

TELSTRA SUPERANNUATION SCHEME

("Scheme")

Special Determination

Subject Matter of Determination: "Salary" for purposes of division 2, division 3 and division 5

Effective Date: 1 July 1998

1 Interpretation

1.1 Definitions in Deed

- (a) Except where expressly defined otherwise in this Determination, a word or expression defined in the Deed has, when used in this Determination, the same meaning as that word or expression is given in the Deed.
- (b) This Determination is subject to part 1.2 of the Deed.
- (c) This Determination applies to division 2, division 3 and division 5 of the Deed.

1.2 Special definitions

In this Determination -

"Authorised Delegate" means at any particular date and for any particular purpose a person who is an authorised delegate of the Principal Employer at that time and for that purpose in accordance with relevant delegations made by the Principal Employer.

1.3 Clarification

An Authorised Delegate may resolve any doubt regarding the interpretation or effect of this Determination.

2 Basis of determining "Salary" for purposes of division 2

2.1 Definitions

"Salary Review Period" means for the purpose of determining a Member's Salary as at a Salary Review Date the period commencing immediately after the last preceding Salary Review Date and ending on (and including) the Salary Review Date as at which the determination is to be made.

2.2 Normal basis

Subject to the Deed and this Determination, a Member's Salary is as advised by the Employer to the Trustee and is the annual rate of salary or wage payable to the Member by the Principal Employer or any Associated Employer as at a Salary Review Date, including certain allowances, determined in accordance with this Determination.

2.3 Alteration on Salary Review Dates

A Member's Salary only alters as at a Salary Review Date but a Member's Salary as at a particular Salary Review Date (other than the initial Salary Review Date of the Member) is the highest amount calculated in respect of the Member (in the same manner as Salary is to be calculated under this Determination) during the Salary Review Period.

2.4 Retrospective increases ignored

An increase in remuneration which formally takes effect during a Salary Review Period by reason of a retrospective confirmation, authorisation, approval, decision or determination made or given during a following Salary Review Period will not be taken into account in determining Salary during the first-mentioned Salary Review Period, even though it may have actually been paid during that Period.

2.5 Salary Review Dates

Each birthday of the Member is a Salary Review Date. If a Member is born on 29 February, 1 March will be deemed to be the Member's birthday in each non-leap year. If a Member joins the Scheme on a date which is not the Member's birthday, the date of joining is also a Salary Review Date.

2.6 Allowances

(a) Types of allowances

For the purposes of determining Salary, allowances are divided into the following categories:

- A. allowances which are automatically included in Salary;
- B. allowances which will be recognised as Salary provided certain criteria are met;
- C. shift allowances; and
- D. allowances which are not recognised as Salary, as explained in this clause 2.6.

(b) Allowances automatically included in Salary

The following types of allowances are automatically included in Salary:

- A. an allowance which makes up salary or wages when a person's salary or wage is reduced;

- B. an allowance payable in recognition of a particular qualification or standard of proficiency in any skill;
- C. an allowance payable in recognition of length of service and standard of efficiency attained; and
- D. an allowance payable to a person under the age of 21 years by reason of being married or performing duties normally performed by someone who has attained that age.

(c) **Allowances which must meet certain criteria**

- (1) **Relevant allowances.** Allowances which are payable as a result of performing additional or higher functions as part of duties or work must meet certain criteria to be regarded as Salary. The more common of these allowances are -

- A. higher duties allowance;
- B. on call allowance;
- C. an allowance payable for being required to be in charge of staff, equipment or premises;
- D. an allowance payable in lieu of regular overtime or extra duty;
- E. an allowance payable as compensation for physical hardship or discomfort associated with the performance of particular duties.

- (2) **Relevant criteria.** The criteria for recognition of the allowances in clause 2.6(c)(1) as Salary as at a Salary Review Date are:

Criterion 1 - the person has received the allowance for a continuous 12 month period of Superannuation Membership ending during the Salary Review Period;

OR

Criterion 2 - the person has received the allowance for a continuous 6 month period of Superannuation Membership ending during the Salary Review Period and is likely to receive the allowance for a further continuous period of 6 months.

The definition of “**likely**” for the purpose of satisfying Criterion 2 is that, in the opinion of an Authorised Delegate, the allowance has a greater than 50% chance of being received for a continuous period of 12 months. There will be occasions when it will not be possible to determine this at the end of the first 6 months continuous receipt of the allowance, and in such cases, the matter will be reviewed regularly and the allowance deemed to be included once either Criterion is met.

(d) Shift Allowance

- (1) **Relevant criteria.** The criteria for recognition of shift allowance as Salary as at a Salary Review Date are:

Criterion 1 - the person has received the allowance on at least 75% of pay days within a continuous 12 month period of Superannuation Membership ending during the Salary Review Period;

OR

Criterion 2 - the person has received the allowance on at least 75% of pay days within a continuous 6 month period of Superannuation Membership ending during the Salary Review Period and is likely to receive the allowance on at least 75% of pay days for a further continuous period of 6 months.

The definition of “**likely**” for the purpose of satisfying Criterion 2 is that, in the opinion of an Authorised Delegate, the allowance has a greater than 50% chance of being received for a continuous period of 12 months. There will be occasions when it will not be possible to determine this at the end of the first 6 months continuous receipt of the allowance, and in such cases the matter will be reviewed regularly and the allowance deemed to be included once either Criterion is met.

- (2) **Pay Periods which count.** For the purposes of clause 2.6(d)(1), the number of pay periods to be counted in a 6 month or 12 month period will include the whole of any pay period in which that 6 month or 12 month period commences or ends.

EXAMPLE

Pay Period 1	Pay Period 2-13	Pay Period 14
_____		_____

6 months continuous receipt of shift allowance
[and likely 2nd 6 months]

In the above example, salary or wage is paid fortnightly, shift allowance starts partway into pay period 1 and the 6 months duration falls partway into pay period 14. Both pay period 1 and pay period 14 count towards determining the 6 months, in addition to pay periods 2-13 (both inclusive).

- (3) **Periods of leave.** When shift allowance is not payable during a period of leave, all pay periods which both commence and end within the period of leave are to be excluded for the purposes of determining Salary for superannuation purposes.

EXAMPLE

Pay Period 1	Pay Period 2-4	Pay Period 5
_____		_____

Period of leave

In the above example, pay periods 2-4 (both inclusive) are excluded from determining Salary. Pay periods 1 and 5 are included.

- (4) **Amount of shift allowance recognised.** If there is a recognised shift allowance, the amount of Salary including shift allowance recognised as Salary on a particular Salary Review Date will be the **LESSER** of (1) and (2), where -

“(1)” is the amount determined according to the formula $A \times B$, where -

A = in the case of a Member who has completed at least 12 months of Superannuation Membership, the highest amount of Salary (**including** shift allowance) paid or payable to the person in respect of work performed in one pay period during the 12 month period of Superannuation Membership immediately preceding (and including) that Salary Review Date; and

B = the number of pay periods in that 12 month period.

and

“(2)” is the amount determined according to the formula $C + D$, where -

C = per annum Salary payable on that Salary Review Date **excluding** any shift allowance; and

D = the total amount of shift allowance paid or payable to the person for the pay periods included in the period of Superannuation Membership (not exceeding 12 months) immediately preceding (and including) that Salary Review Date.

(e) Allowances which are not recognised as Salary

Allowances which are not recognised as Salary are those paid to re-imburse actual or nominal costs incurred by a person in the performance of their duties. Commissions and similar sales performance payments are also excluded from Salary.

Examples of re-imbursement type allowances include -

- A. travel allowance;
- B. meal allowance;
- C. excess fares/excess travel;
- D. district allowance.

(f) Continuing of allowances or higher salary

Continuity of the receipt of allowances or higher salary or wage for the purposes of meeting the criteria for inclusion in Salary is not broken where the allowance or higher salary or wage is payable immediately before and after a period of leave but not payable during the period of leave. However, that period of leave will not count towards the criteria for inclusion in Salary.

(g) Cessation of allowance or higher salary

Where an allowance or higher salary or wage has been included as Salary and that allowance or higher salary or wage ceases, the Salary will continue to apply on subsequent Salary Review Dates until such time as that Salary is exceeded by another Salary (determined on the normal basis).

2.7 Salary for Superannuation - Associated Employer

The salary or wage paid by an Associated Employer to an Eligible Employee will be recognised as Salary, subject to:

- (a) the conditions and criteria specified in this Determination; and
- (b) where the Employee has been seconded to the Associated Employer by the Principal Employer, the approval of the Principal Employer.

2.8 Full Salary Equivalent Designations

Where an employment designation has more than one salary or wage range, the nominal salary or wage points (termed "full salary equivalents") for that designation will be regarded as Salary. Full salary equivalent is presently 83% of Total Average Earnings.

2.9 Part-time Employees

In the case of an Employee who with the agreement of the Employer regularly works less than prescribed full-time hours in a pay period, the Special Determination regarding Part-time Employees in division 2 contains special

provisions regarding Salary and other matters and overrides this Determination to the extent of conflict.

2.10 Seconded Members

(a) Definitions

In this clause 2.10 -

“Approved Employer” means in relation to a Member who is on Special Approved Leave an entity, body or organisation which is approved by the Principal Employer and which -

- (a) ensures that any contributions payable to the Scheme by the Member are efficiently collected and paid to the Scheme;
- (a) pays amounts to or in connection with the Scheme on the basis, and in the manner, determined by the Principal Employer from time to time; and
- (b) generally provides information and assistance reasonably required for the proper operation of the Scheme as it affects the Member.

“Approved Other Salary” means in relation to a Seconded Member as at any particular date -

- (a) the lesser of -
 - (1) the then annual rate of remuneration payable to the Member by the Approved Employer; and
 - (1) the maximum salary level of Manager Level 4, or the equivalent thereof from time to time, as advised by the Principal Employer;

or

- (c) any higher amount determined or approved by the Principal Employer from time to time either generally or in any particular case.

“Extended Leave Without Pay” and **“Leave Without Pay”** shall each have the meaning given to those words in the Special Determination regarding Leave Without Pay with respect to division 2.

“Seconded Member” means a Member who is for the time being -

- (a) on Leave Without Pay; and
- (d) engaged in gainful work for or with an Approved Employer.

“Special Approved Leave” shall have the same meaning given to those words in the Special Determination regarding Leave Without Pay with respect to division 2.

(b) Determination of Salary

Subject to clause 2.3 and clause 2.4 of this Determination, the Salary of a Seconded Member as at a Salary Review Date falling while he or

she is a Seconded Member is an amount equal to the highest of (a), (b) or (c), where -

“(a)” is the Approved Other Salary of the Member as at that Salary Review Date;

“(b)” is the Salary which would have applied in respect of the Member as at that Salary Review Date if the Member had been on Extended Leave Without Pay during the whole of the period when the Member was a Seconded Member; and

“(c)” is the highest Approved Other Salary determined in respect of the Member during the Salary Review Period ending on that Salary Review Date.

(c) **Overriding effect**

This clause 2.10 overrides any other provision of this Determination to the extent of any conflict.

3 Basis of determining “Salary” for purposes of division 3

3.1 Definitions

“**CSS**” means the benefit scheme maintained under the *Superannuation Act 1976*, as amended, for (but not limited to) employees of the Commonwealth of Australia.

3.2 Normal basis of determining “Salary” of a member who is for the time being a member of the CSS

Subject to the Deed and this Determination, the Salary of a Member (where the Member is for the time being a member of the CSS) is determined:

- (a) in accordance with the relevant provisions of the *Superannuation Act 1976* (and any regulations and rules laid down under the authority of that Act) applicable in determining the salary of a member for the purposes of the CSS; or
- (e) on such other basis (if any) as may be determined by the Principal Employer, not being less than the amount determined under (a) above,

but an increase in remuneration which formally takes effect during a Salary Review Period by reason of a retrospective confirmation, authorisation, approval, decision or determination made or given during a following Salary Review Period will not be taken into account in determining Salary during the first-mentioned Salary Review Period, even though it may have actually been paid during that Period.

3.3 Normal basis for determining “Salary” for a Member other than Member who is for the time being a Member of the CSS

Subject to the Deed and this Determination, the Salary of a Member (who is not for the time being a member of the CSS) means at any particular date the member’s annual rate of salary or wage payable to the Member by the Employer, and advised to the Trustee, including the following allowances:

- (a) an allowance which makes up salary or wages when a person’s salary or wage is reduced;
- (b) an allowance payable in recognition of a particular qualification or standard of proficiency in any skill;
- (c) an allowance payable in recognition of length of service and standard of efficiency attained;
- (d) an allowance payable to a person under the age of 21 years by reason of being married or performing duties normally performed by someone who has attained that age;
- (e) a shift allowance;
- (f) an allowance payable for the performance of higher duties;
- (g) an allowance payable by reason of the Member being on call;
- (h) an allowance payable for being required to be in charge of staff, equipment or premises;
- (i) an allowance payable in lieu of regular overtime or extra duty; and
- (j) an allowance payable as compensation for physical hardship or discomfort associated with the performance of particular duties.

3.4 Other bases of determining “Salary”: Superannuation Guarantee Charge

Where it considers it necessary in order to satisfy the *Superannuation Guarantee (Administration) Act 1992* (as amended, re-enacted or replaced from time to time), the Principal Employer by written notice to the Trustee may specify another basis for determining the Salary of a Member or a class of Members.

4 Basis of determining “Salary” for purposes of division 5

4.1 Definitions

“**Total Average Earnings**” is the level of earnings described as 100% achievement of sales targets which represents a fully competent performer as defined in the Principal Employer’s performance development process.

4.2 Basis of determining “Salary”

(a) Normal basis

Subject to the Deed and this Determination, a Member’s Salary is the annual rate of salary or wage payable to the Member by the Principal Employer or any Associated Employer as at any date, including certain allowances, determined in accordance with this Determination.

(b) Alteration of Salary for benefit purposes

A Member’s Salary for benefit purposes alters as at the date the Salary itself is altered.

(c) Retrospective increases ignored

An increase in remuneration which formally takes effect by reason of a retrospective confirmation, authorisation, approval, decision or determination will not be taken into account in determining Salary until the date it is actually confirmed, authorised, approved, decided or determined.

(d) Alteration of Salary for contribution purposes

A Member’s Salary for contribution purposes is determined quarterly on 1 July, 1 October, 1 January and 1 April in each year as advised by the Employer to the Trustee, and Member contributions will be adjusted with effect from the first day of the pay period which commences on or next follows those quarterly dates.

4.3 Allowances

(a) Types of allowances

For the purposes of determining Salary, allowances are divided into the following categories:

- (1) allowances which are automatically included in Salary;
- (2) allowances which will be recognised as Salary provided certain criteria are met;
- (3) shift allowances; and
- (4) allowances which are not recognised as Salary, as explained in this clause 4.3.

(b) Allowances automatically included in “Salary”

The following types of allowances are automatically included in Salary:

- (1) an allowance which makes up salary or wages when a person’s salary or wage is reduced;
- (2) an allowance payable in recognition of a particular qualification or standard of proficiency in any skill;
- (3) an allowance payable in recognition of length of service and standard of efficiency attained; and

- (4) an allowance payable to a person under the age of 21 years by reason of being married or performing duties normally performed by someone who has attained that age.

(c) **Allowances which must meet certain criteria**

- (1) **Relevant allowances.** Allowances which are payable as a result of performing additional or higher functions as part of duties or work must meet certain criteria to be regarded as Salary. The more common of these allowances are -

- (A) higher duties allowance
- (B) on call allowance;
- (C) an allowance payable for being required to be in charge of staff, equipment or premises;
- (D) an allowance payable in lieu of regular overtime or extra duty;
- (E) an allowance payable as compensation for physical hardship or discomfort associated with the performance of particular duties.

- (2) **Relevant criteria.** The criteria for recognition of the allowances in clause 4.3(c)(1) are:

Criterion 1 - the person has received the allowance for a continuous 12 month period of Superannuation Membership prior to the date of calculation of Salary;

OR

Criterion 2 - the person is currently receiving the allowance and is likely to receive the allowance for a total continuous period of 12 months.

The definition of “**likely**” for the purpose of satisfying Criterion 2 is that, in the opinion of an Authorised Delegate, the allowance has a greater than 50% chance of being received for a continuous period of 12 months.

(d) **Shift allowance**

- (1) **Relevant criteria.** The criteria for recognition of shift allowance as Salary are:

Criterion 1 - the person has received the allowance on at least 75% of pay days within a continuous 12 month period of Superannuation Membership prior to the date of calculation of Salary;

OR

Criterion 2 - the person has received the allowance on at least 75% of pay days within a continuous 6 month period of Superannuation Membership prior to the date of calculation of Salary and is likely to receive the allowance on at least 75% of pay days for a further continuous period of 6 months.

The definition of “**likely**” for the purpose of satisfying Criterion 2 is that, in the opinion of an Authorised Delegate, the allowance has a greater than 50% chance of being received for a continuous period of 12 months.

(2) **Amount of shift allowance recognised.** The amount of the shift allowance recognised will be that required under the Superannuation Act 1976.

(e) **Allowances which are not recognised as Salary**

Allowances which are not recognised as Salary are those paid to re-imburse actual or nominal costs incurred by a person in the performance of his or her duties. Commissions and similar sales performance payments are also excluded from Salary.

Examples of re-imburement type allowances include -

- A. travel allowance;
- B. meal allowance;
- C. excess fares/excess travel;
- D. district allowance.

(f) **Continuing of allowances or higher salary**

Continuity of the receipt of allowances or higher salary or wage for the purposes of meeting the criteria for inclusion in Salary is not broken where the allowance or higher salary or wage is payable immediately before and after a period of leave but not payable during the period of leave. However, that period of leave will not count towards the criteria for inclusion in Salary.

(g) **Cessation of allowance or higher salary**

Where an allowance or higher salary or wage has been included as Salary and that allowance or higher salary or wage ceases, the Salary will continue to apply until such time as that Salary is exceeded by another Salary (determined on the normal basis).

4.4 Salary for Superannuation - Associated Employer

The salary or wage paid by an Associated Employer to an Eligible Employee will be recognised as Salary, subject to -

- (a) the conditions and criteria specified in this Determination; and

- (f) where the Employee has been seconded to the Associated Employer by the Principal Employer, the approval of the Principal Employer.

4.5 Full salary Equivalent Designations

Where an employment designation has more than one salary or wage range, the nominal salary or wage points (termed “full salary equivalents”) for that designation will be regarded as Salary. Full salary equivalent is presently 83% of Total Average Earnings.

4.6 Part-time Employees

In the case of an Employee who with the agreement of the Employer regularly works less than prescribed full-time hours in a pay period, the Special Determination regarding Part-time Employees for division 5 contains special provisions regarding Salary and other matters and overrides this Determination to the extent of conflict.

4.7 Seconded Members

(a) Definitions

In this clause 4.7 -

“**Approved Employer**” means in relation to a Member who is on Special Approved Leave an entity, body or organisation which is approved by the Principal Employer and which -

- (a) ensures that any contributions payable to the Scheme by the Member are efficiently collected and paid to the Scheme;
- (g) pays amounts to or in connection with the Scheme on the basis, and in the manner, determined by the Principal Employer from time to time; and
- (h) generally provides information and assistance reasonably required for the proper operation of the Scheme as it affects the Member.

“**Approved Other Salary**” means in relation to a Seconded Member as at any particular date -

- (a) the lesser of -
 - (1) the then annual rate of remuneration payable to the Member by the Approved Employer; and
 - (2) the maximum salary level of Manager Level 4, or the equivalent thereof from time to time, as advised by the Principal Employer;

or

- (i) any higher amount determined or approved by the Principal Employer from time to time either generally or in any particular case.

“Leave Without Pay” shall have the same meaning as in the Special Determination regarding Leave Without Pay for division 5.

“Seconded Member” means a Member who is for the time being -

- (a) on Leave Without Pay; and
- (b) engaged in gainful work for or with an Approved Employer.

“Special Approved Leave” shall have the same meaning given to those words in the Special Determination regarding Leave Without Pay for division 5.

(b) Determination of Salary

Subject to clause 4.2(b) of this Determination, the Salary of a Seconded Member while he or she is a Seconded Member is an amount equal to the higher of (a) or (b) where -

“(a)” is the highest Approved Other Salary of the Member; and

“(b)” is the Salary which would have applied in respect of the Member if the Member had been on Leave Without Pay during the whole of the period when the Member was a Seconded Member.

(c) Overriding effect

This clause 4.7 overrides any other provision of this Determination to the extent of any conflict.

This Determination entirely replaces any previous Special Determination regarding the specified Subject Matter, with effect on the Effective Date.

Authorised Delegate of Principal Employer

Full Name:

Anthony P. Chelcun

Signature:



Date:

3/7/02