE**

- 1.1. The Remuneration Tribunal ("the Tribunal") provides this report on the performance of functions assigned to it by the Parliament of South Australia, in relation to certain components of the remuneration of members of the House of Assembly and the Legislative Council. It does so in compliance with section 16 of the *Remuneration Act 1990*, and section 3A and 4AA of the *Parliamentary Remuneration Act 1990* ("the 1990 Act"), as amended.
- 1.2. The report will explain the subject matter of Determinations made as a result of the Tribunal discharging the relevant functions and responsibilities assigned to it and the procedure adopted for doing so. What follows deals with the history leading to this report, submissions made to the Tribunal and the reasons for those Determinations.
- 1.3. Before proceeding however, it is appropriate to note that the role of the Tribunal in discharging the duties that are the subject of this report is limited and specific. The report and the Determinations do not deal with the whole or all aspects of parliamentary remuneration.
- 1.4. The limited and specific nature of the role and functions of the Tribunal here engaged will become apparent and are explained in greater detail below. The subject matter of this report and the Determinations made are narrowly focussed on the abolition of four existing components of the remuneration entitlements of members of Parliament and the determination by the Tribunal of a monetary amount of remuneration, in lieu thereof. Those entitlements variously relate to travel and service on parliamentary committees.
- 1.5. The performance of the relevant functions by the Tribunal and the making of the Determinations to which this report refers are governed and directed by legislation. Accordingly, the proper construction of the role, duties, jurisdiction, powers and discretion of the Tribunal prescribed by the relevant legislative provisions are considered and explained.

#### **2. PROCEDURAL HISTORY**

- 2.1. On 10 February 2015 the Governor of South Australia, in the Governor's speech to Parliament, reference was made to a review of the remuneration of the members of Parliament<sup>1</sup>. The Governor stated that "...the Remuneration Tribunal would be asked to conduct a review of parliamentary remuneration."
- 2.2. On 8 September 2015, the *Parliamentary Remuneration (Determination of Remuneration) Amendment Bill 2015* was introduced to Parliament and reached assent on 13 October 2015. The *Parliamentary Remuneration (Determination of Remuneration) Amendment Act 2015* ("the Amending Act") was subsequently proclaimed on 29 October 2015. On 30 October 2015, the Remuneration Tribunal wrote to the members of Parliament inviting submissions in relation to the functions assigned to the Tribunal by the Amending Act. The closing date for submissions was 20 November 2015.

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<sup>1</sup>Governor of South Australia, 'The Fifty-Third Parliament at the Opening of its Second Session'. <http://www.governor.sa.gov.au/node/1711>

- 2.3. On 30 October 2015 the Tribunal issued a Media Statement advising of the commencement of a review of matters referred to the Tribunal by the Amending Act and the closing date of submissions. The Media Statement included a link to the Tribunal's website which advised the address for the filing of written submissions.

### **3. OVERVIEW**

- 3.1. The Remuneration Tribunal is required by the Amending Act to perform specified functions in relation to parliamentary remuneration. The subject matter of this report is limited to the determination of what is referred to as a "common allowance".
- 3.2. The common allowance will replace components of the remuneration to which members of the House of Assembly and the Legislative Council are currently entitled.
- 3.3. The Amending Act sets out the statutory functions that are the subject of this report and specifies determinations to be made by the Tribunal. It will aid an understanding of the task of the Tribunal and the effects on parliamentary remuneration to provide some description of the context in which the Tribunal is to determine the common allowance.
- 3.4. At the outset it is appropriate to observe that remuneration payable to members of Parliament is not based upon the discrete, individual attributes of persons who from time to time hold office as a member of the Parliament. The selection of the members of Parliament, to serve for a term of four years, is the democratic right of those eligible to vote as an elector. Accordingly, remuneration as a member of the Parliament is not dependent on the quality of the performance of individual parliamentarians. Rather, the remuneration prescribed is for the holding of office, as a member of the House of Assembly or the Legislative Council.
- 3.5. Remuneration as a member of the South Australian Parliament has common features. However, there are some aspects of remuneration that vary, according, for example, to the electorate of the member. Electorate Allowances are different for metropolitan and country members, and remuneration has historically varied for service as between different committees of the Parliament. Moreover, some components of that remuneration are monetary amounts whereas others are entitlements to incur costs to be met by the State.
- 3.6. The common and most substantial element of parliamentary remuneration, which is provided for by the 1990 Act, is the basic salary of a member of the Parliament. The basic salary of a member of the Parliament of South Australia is related to the basic salary of a member of the Commonwealth Parliament. The 1990 Act, as amended, provides that the basic salary of a member of the Parliament of South Australia will be \$42,000 less than the basic salary of a member of the Commonwealth Parliament, plus the common allowance to be determined by the Tribunal.
- 3.7. The common allowance is to be comprised of amounts to take the place of entitlements of members of the Parliament of South Australia, which are abolished by the Amending Act. Those abolished entitlements are:
  - 3.7.1. An annual travel allowance prescribed by Determination 1 of 2012 made by the Tribunal.
  - 3.7.2. A metrocard special pass for intrastate travel on metropolitan public transport.
  - 3.7.3. Free unlimited interstate rail travel and a limited entitlement to be accompanied by a spouse on such travel.
  - 3.7.4. Remuneration for ordinary membership of committees of the parliament, which currently amounts to between \$15,313 and \$18,376 per annum, depending upon the committee.
- 3.8. In everyday language the abolition of different entitlements or conditions of employment and their replacement by monetary amounts of salary or wages is often referred to as "cashing out". The abolition of the entitlements scheduled above and replacement by the common allowance bears some similarity thereto.

- 3.9. The specific role and function of the Tribunal, for present purposes, is narrowly limited to making several determinations, which will give rise to the composition of the common allowance to be added to the basic salary in lieu of the existing entitlements scheduled above.
- 3.10. The remuneration of a person who is a member of the Parliament of South Australia over the four year term of office will continue to be payable by force of the provisions of the 1990 Act, as amended, incorporating the common allowance made as a consequence of the Amending Act and the Determinations of the Tribunal thereunder.

#### **4. SUBMISSIONS**

- 4.1. The Tribunal received written submissions from the parties below, which are summarised as follows:

##### **4.2. The Premier, on behalf of Government**

- 4.2.1. The Tribunal should arrive at an amount payable to members that does not result in a reduction in the full value of the amount currently payable as so adjusted.
- 4.2.2. There is currently a provision whereby 50% of the Travelling Allowance can be apportioned to spouse travel. This should be taken into consideration by the Tribunal.
- 4.2.3. Where a member has special needs the Tribunal may increase the Travelling Allowance to provide for the expenses associated with a carer's travel.
- 4.2.4. Tax implications of putting the Travel Allowance into base salary should be considered by the Tribunal, such as the situation where members would be out-of-pocket until such time as travel expenses are claimed at the end of the financial year through the PAYG taxation system.
- 4.2.5. The option of a "grossed up amount" is not appropriate as this results in a net windfall to the member as they can double dip via claiming tax deductions.
- 4.2.6. An allowance for claiming 50% spouse travel would be appropriate, as tax deductions for members' spouses are currently not permitted, meaning that in real terms any expenses in relation to spouse travel will leave the member out of pocket.
- 4.2.7. The full value of the metrocard is \$1560 (daily rate for any commuter x 365). There should be no allowance for taxation as this is not tax deductible. This amount should be included in the common allowance.
- 4.2.8. For interstate rail travel, there is no clear indication of usage, so it is suggested that an assumption of 1-2 single trips plus 1-2 accompanied trips would be appropriate. This is not normally tax deductible. The amount arrived at should be included in the common allowance.
- 4.2.9. For committee payments, the total amount paid to ordinary members sitting on parliamentary committees in the immediate preceding year was \$664,589.
- 4.2.10. Ordinary members of Standing Committees were paid either \$18,376 or \$15,313 per annum, depending on the committee.
- 4.2.11. There are some committees which do not receive remuneration.
- 4.2.12. There are "select committees" whereby members receive a sitting fee of \$340.90. Fees are paid at the end of an election cycle.
- 4.2.13. Based on the additional remuneration for select committees, the total amount of fees paid to ordinary members of committees amounts to \$669,166.25.
- 4.2.14. When divided by the number of MPs this equates to \$9698.06.
- 4.2.15. The Premier, the Presiding Officers, Ministers, the Opposition Leader, Deputy Opposition Leader and Parliamentary Secretaries do not receive committee payments. An alternate method would result in the exclusion of these office holders and also chairs of committees who continue to be remunerated for that work. This results in the divisor of 41 as opposed to 69. This results in a payment of \$16,321.12.

- 4.2.16. In its determination of an amount that reasonably compensates members, the Tribunal should apply the principle that reasonable compensation is an amount that equates to the full net monetary equivalent of the components abolished by the Act.
- 4.3. The Hon. Rob Lucas MLC**
- 4.3.1. Noted that, in his capacity as Shadow Treasurer, had the responsibility of negotiating with Government to see the successful passage of the Amending Act through Parliament.
- 4.3.2. Pointed out that only the Government has access to some of the figures (such as amounts paid to members of Parliamentary Select Committees) included in its submission.
- 4.3.3. Supported the Government's submission with the above caveat.
- 4.4. The Hon. Martin Hamilton-Smith MP**
- 4.4.1. Asserted that in his experience, the remuneration arrangements for MPs are not enough to attract the calibre of candidate he would hope for.
- 4.4.2. Many candidates are financially disadvantaged by electing for political candidacy.
- 4.4.3. The majority of MPs find it difficult to gain employment after politics.
- 4.4.4. It is now regularly the case that a Minister in government is paid significantly less than his or her Chief Executive and quite often many executives reporting to the Minister.
- 4.4.5. A further financial risk for members of Parliament is that they may be drawn into matters requiring legal counsel that would be covered by the Crown for other public servants.
- 4.4.6. The tax impact of any tax-free allowance converted into salary should be considered.
- 4.5. The Hon. Mark Parnell MLC**
- 4.5.1. Pointed out that his submission on travel allowance only related to members of the Legislative Council.
- 4.5.2. Noted that the Remuneration Tribunal is required to have regard to the need for MPs to be "actively involved in community affairs" and to "represent and assist constituents in dealings with governmental and other public agencies and authorities" and that by implication, this will involve MPs travelling to and working with constituents throughout their electorates - which is the entire State of South Australia in relation to MLCs.
- 4.5.3. Argued that the Tribunal should distinguish between overseas, interstate and intrastate travel and attempt to identify an appropriate level of intrastate travel and accommodation for MLCs that would encourage them to visit regional areas.
- 4.5.4. Suggested this amount could be either transferred to their Electorate Allowance or a new intrastate travel and accommodation allowance could be created for reimbursement of such expenses by MLCs (and reduce the Common Allowance accordingly either way).
- 4.5.5. Pointed out that visiting regional South Australia would generally be regarded in the community as part of an MLC's role, not a private matter to be funded from salary.
- 4.5.6. Noted that only a small number of MPs regularly use public transport (himself included) and argued that it is unfair to taxpayers to compensate MPs for a service that they don't use.
- 4.6. Mr Dan van Holst Pellekaan MP**
- 4.6.1. Stated that he will be "happy to accept whatever level of remuneration the tribunal determines is appropriate...". However he suggested that electorate allowances be indexed to inflation.

## 5. CONSIDERATION

### Statutory Provisions - the Amending Act

- 5.1. In order to enable understanding of the Tribunal's functions prescribed by the relevant provisions of the legislation, in particular the effect of the Amending Act, it is appropriate to set out the terms of what is now Section 4AA of the 1990 Act.

#### 4AA—Common allowance

- (1) The Remuneration Tribunal must, as soon as is reasonably practicable after the commencement of this section—
  - (a) ascertain the full value of the following components of remuneration payable to members of Parliament immediately before the commencement of this section (being remuneration that is, on the commencement of section 3B, no longer payable):
    - (i) annual travel allowance;
    - (ii) metrocard special pass;
    - (iii) remuneration consisting of subsidised or free interstate rail travel; and
  - (b) determine an amount of remuneration that reasonably compensates members of Parliament for the abolition of each of those components.
- (2) The Remuneration Tribunal must, as soon as is reasonably practicable after the commencement of this section, determine the amount of remuneration payable to all members of Parliament for their service as ordinary members on parliamentary committees, comprising—
  - (a) an amount equal to the quotient of the total amount of additional salary paid to ordinary members of all parliamentary committees for the financial year immediately preceding the commencement of this section, divided by the number of members of both Houses of Parliament; and
  - (b) if the Remuneration Tribunal considers that the amount calculated under paragraph (a) does not adequately remunerate members for their service as ordinary members on parliamentary committees—an additional amount determined by the Remuneration Tribunal.
- (3) The Remuneration Tribunal must, at least once in each 12 month period, review the remuneration referred to in subsection (1)(b) and subsection (2) and may, if it considers it appropriate to do so, determine to increase an amount of remuneration payable by a specified amount.
- (4) The aggregated amount (up to a maximum of \$42 000) of the remuneration referred to in subsection (1)(b) and subsection (2) as varied from time to time will be taken to be the common allowance payable to all members of Parliament.
- (5) In this section—

**ordinary member**, of a parliamentary committee, means a member who is not a presiding member.

- 5.2. There are two areas for consideration by the Tribunal, which respectively correspond to subsections (1) and (2) of section 4AA.
- 5.3. Before proceeding to address each of the two areas of consideration it is necessary to provide some explanation of the approach that the Tribunal must take to the functions that comprise the statutory duties it is directed to perform.
- 5.4. Where a Tribunal is assigned a task or function by legislation it must do so in accordance with and within the boundaries of the relevant statutory provisions and in a manner that conforms to any direction expressed by the terms of the statute.
- 5.5. In this case it is to be noted that there are several mandatory tasks that are to be performed by the Tribunal. Mandatory direction to the Tribunal is effected by the inclusion of the word “must” in the commencing words of subsections (1) and (2) of section 4AA. However, it is also to be noted that the relevant statutory provisions confer some discretion upon the Tribunal in relation to certain aspects of the matters to be dealt with under section 4AA.
- 5.6. Thus, under subsection (1) of section 4AA the Tribunal “must” “ascertain the full value” of the named travel entitlements and “must” then determine an amount which “reasonably compensates” a member of Parliament for the abolition of the named entitlements.
- 5.7. Some pertinent considerations flow from these aspects of the statutory language. Most importantly, the Tribunal must make a Determination of an amount of compensation. The amount so determined must be reasonable and the amount of compensation must be arrived at by reference to the loss of the full value of travel entitlements and not other extraneous

considerations. The statute directs that the Determination of the relevant amount by the Tribunal must be the source of the reasonable compensation for the lost entitlements. The existence of other entitlements or remuneration is not therefore a relevant consideration. The Determination must arise from a clear nexus between the full value of the named entitlements abolished and the amount of reasonable compensation judged by the Tribunal, although the two need not be identical.

- 5.8. It is significant that the subject of the task of ascertainment assigned to the Tribunal under subsection 1(a) of section 4AA is the “full” value of the several remuneration entitlements named.
- 5.9. In relation to the function of the Tribunal under subsection 2(a) of section 4AA, the Tribunal “must” calculate the additional amount currently paid to ordinary members of Parliament who are members of the committees of the parliament and divide that amount by the number of members of the Parliament to arrive at a quotient of that amount.
- 5.10. If the Tribunal considers the result of that calculation derives an amount that would be inadequate as remuneration for service as a member of committees of the Parliament, the Tribunal “must” determine an additional amount.
- 5.11. It may therefore be stated in summary that the mandatory functions of the Tribunal are four fold as follows:
  - 5.11.1. Ascertain the full value of specified travel entitlements.
  - 5.11.2. Make a determination that reasonably compensates members of parliament for the loss of those entitlements.
  - 5.11.3. Determine the amount of payment currently made for service as ordinary members of committees as a quotient.
  - 5.11.4. If the amount of the quotient is considered inadequate remuneration to replace existing payments for committee service make a further determination of an additional amount.

#### **Travel Entitlements**

- 5.12. The three components of the relevant travel entitlements are identified above.
- 5.13. The annual travel allowance is \$13,500 which arises from Determination 1 of 2012 made by this Tribunal; in particular, the amount of that allowance derives from clause 3 of that Determination.
- 5.14. The “full value” of a metrocard is \$1562.75 per annum.
- 5.15. At this point, it is convenient to address two aspects of Mr Parnell’s submissions.
- 5.16. The first matter concerns the metrocard. Mr Parnell submits that there should be no compensation awarded for the loss of this entitlement. The Tribunal considers that the relevant statutory provisions cannot be construed harmoniously with this submission.
- 5.17. The Tribunal considers that the Amending Act directs that the Tribunal must make a Determination which reasonably compensates members of parliament for each and all of the entitlements named in subsection (1)(a) of section 4AA. The Tribunal must take into account the full value of each of the named entitlements and make a determination of reasonable compensation, as required by subsection 1(b) of section 4AA. In the view of the Tribunal, it would most likely be a constructive failure of jurisdiction to provide no compensation at all for the loss of the metrocard entitlement.
- 5.18. Even if such a course were open, as a matter of discretion, the Tribunal would not decide to award nothing whatsoever by way compensation for the loss of the entitlement. Such a course would be in contradiction of the clear statutory intention that where the full value of a relevant entitlement is ascertained a Determination of a reasonable amount of compensation for the entitlement, which has been abolished, should be determined. No alternative submission was put to us about an amount which would reasonably compensate for the loss of the entitlement, other than the amount shown above, as referred to in the other parties’ submissions.
- 5.19. The second aspect is Mr Parnell’s submission that the annual travel allowance of \$13,500 referred to above should be rolled into or form part of a Member of Parliament’s Electorate Allowance. Such an outcome is beyond the jurisdiction of the Tribunal. As a result of the

Amending Act, the annual travel allowance has now been abolished. The Amending Act has the legislative effect of replacing that allowance by the amount which must be determined, “as soon as practicable” by the Tribunal under subsection (1)(b) of section 4AA. The amount so determined forms part of the common allowance pursuant to section 4 of subsection 4AA. Moreover, Electorate Allowances are subject to the provisions of subsection (1)(c) of section 4 of the 1990 Act, as amended, and are not the subject of the proceedings presently before the Tribunal. These observations are also applicable to the submission of Mr van Holst Pellekan, in relation to the indexation of Electorate Allowances.

- 5.20. It is also necessary to address a particular feature of the existing provisions of Determination 1 of 2012, which prescribes the entitlement to the annual travel allowance, raised by the submission on behalf of the Government, as set out above. That Determination provides for additional entitlements for members of parliament with special needs. The issue touches upon the needs and entitlements of members of Parliament with a medical condition, disability or disabilities. The Tribunal considers that the relevant entitlements in such circumstances cannot be fully valued for the purpose of determining the amount of reasonable compensation for the loss of those travel entitlements as part of the common allowance. The Tribunal observes that the Tribunal’s jurisdiction to deal with such circumstances by Determination, made on a needs basis, remains unaffected by the Amending Act. Such circumstances may also be provided for under section 6A of the 1990 Act, as amended. The rightful opportunity for full participation in the Parliament by such persons, including travel for that purpose, will be highly fact specific and will be best provided for according to the exigencies of the individual member’s circumstances, as they arise from time to time.
- 5.21. The submissions made to the Tribunal on 4 December all concurred that there is insurmountable difficulty in objectively ascertaining the full value of the interstate rail travel entitlements of members of Parliament. This is because there is no limit on the amount of such travel. Determination 1 of 2012 prescribes the relevant entitlements.
- 5.22. The full value of the interstate rail travel entitlement may and likely will be different according to an individual member’s ability to use the entitlement. Somewhat problematically, the Tribunal’s attention is directed to the ascertainment of the full value of the *entitlement*, rather than individual frequency of access to the entitlement. All of those who appeared on 4th of December indicated that the full value of the entitlement, given its unlimited nature, should therefore be construed as an undefined amount. It was submitted that the Tribunal must make a subjective judgement of the full value of the entitlement, which would be accepted, as a basis for the determination of reasonable compensation for the loss of the entitlement.
- 5.23. The Tribunal must accept that the ascertainment of the full value of such entitlements cannot be objectively determined. This is because there is no uniformity of the value of the entitlement, due to the unbounded nature of the amount of the relevant travel that may be undertaken by a member of Parliament, unlike the full value of a metrocard, which can be readily ascertained by reference to the price of the entitlement if it had to be privately acquired by the member, as can the full value of the annual travel allowance, by reference to the Determination by which it is prescribed.
- 5.24. The Tribunal has had regard to the nature of parliamentary office, which is for a term of four years. The Tribunal has also had regard to the price of various interstate return rail journeys and the limited spouse accompanied entitlement. Insofar as the submissions before us indicate, the entitlement exists in fact as uncapped and is only limited by the capacity of a member to utilise the entitlement over the life of the parliament to which they are elected. Having regard to the limited submissions put to it, the Tribunal has arbitrarily fixed an amount that it considers will reasonably compensate members of Parliament for the loss of this entitlement over the life of a Parliament, payable on an annual basis, as best we can. The amount is very conservative. In this respect the Tribunal notes that the provisions of subsection (3) of section 4AA require review of the amount fixed under subparagraph (b) of subsection (1) once in each 12 month period. The amount of compensation is equal to the cost of one return spouse accompanied rail journey between Adelaide and Darwin, at the class of travel referred to in the written submissions, during the life of a Parliament, annualised.

- 5.25. The Tribunal will make a Determination accordingly. The amount which reasonably compensates members of Parliament for the abolition of members' entitlements to annual travel allowance, metrocard and interstate travel is determined to be the sum of \$17,124 per annum, as follows:
- 5.25.1. \$13,500 for the annual travel allowance.
  - 5.25.2. \$1,563 for the metrocard special pass.
  - 5.25.3. \$2,061 for the interstate rail travel entitlement.

### **Parliamentary Committees**

- 5.26. The Tribunal has reviewed the reports of all of the remunerated committees of the Parliament, which include information of the amounts of remuneration paid to the ordinary members thereof, as provided by the Clerks of the House of Assembly and the Legislative Council.
- 5.27. The total amount of remuneration paid to all ordinary members of the Parliament for service as members of committees in 2014/2015 was \$667,233.50. This amount divided by the number of members of both houses of parliament is \$9,670. These amounts are marginally different to those referred to in the Government submission.
- 5.28. The amount of \$9,670 is the quotient which must be determined by the Tribunal as directed by subsection 2(a) of section 4AA. Contrary to the submissions on behalf of the Government, no other divisor than that prescribed by the Amending Act is appropriate.
- 5.29. As previously observed, the amount of payment for service on a parliamentary committee ranges between \$15,313 and \$18,376 per annum. The policy intention of the Amending Act, as referred to by the parties who appeared at the hearing on 4th of December, is that all members of the Parliament may now be required to serve as members of the committees of the Parliament.
- 5.30. It was pointed out at the hearing on 4th of December that participation on committees is currently uneven. Some members of parliament serve on several committees and are remunerated separately for each committee. This ceases as a result of the Amending Act. Consequently, members will in future receive the same amount of remuneration for service on one or several committees as a part of the common allowance.
- 5.31. The Tribunal considers it would be inappropriate and contrary to the statutory intention of the relevant provisions to have regard to remuneration levels arising from membership of multiple committees in determining whether the quotient arrived at under subsection 2(a) of section 4AA is an adequate amount or for the purposes of considering the determination of any additional amount under subsection 2(b) of section 4AA.
- 5.32. It should be noted however, given what follows below, some members of Parliament who currently receive remuneration in respect of service on one or more committees, will receive substantially less for service on committees.
- 5.33. The Tribunal considers that the amount of \$9,670 is inadequate in the circumstances, having regard to the existing level of remuneration for such service (on one parliamentary committee). The Tribunal is mindful that the additional amount which must be fixed as a consequence of this conclusion will have to be arrived at without any practical experience of the arrangements effected by the Amending Act, whereby all members may be required to serve on committees. In this respect, the Tribunal has had regard to the provisions of subsection 3 of section 4AA, which prescribe that the additional amount must be reviewed at least once every 12 months. At the time of review the Tribunal will be able to give consideration to the practical application of the new arrangements and the relevant component of remuneration so fixed. Accordingly, the Tribunal has taken a conservative approach to the determination of the additional amount. The Tribunal has determined an additional amount which when added to the quotient amount is less than any of the amounts of remuneration currently paid to ordinary members of parliamentary committees, in light of the contemplated redistribution of the work and workload involved. The additional amount determined, as required by subsection (2)(b) of section 4AA, is \$3500.

## 6. COLLATERAL CONSEQUENCES

- 6.1. The Tribunal notes that the Determination of the amounts which will comprise the common allowance will have collateral consequences by force of other statutes both state and federal, including tax and superannuation laws.
- 6.2. As referred to in the submissions received, the common allowance will be taxable as income. That is a consequence of federal income tax law. Whereas, significant amounts of the value of the components of remuneration that the common allowance will replace are not necessarily so taxable. The Tribunal has considered the submission that it should determine the value of those components of remuneration as an after tax amount. The Tribunal does not consider this to be appropriate.
- 6.3. The taxation circumstances and after tax income of persons who are members of the Parliament will most likely vary, due to the complexity of the tax system, ownership of income producing assets and the potential for discrete individual tax payer decisions, such as, investment decisions, superannuation arrangements, salary sacrifice, financial gearing and available tax deductions for expenses incurred earning income.
- 6.4. Likewise the effects of various related superannuation laws will affect members differently according to individual circumstance.
- 6.5. The common allowance is clearly a unified concept as a component of salary to which all members of Parliament are to be entitled. The Tribunal has no control over the infinite collateral effects of the legal matrix of rights, duties and obligations arising under the complex provisions of other regulatory legislation. Moreover, the statutory provisions under which the Determinations are to be made provide no clear indication that these considerations are relevant or how they may be accounted for.

## 7. DETERMINATIONS

- 7.1. On the basis of the above considerations, pursuant to section 4AA of the Amending Act, the Tribunal will make two Determinations.
  - 7.1.1. The first will be the Determination required by subsection (1)(b), which will be an amount of \$17,124 per annum.
  - 7.1.2. The second will be the Determination required under subsection 2, which will be an amount of \$13,170 per annum, made up of \$9,670 (the quotient of the total payments made for service as ordinary members of committees in the relevant period) and \$3500 (the additional payment).

The formal Determination is attached to this report.

Dated this 15th day of December 2015.



John Lewin  
**PRESIDENT**



Nicola Vincent  
**MEMBER**



Peter Alexander  
**MEMBER**