



# **DEFENCE FORCE REMUNERATION TRIBUNAL**

## **TWENTY-SECOND REPORT**

**2006 – 2007**

**(Period from 1 July 2006 – 30 June 2007)**



**Australian Government**

**Defence Force Remuneration Tribunal**

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1 November 2007

The Hon Joe Hockey MP  
Minister for Employment and Workplace Relations  
Parliament House  
CANBERRA ACT 2600

My dear Minister,

I have pleasure in presenting to you the Twenty-second Report of the Defence Force Remuneration Tribunal, which covers the period of the Tribunal's operations from 1 July 2006 to 30 June 2007.

Yours sincerely,

The Honourable Senior Deputy President R N Cartwright  
President

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***DEFENCE FORCE REMUNERATION TRIBUNAL***

**President:       The Honourable Senior Deputy President R N Cartwright**

**Members:       Mr G D John**

**Rear Admiral B L Adams AO, RAN (Ret'd)**

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## 1. INTRODUCTION

The Tribunal has been operating for over 22 years, having been established in 1984 to determine the pay and allowances of members of the Australian Defence Force (ADF), considering the special nature of Defence Force service.

The functions of the Tribunal are set out in section 58H of the *Defence Act 1903* (the Act) as follows:

- a. *to inquire into and determine the salaries and relevant allowances to be paid to members of the ADF; and*
- b. *to inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.*

In addition, at the request of the Minister for Employment and Workplace Relations, the Tribunal shall inquire into and report on relevant matters.

Section 58H also provides:

*“Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members [of the ADF] is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances -*

- (a) within 2 years of the first-mentioned determination taking effect; or*
- (b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect - within that shorter period.”*

Section 58KD of the *Defence Act 1903* provides that:

*“The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates.”*

The relevant sections of the *Act 1903*, as amended, which refer to the functions and powers of the Tribunal, are set out in **Appendix 1** to this Report.

The statement required in accordance with section 8 of the *Freedom of Information Act 1982* is included as **Appendix 2** to this Report.

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## **2. MEMBERSHIP OF THE TRIBUNAL**

The Tribunal consists of three members who are appointed by the Governor General. In accordance with the relevant legislation the President is a presidential member of the Australian Industrial Relations Commission. The other members are a person who is experienced in industrial relations matters and a person who has been a member of the ADF.

The composition of the Tribunal at the time of this Report was:

President:       The Honourable Senior Deputy President R N Cartwright

Members:       Mr G D John

Rear Admiral B L Adams AO, RAN (Ret'd)

Senior Deputy President Robert Cartwright has been a presidential member of the Australian Industrial Relations Commission since February 2001. Prior to this appointment he held a number of senior management positions in civil industry. Senior Deputy President Cartwright was appointed as President of the Tribunal by the Governor General from 8 March 2004 to 7 March 2009.

Mr Greg John was appointed as a member of the Tribunal by the Governor General for the period 8 March 2004 to 7 March 2008. Mr John is currently a director of an industrial relations consultancy and previously held senior management positions in both the public and private sectors.

Rear Admiral Brian Adams AO, RAN (Ret'd) served in the RAN from 1968 to 2005. His last two appointments in the ADF were as the Deputy Chief of Navy from 2000 to 2002 and Head of the Defence Personnel Executive from 2002 to 2005. The Governor General in Council appointed Admiral Adams as a member of the Tribunal for a period of 5 years commencing on 1 August 2006.

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### **3. THE PARTIES**

The main parties in matters before the Tribunal are the ADF and the Commonwealth. The Armed Forces Federation of Australia (ArFFA), the Returned and Services League of Australia (RSL) and the Regular Defence Force Welfare Association (RDFWA) seek leave to intervene in most matters coming before the Tribunal. The rights of parties to appear before the Tribunal are set out in section 58K of the *Defence Act 1903*.

The ADF is represented by the Defence Force Advocate whose role and functions are set out in section 58T of the *Defence Act 1903* and include:

- . advising the Chief of the Defence Force in relation to matters that have been, or may be, referred to the Tribunal pursuant to sub-section 58H(3);
- . preparing submissions to be made to the Tribunal on behalf of the ADF concerning any matter that is being considered by the Tribunal; and
- . representing the ADF in proceedings before the Tribunal.

The office of Defence Force Advocate has always been filled by eminent legal practitioners of high calibre. The present Defence Force Advocate is Mr Richard Kenzie QC who was originally appointed by the Minister for Defence Science and Personnel on 1 June 1996 and has been reappointed until 30 June 2008.

The Commonwealth is represented in proceedings before the Tribunal by the Department of Employment and Workplace Relations. In the period of this report the Commonwealth was represented by Mr Mark O'Neill and assisted by Ms Katherine Gifford.

ArFFA has been represented by Mr Graham Howatt since 1997. The Federation ceased to operate in December 2006. Mr Howatt has presented his submissions to the Tribunal in a forthright and measured way. The Tribunal sincerely thanks Mr Howatt for his assistance during his period as advocate and we wish him well in his future endeavours.

Group Captain Phil Morrall AM, CSC (Ret'd) has represented the Returned and Services League of Australia and the Regular Defence Force Welfare Association.

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#### **4. THE WORK OF THE TRIBUNAL**

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Much has been made in recent years of the ADF's need for more flexible pay structures and systems. That has consumed most of the Tribunal's attention this year, in three areas.

Firstly, Qualification and Skill Allowances have now been incorporated into salary scales for all ADF members and ceased to have effect from 9 August 2007, the ADF's implementation date for the revised other ranks salary structure, a similar change having applied to officers in February 2006. In the short term, this has the appearance of increasing the complexity of the other ranks salary structure, by increasing the number of pay groups from 8 to 16. In fact, the revised other ranks pay structure, approved by the Tribunal in December 2006, rationalised the number of pay points to be administered for other ranks and provided greater recognition for skill differentials among more experienced NCOs. A further opportunity for simplification of the other ranks salary structure is now available by rationalising the 16 pay groups, temporarily created, to a lesser number, in a structure with more significant differentials for skill progression. Similarly, there are opportunities to rationalise the myriad of disability allowances and levels into a simplified structure, involving less administrative overhead and a clearer rationale for ADF members.

Secondly, though the determination was issued after the period of this report, the Tribunal has now placed officers and warrant officers in new salary structures approved in February 2006. To shorten the cycle time for the placement project, the Tribunal adapted its procedures to provide for direct engagement with the ADF leadership and sample groups of ADF members affected. We are grateful to those who gave their time and are encouraged by the parties' positive response to adapting process. The Tribunal intends that its processes are to be responsive to the information needs of the matter to be decided. Certainly, in this case, the Tribunal has a greater level of confidence in the outcome as a result of direct engagement with the ADF leadership.

For star rank officers, much greater flexibility was introduced when the Tribunal changed the system for setting their salaries in April 2006. We now determine a range within which the CDF may recommend differential salaries, taking account of factors he considers relevant. We are encouraged by the initial operation of this system and observe that this framework provides more flexibility than the ADF has so far contemplated. We encourage its further development.

Thirdly, we have been concerned to establish a reliable basis for assessing the competitiveness of ADF pay. In the context where the ADF is increasingly dependant on technical trades subject to strong market demand, where Army aims to grow and where Navy's seagoing numbers are under pressure, recruitment and retention considerations arise. We are conscious that many other factors in addition to remuneration are determinative and we continue to be sceptical of simplistic resort to pay. But we are concerned that ADF remuneration be competitive. We endorse a submission made in relation to placement of officers:

*"The nature of the skills, employment and environment in which ADF people work means that absolute comparisons are seldom possible; nevertheless, external comparators are important as they provide a key indication of the ADF's market position in terms of remuneration and whether it is competitive or not."*

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Accordingly, we encourage the parties appearing to develop expertise and ongoing methodology to monitor the competitiveness of ADF remuneration. We have previously observed that the structure of ADF remuneration is more complex than it need be, with multiple components, overseen by different decision makers. In that context, the need for a cohesive remuneration policy to be applied across the various processes that determine the component parts is obvious, and urgent. So too, is the ongoing need for reliable market data to provide a sound basis for decisions, lest ADF pay be thought to be determined in a vacuum.

Informed competitive analysis is the more important in light of changes in pay setting arrangements in recent years. For most of its life the Tribunal has been guided by the AIRC's wage fixation principles, with stress on relative work value. The parties now seek to take account of enterprise specific and competitive market factors, but will be assisted in doing so armed with objective data and sound methodology.

Further, we encourage education for ADF members on the remuneration value of their package.

One other point should be made about flexible pay structures. Given the ADF's need to attract members into technical trades which involve long training periods, we have encouraged the ADF to review the period over which trainee pay arrangements for these trades should most sensibly apply. Several skilled trades have milestones in the initial training period at which the member may be competent for deployment in more limited, but nevertheless valuable, roles, prior to completing the full trade training cycle. In our view, it would be uncontroversial to recognise such a milestone as the point to progress from the trade trainee pay rate to an appropriate skill rate. In a competitive market for trade trainees it makes sense for the ADF to remove any obstacles that may deter suitable recruits and at the same time to give recognition to the increasing skills of its people.

In its various activities the Tribunal sees the dedicated hard work of ADF members in many fields. We acknowledge with gratitude the contribution they make. We also express our appreciation, to the Chief of the Defence Force and all those who have assisted us, for the time devoted to informing the Tribunal and for ADF members' patience and enthusiasm in explaining their work to us. The constructive contribution of the Commonwealth's representatives in working collaboratively to assist the ADF and the Tribunal is also to be gratefully acknowledged.

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## **5. MATTERS CONSIDERED**

### **A. Graded Officer Pay Structure**

In February 2006 the Tribunal approved a new pay structure for officers. As a result, recipients of Submarine Service, Special Action Forces, Specialist Operations and Flying Allowances were placed within the 10 banded structure at substantive or transitional pay points, depending on their circumstances. At that stage other officers continued at Pay Grade 2, which equated to the former Officers' Common Scale.

The ADF's original intent was to populate the structure with officer employment groups on a case by case basis. This process began with DFRT hearings on Air Traffic Control and ADF Engineering officers in September and November 2006 respectively. Both submissions resulted in interim placements by the Tribunal. Those cases will be dealt with separately later in this report.

The Tribunal noted that there were difficulties in considering the groups in isolation and that populating the structure through a series of individual cases would be slow. Therefore, the Tribunal proposed that the ADF submit a plan to place all officer categories, taking account of relativities between officer groups.

Each Service developed placement proposals, considering its own workforce characteristics, capability and sustainability requirements and the relative workforce value of the employment groups. These provided the basis for the ADF's consolidated proposal.

The Tribunal met with senior ADF officers to discuss details of the proposed placements and their rationale, and to explore any cross-Service issues. Officers consulted were: the Vice Chief of the Defence Force; Chiefs of Navy, Army and Air Force; the Chief of Capability Development Executive; the Fleet Commander; the Land Commander; the Air Commander; and the Special Operations Commander. After the reporting period, in July the Tribunal met with the Chief of the Defence Force.

On 15 May 2007 the Tribunal visited the Australian Defence College at Weston Creek for presentations on such matters as officer career management and development and on training.

The Tribunal also met with groups of officers to hear their views on the placements being proposed. The discussions were held on 28 May 2007 with Navy Officers at HMAS Watson, on 31 May 2007 at RAAF Williamtown with Air Forces Officers and on 7 June 2007 at Robertson Barracks with Army Officers.

The parties commenced submissions and evidence in hearings from 13 June 2007. The case concluded in August and accordingly will be included in the 2007-2008 report.

### **B. Other Ranks Salary Structure**

The ADF commenced the Remuneration Reform Project in early 2002, focussed initially on officers. At the conclusion of Phase 3 of the project, the Tribunal determined a new salary structure for officers and warrant officers, to operate from 1 July 2006. In its Reasons for Decision, published on 27 February 2006, the Tribunal stated:

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*“Work must now progress, as a matter of urgency, to complete a pay structure for Other Ranks which also include the Qualification and Skill (Q & S) elements allowances.”*

Accordingly, by joint submission on 5 December 2006, the ADF and the Commonwealth proposed a structure of sixteen pay groups for other ranks to incorporate Qualification & Skill (Q & S) elements of Special Action Forces, Special Operations, Flying and Submarine Service Allowances.

In the proposal, Pay Groups 1, 2 and 3 maintained the current salary rates, but members then in Pay Groups 4 to 7 would receive pay increases as a result of applying a constant differential of \$2084 between each Pay Group at all rank levels from Pay Group 3. A member who received one of the specified Q & S allowances would be placed in the corresponding Pay Group in the new structure.

The RSL and the RDFWA made a joint submission generally supportive of the proposals. However, the RSL/RDFWA were concerned about the ADF's ability to implement the proposed changes in a relatively short time frame and raised questions about intrusion into other salary scales and salary compression at “higher echelons”.

The Tribunal approved the structure as sought by the principal parties, noting that the structure not only incorporated Q & S allowances but also reduced compression at higher ranks. Given these positive developments, the ADF's extended timetable for implementation was disappointing. The Tribunal commented:

*“The new structure is to apply on and from 9 August 2007. However, we encourage the ADF to apply itself to earlier implementation and would re-open the case to accommodate an earlier date of effect.”*

### **C. Reserve Remuneration Review**

Reserve salaries have been discounted by 10-15% compared to Permanent Force levels. In a joint submission heard on 30 August 2006, the ADF and the Commonwealth proposed removal of the discount for Reserve members who have the capacity to be deployed on operations to perform identified functions. The proposal relied on significant changes in the employment of Reserves and their role in overall ADF capability plans. The categories of Reserves for whom the discount was to be removed were:

- High Readiness Reserve (HRR);
- Reserve members who were previously Permanent Force members;
- members engaged in Reserve Only Trades;
- members in the Specialist Officers Career Structure; and
- other members who satisfy criteria determined by the Chief of the Defence Force.

The ADF, with the support of the Commonwealth, also sought the introduction of a Reserve Allowance, similar to Service Allowance for a Permanent Force member, to recognise disabilities inherent in Reserve service.

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The ADF submitted that many of the factors contributing to Service Allowance also apply to Reserve service, although to a varied extent when compared to the Permanent Force. It was contended that, under the 'one force' concept, Reserve members are required to be on call, they must conform to ADF standards of discipline, behaviour, dress and bearing and are exposed to the same uncomfortable conditions as their Permanent Force counterparts whilst providing service.

The rate of Service Allowance at the time of this review was \$9691 per annum. This figure equates to a daily rate of \$26.55, using the 1/365 divisor that has been applied for Reserve remuneration. The ADF proposed the establishment of a Reserve Allowance of \$10 per day of Reserve service, paid to members at the rank of Major (Equivalent) and below in recognition of the disabilities associated with Reserve service.

ArFFA supported the proposals. It did, however, submit that the proposed Reserve Allowance should be titled Service Allowance, Reserve element or Reserve component, so that it could be reviewed and adjusted whenever Service Allowance is adjusted.

The Tribunal approved the changes to Reserve Remuneration as sought, noting that they were part of a wider package designed to improve recruitment and retention for Reserve members.

#### **D. Annual Review of Allowances**

On 25 July 2006, the ADF made submissions on the currency of allowances. The Tribunal noted that Separation Allowance was programmed for review in December 2006.

Whilst it acknowledged that the ADF had some pressing issues to address, the Tribunal referred to its statutory obligations under the Defence Act. Accordingly, the Tribunal scheduled the following allowances for review in the later half of 2007:

- Adventurous Training Instructors Allowance; and
- Submarine Escape Allowance.

#### **E. Workplace Remuneration Arrangement**

The Defence Act provides, in relation to salaries and allowances, that the Tribunal may give effect to any agreement reached between the Minister for Employment and Workplace Relations, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the ADF. On 27 September 2006 the ADF and Commonwealth made submissions on such an agreement covering the period from 4 November 2006 until 3 November 2009. It contemplated a salary increase of 4.2% from 16 November 2006 and three further increases of 2.8% from each of 9 August 2007, 1 May 2008 and 5 February 2009, for ADF members at 08 rank and below.

The Commonwealth submitted that change initiatives affecting the ADF, offset the cost of the increases provided, and that the arrangement did not encompass increased operational tempo or conditions of service outside the Tribunal's jurisdiction.

ArFFA argued that the remuneration arrangements should have a two year life, with a 12% increase in salaries and allowances in three equal instalments of 4%. The Federation also expressed concern about the ADF consultation process.

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Having considered all submissions, the Tribunal approved the remuneration arrangement for 2006 – 2009 and will give effect to the increases according to the agreed timetable.

#### **F. ADF Air Traffic Controllers**

On 28 September 2006, the ADF sought pay group placement for the Air Traffic Control (ATC) category within the Graded Officer Pay Structure as follows:

- Pay Grade 3, on achievement of primary ATC endorsement;
- Pay Grade 5, on achievement of primary Training Officer standard or Supervisor endorsement;
- Pay Grade 7, on achievement of one primary endorsement in each of Tower and Radar elements AND achievement of two Training Officer standards in two primary endorsements, OR two Supervisor endorsements, OR an ATC Instructor qualification.

The ADF argued its case on the basis of increasing work value as Air Traffic Controllers progress through the competency milestones set out above, and supported its proposal by reference to retention difficulties over the past decade. It submitted that the current s.58B allowances would be terminated when the proposed placements took effect.

The Commonwealth supported the placement methodology proposed by the ADF and the pay grade placements, as did ArFFA.

Having seen the work of ATCs on the inspection at RAAF Darwin, the Tribunal expressed difficulty with the relative pay grade placement proposed for ATC and air crew of several years' seniority. It sought the parties' views on whether a specialist pay scale may be more appropriate for ATCs. In a statement on 8 February 2007, the Tribunal said that, this being the first officer placement case, it intended to adopt a cautious approach and to determine interim placements at Pay Grades 3, 4 and 6 respectively. These pay grades were to be reviewed in the context of the wider Graded Officer Pay Structure.

#### **G. ADF Engineering Officers**

On 29 November 2006, the Tribunal heard the joint ADF and Commonwealth proposal for placement of ADF Engineering Officers in the salary structure approved by the Tribunal in February 2006. The proposal covered a significant portion of the ADF's general officer population.

In a Statement, published on 22 February 2007, the Tribunal did not accept the proposal. The Tribunal observed that during proceedings issues arose requiring further consideration by the parties. It was apparent that this case was the precursor to others for significant salary increases across the general officer categories. Placement proposals for 01 to 06 officers had been developed without considering the relationship with the star rank officers' pay structure. And, to some extent, argument relied on external pay comparisons, applying methodology the Tribunal did not accept. Further, the Services' proposals involved issues wider than those specific to engineers. The Tribunal was not able to accept Army's generalized model for placement.

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Accordingly, the Tribunal considered it unwise to progress beyond an interim decision. It determined to place ADF Engineering Officers in Pay Grade 3, unless they were already in a higher pay grade, and to reconsider the matter as part of the General Officer Placement case. The Tribunal stated that it would consider submissions at that time about date of effect of the placements determined. The placement of ADF Engineering Officers at Pay Grade 3 applied on and from 22 February 2007.

#### **H. Remuneration Reform Project – ADF Star Rank Officers**

In Reasons for Decision on the Remuneration Reform Project (RRP, Matter No 2 of 2003 dated 27 February 2006), the Tribunal indicated that it had not accepted the ADF submissions on setting salaries for 07 and 08 officers. During the course of the case, the Tribunal suggested that the ADF consider a more flexible arrangement, allowing placement of individual officers within a salary range for each rank. The Tribunal noted that separate arrangements already applied to 01 - 06 officers and star rank officers and indicated that it would continue inquiry to determine the salary structure to apply to star rank officers.

In a statement on RRP, dated 21 April 2006, the Tribunal noted that the ADF and the Commonwealth had made a joint submission to the Tribunal on 12 April 2006. The submission proposed a flexible remuneration model in which the Tribunal set a salary range for each rank and the Chief of the Defence Force (CDF) recommended to the Tribunal the salary level to be determined for each star rank officer. The Tribunal indicated support for this initiative, noting that, while it had sought further submissions to clarify some issues of process, it was satisfied the salary ranges proposed were appropriate as a starting point.

The ADF subsequently provided additional submissions on the process on 28 September 2006 and the Tribunal approved the salary ranges as sought. In its decision, the Tribunal commented:

*“Changing the salary structure for officers in the ADF has been a major undertaking over many years. The approach we have adopted is able to accommodate a wide range of individual considerations and change, quickly and with minimum overhead.*

*It also opens a path for further reform of how salaries for star rank officers are managed. The salary ranges determined above largely encompass the salaries for star rank officers in specialist pay scales. We think it would be sensible to manage the salaries for 07 and 08 officers as a whole, within the one structure, rather than to maintain several different salary schedules covering star rank officers. Further, adopting this approach means that a separate [Star Rank Remuneration Arrangement], or including star rank salaries in the Workplace Remuneration Arrangement, is potentially superfluous. We see merit in managing star rank salaries by regular review of the set salary ranges.”*

#### **I. Army Clerk Administration Operator Supply and Clerk Finance Trade Case**

The ADF sought a restructure of the Clerk Administrative, Operator Supply and Clerk Finance categories.

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### Clerk Administrative

The Clerk Administrative (CLK ADMIN) category provides clerical, administrative, financial, travel and personnel management support, together with operational staff support to Army. The ADF proposed:

- to rename the category Operator Administrative;
- that a significant change in the nature of work of the CLK ADMIN Advanced warranted an increase in pay group from Pay Group 2 to Pay Group 3; and
- that a significant change in the nature of work of the CLK ADMIN Supervisor, Manager and Technical Manager warranted an increase from Pay Group 3 to Pay Group 4.

### Operator Supply

The Army Operator Supply (OP SUP) category provides supply support and ancillary services to Army. The ADF submitted that the working environment has moved from a base support area to employment in Land and Special Operations Commands and that significant changes had occurred in the nature of the work.

The ADF proposed:

- movement from Pay Group 2 to Pay Group 3; and
- that the work of an OP SUP Supervisor and Manager warranted an increase from Pay Group 3 to Pay Group 4.

### Clerk Finance

The Clerk Finance (CLK FIN) category provides payroll support, financial management support and financial services to Army. The ADF submitted that the nature of work had undergone a “revolutionary change” due to a shift from base-oriented payroll support tasks to provision of support in the Land and Special Operations Command environment.

The Commonwealth supported the restructures and new pay groups as sought by the ADF. The Commonwealth provided external comparators in relation to the Australian Public Service salaries and salaries contained in the 2006 Chandler McLeod Market Salary Survey which, in the Commonwealth’s view, supported the remuneration levels sought.

ArFFA also supported the ADF proposal.

Having considered the submissions and evidence, the Tribunal approved the structure and pay groups as sought. In coming to its decision the Tribunal had regard to the support of the Commonwealth and to the proposition that there have been increased levels of responsibility, autonomy and accountability for the three categories.

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## **J. Separation Allowance**

On 5 December 2006, the ADF sought changes to the provisions of Separation Allowance.

Separation Allowance was payable under Determination No. 2000/1 made under Section 58B of the Defence Act. The purpose of the allowance is to compensate members for the effects of service related separation from their dependants and to assist with additional expenses that may be incurred as a result of the separation.

The ADF did not seek changes to the rates of the allowance but sought changes to the structure as follows:

- members who receive Seagoing Allowance, Submarine Service Allowance, Special Action Forces Allowance and Special Operations Allowance who are also categorised as Members with Dependants (Unaccompanied) should receive the daily rate of the allowance instead of the continuous rate; and
- members who are posted to the Submarine Sea Training Group should receive the continuous rate of the allowance, consistent with the treatment of members who are posted to the Surface Sea Training Group.

The ADF also sought the transfer of Separation Allowance to a separate Section 58H allowance.

The Commonwealth supported the changes to the allowance as sought by the ADF.

Having considered the submissions of the parties the Tribunal approved the change to the allowance as sought.

## **K. Royal Australian Electrical and Mechanical Engineers Ground Trades Case**

On 6 December 2006, the ADF sought changes to the remuneration structure of the Royal Australian Electrical and Mechanical Engineers (RAEME) ground trades, following an Army review and consideration of training requirements for Reserves. The ADF proposed:

- placement of the following in Pay Group 3: Australian Regular Army (ARA) and Army Reserve (ARes) members of the Fitter Armament, Mechanic Vehicle, Technician Electrical and Technician Electronics Systems categories who possess a Certificate III in their trade upon enlistment;
- introduction of a specialist skill grade at the Craftsman level in Pay Group 5 for the mechanical trades and in Pay Group 6 for the Technician Electronics Systems category (ARA);
- placement in Pay Group 5 of ARA members of the mechanical trades at the advanced skill grade, with a consequential increase to Pay Group 5 for ARA members of the mechanical trades at the supervisor skill grade;
- placement in Pay Group 6 of ARA members of the electrical/electronics trades at the advanced skill grade, with a consequential increase to Pay Group 6 for ARA members of the electrical/electronics trades at the supervisor skill grade;

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- increasing pay placement for Artificer Mechanic Grade 2 from Pay Group 5 to Pay Group 6 (ARA);
  - reducing to Pay Group 4 the Technician Electrical Grade 3 (ARes) and the Technician Electronics Systems Grade 3 (ARes);
  - reducing to Pay Group 5 the Artificer Electronics (ARes);
  - re-naming “Mechanic Recovery Advanced” as “Mechanic Recovery Specialist”, in line with other RAEME ground trades;
  - establishing an Advanced grade for the Mechanic Recovery trade, in line with the other RAEME ground trades, with an associated increase to Pay Group 4 for Mechanic Recovery Grade 2 (ARA) on completion of Subject 2 and Subject 4 for Corporal courses;
  - reducing to Pay Group 3 the Mechanic Recovery Advanced Grade 1 (ARes) and the Mechanic Recovery Supervisor Grade 1 (ARes); and
  - increasing to Pay Group 5 the Mechanic Recovery Manager Grade 2 (ARA).

The ADF submitted that its proposal took account of advances in technology and personal accountability and liability resulting from adoption of the Technical Regulatory Framework. It also noted the requirement for members at all ranks to work with limited or no supervision, applying greater skill levels.

The ADF also sought non reduction provisions for about 20 Reserve members affected by lower placement of their skill grades, providing time for them to qualify at the next skill grade.

The Commonwealth supported the ADF proposal.

ArFFA also supported the proposed restructure but expressed a view that remuneration for trainees in the technical trades was inadequate and should be addressed as soon as possible.

Having considered the submissions and evidence in this case, the Tribunal approved the structure and pay group placements as sought by the ADF. In doing so, the Tribunal agreed with ArFFA’s submission, but observed that,

*“... it is not a matter of reviewing trainee pay rates only. Extended time on trainee rates is a function of training requirements before a member is deployable in a designated role. There is no obstacle that we know of to recognising an intermediate point where a member may be deployable in a more limited, but necessary, capacity. In our view such a re-appraisal would be wise in the technical trades, many of which are recruiting priorities in a competitive market. We encourage the ADF to address this as a matter of urgency.”*

The date of effect for the new structure for the RAEME Ground Trades was on and from 14 December 2006.

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<b>L. Navy Electronic Warfare Analyst Submarines Case</b>
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On 6 February 2007, the ADF sought changes to the remuneration and category structure of Navy Electronic Warfare Analyst Submarines (EWASM) branch. The ADF submitted that changes in Navy's capability requirements since the 2003 restructure of the EWASM category has meant that the Navy has altered the training continuum to reflect contemporary needs. Subsequently, the ADF proposed that the Tribunal:

- approve a name change for the category better to reflect the roles and functions of personnel in the category. From 1 July 2007 the EW Linguist, EW Technical and EWASM branches would be known as Cryptologic Linguist, Cryptologic Systems and Cryptologic Systems Submarines branches respectively;
- note the changes to the EWASM Career Training Continuum;
- approve the placement of trainees to EWA Skill Grade 1 at Pay Group 3 after the completion of the Ancillary Skill Training and EWASM Submarine Training courses; and
- approve an extension of the Non Reduction Provision to May 2009 for the EWASM Category to allow for personnel to transition across to the new structure.

The Commonwealth supported the ADF proposal.

Having considered the submission, the Tribunal approved the changes as sought by the ADF. The date of effect for the new structure was on and from 23 May 2007.

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## **6. INSPECTIONS**

Inspections are generally made at the request of the parties to review work performed by ADF members.

On 15 August 2006 the Tribunal reviewed the work of the Air Traffic Control category at RAAF Darwin. The inspection included formal presentations and practical demonstrations by ATC officers.

On 24 and 25 October 2006 the Tribunal conducted an inspection of RAEME trades at Robertson Barracks Darwin. The inspection included presentations and demonstrations by members of the various trades.

As part of the ADF Engineering Officers case the Tribunal inspected the work of engineers at: HMAS KUTTABUL and on board HMAS MELBOURNE on 17 October 2006; HMAS ALBATROSS on 18 October 2006; and the School of Military Engineering at Holsworthy on 16 November 2006.

During the course of the Graded Officer Pay Structure case the Tribunal consulted with senior ADF officers on placements proposed. The officers consulted in this reporting period were: the Vice Chief of the Defence Force; Chiefs of Navy, Army and Air Force; the Chief of Capability Development Executive; the Fleet Commander; the Land Commander; the Air Commander; and the Special Operations Commander.

On 15 May 2007 the Tribunal visited the Australian Defence College at Weston Creek for presentations on officer training and career management and development.

The Tribunal also met with a wide range of officers to hear their views on the placements being proposed. These discussions were held on 28 May 2007 with Navy Officers at HMAS WATSON, on 31 May 2007 with Air Force Officers at RAAF Williamtown, and on 7 June 2007 at Robertson Barracks with Army Officers.

A similar meeting with Warrant Officers took place at the Royal Military College Duntroon on 25 May 2007 to discuss the proposed placement of Warrant Officers in the salary structure approved by the Tribunal in February 2006.

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## **7. VISITS**

As part of its statutory obligation to inform itself on ADF matters, the Tribunal undertakes visits to ADF units, establishments and ships. These visits generally include open forums with ADF members at all rank levels and, on occasion, with spouses. Usually the meetings are informal and include a short explanation of the role and function of the Tribunal, followed by a discussion period in which ADF personnel and spouses have the opportunity to raise issues or ask questions.

On 13 September 2006 the Tribunal visited the Army Logistic Training Centre (ALTC) at Bandiana to gain an understanding of the roles and functions of the ALTC.

The Tribunal had discussions with the Commandant ALTC and visited the Army Schools of Logistic Operations, Electrical and Mechanical Engineering, Transport and Ordnance, Administration and Health and the Australian Defence Force Chaplains College.

The number of visits to ADF establishments was limited during the period of this report due to the Tribunal's programme of work.

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## **8. FINANCIAL MATTERS**

The Tribunal's financial requirements are met through the Department of Employment and Workplace Relations, sub-program 2.2.4 Defence Force Remuneration Tribunal. There is no separate form of accounts applicable to the Tribunal.

Budget funds, allocated through the Departmental process, may be expended by the authority of the Tribunal under the headings of: salaries to the authorised staffing level, including holders of public office; and administrative and incidental expenditure.

## **9. INDUSTRIAL DEMOCRACY**

The Tribunal supports participative practices involving staff in decision-making and process improvement through the sharing of information, and clarity of accountability in the workplace.

## **10. OCCUPATIONAL HEALTH AND SAFETY**

The obligations of the Tribunal under the provisions of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* are met by the Department of Employment and Workplace Relations on behalf of the Tribunal.

## **11. ENERGY MANAGEMENT**

The Tribunal occupies space at 12 Moore Street, Canberra. In relation to those energy matters which are within the control of the Tribunal, such as lighting, every effort is made to reduce energy consumption consistent with the requirements for every day administration.

## **12. ADVERTISING AND MARKET RESEARCH**

The Tribunal does not have a requirement to advertise or conduct market research.

## **13. DISCRETIONARY GRANTS**

There are no discretionary grants administered by the Tribunal.

## **14. ACCOMMODATION**

In addition to the use of the premises for the operations of the Tribunal, the Hearing and Advocates' rooms continue to be used by Government Departments, including the Department of Defence and the Department of Employment and Workplace Relations, and by the Australian Industrial Relations Commission and other Tribunals. The facilities are made available subject to the Tribunal's own requirements.

## **15. WEB SITE**

The Defence Force Remuneration Tribunal released its Web Site in November 1999. The Web Site includes the role and operation of the Tribunal, current membership and contains statements, decisions and determinations made in the matters that have come before it and matters scheduled for hearing. The Tribunal's Annual Report is also available on the site.

Along with the visits to ADF establishments detailed in Part 7 of this Report, the Web Site provides ADF members with an important opportunity to familiarise themselves with the role, operation and decisions of the Tribunal.

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In 2007 the DFRT website was reviewed and substantially upgraded to incorporate links to the individual Services, ADF Pay and Conditions Manual, Badges of Rank and the Department of Employment and Workplace Relations web site <[www.workplace.gov.au](http://www.workplace.gov.au)>.

To ensure the DFRT web site is user friendly and more appropriately raises the profile of the DFRT, further revisions and upgrades are planned to occur in the later half of 2007. These upgrades include additions such as recent events and inspections and providing greater access to historic data. Further, images taken during visits and inspections will also be posted on the web site and be available for download in both low and high resolution formats.

**EXTRACT FROM THE DEFENCE ACT 1903 SECTIONS 58F TO 58Q****Division 2 - The Defence Force Remuneration Tribunal****Interpretation****58F.**

In this Division, unless the contrary intention appears -

"President" means the President of the Tribunal appointed under section 58G;

"Commission" means the Australian Industrial Relations Commission established by section 8 of the *Industrial Relations Act 1988*;

"Defence Force Advocate" means the Defence Force Advocate appointed under section 58S;

"Member of the Tribunal" means a member of the Tribunal appointed under section 58G, and includes the President;

"Presidential member of the Commission" means the President of the Commission or the Vice President, a Senior Deputy President or a Deputy President of the Commission appointed under section 9 of the *Industrial Relations Act 1988*;

"Relevant allowances", in relation to a member, means allowances by way of remuneration payable to the member and, without limiting the generality of the foregoing, includes any allowance payable to the member -

- (a) in respect of the service of the member on a ship or aircraft;
- (b) as general compensation for the disadvantages of rendering naval, military or air force service;
- (c) in respect of particular skills or qualifications possessed by the member; or
- (d) as compensation for the hazardous nature of the duties that the member is required to perform or for the conditions under which the member is required to perform his duties;

"Remuneration Tribunal" means the Remuneration Tribunal established by sub-section 4(1) of the *Remuneration Tribunal Act 1973*;

"Salary" includes pay;

"Single member" means a member of the Tribunal specified in a direction made under subsection 58KA(1);

"Tribunal" means the Defence Force Remuneration Tribunal established by section 58G.

**58G.**

- (1) There is established by this section a Defence Force Remuneration Tribunal.

- 
- (2) The Tribunal shall consist of -
    - (a) a President;
    - (b) a person who is experienced in industrial relations matters; and
    - (c) a person who has been a member of the Australian Defence Force.
  - (3) The members of the Tribunal shall be appointed by the Governor-General on a part-time basis.
  - (4) The person appointed as President shall be a presidential member of the Commission.
  - (5) A person shall not be appointed as a member of the Tribunal if he has at any time during the year preceding his appointment been a member.
  - (6) The performance of the duties and functions and the exercise of the powers of the Tribunal are not affected by reason only of there being one vacancy in the membership of the Tribunal.

**58H.**

- (1) The functions of the Tribunal are to inquire into and determine, in accordance with this section, the matters referred to in sub-section (2).
- (2) The Tribunal shall, as provided for by this section -
  - (a) inquire into and determine the salaries and relevant allowances to be paid to members; and
  - (b) inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.
- (3) The Minister or, subject to sub-section (4), the Secretary or the Chief of the Defence Force may, by notice in writing given to the President, refer a prescribed matter to the Tribunal.
- (4) The Secretary or the Chief of the Defence Force shall not, without the approval in writing of the Minister, refer a prescribed matter to the Tribunal pursuant to sub-section (3) if -
  - (a) at any time during the preceding 12 months, the Minister has made a determination under section 58B that relates, in whole or in part, to that matter; or
  - (b) the Secretary or the Chief of the Defence Force is aware that, at any time during the preceding 12 months, submissions have been made to the Minister requesting the Minister to make a determination that relates, in whole or in part, to that matter and the Minister has not made such a determination.
- (5) The Tribunal shall, within 2 years of the commencement of this section or within such shorter period as the Minister, by notice in writing given to the President, determines,

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- inquire into and make a determination in respect of the salaries and relevant allowances to be paid to members.
- (6) Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances-
- (a) within 2 years of the first-mentioned determination taking effect; or
  - (b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect - within that shorter period.
- (7) A determination of the Tribunal shall be in writing and shall take effect, or shall be deemed to have taken effect, on such day as the Tribunal specifies for the purpose in the determination.
- (8) The Tribunal shall not specify as the day on which a determination of the Tribunal takes effect a day earlier than the day on which the determination is made in any case where, if the determination so took effect -
- (a) the rights of a person (other than the Commonwealth) which existed immediately before the last-mentioned day would be affected in a manner prejudicial to that person; or
  - (b) liabilities would be imposed on a person (other than the Commonwealth) in respect of anything done or omitted to be done before that last-mentioned day, and where, in a determination of the Tribunal, any provision is made in contravention of this sub-section, that provision shall be of no effect.
- (9) The President shall give a copy of each determination made by the Tribunal to the Minister, to the Secretary and to the Chief of the Defence Force.
- (10) Where the Tribunal has made a determination (not being a determination made pursuant to sub-section (12)), the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days of the determination being made, request the Tribunal to reconsider the determination.
- (11) A notice of request under sub-section (10) shall set out the grounds on which the reconsideration is being sought.
- (12) As soon as practicable after a request is made under sub-section (10) for reconsideration of a determination, the Tribunal shall reconsider the determination and shall make a further determination affirming, varying or replacing the first-mentioned determination.
- (13) The Minister shall cause a copy of each determination of the Tribunal to be laid before each House of the Parliament within 15 sitting days of that House after the determination is received by him.

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- (14) Any regulation made under this Act, the *Air Force Act 1923* or the *Naval Defence Act 1910*, and any determination made under section 58B of this Act, has no effect to the extent that it is inconsistent with any determination of the Tribunal.
  - (15) In this section, "prescribed matter" means a matter in relation to which the Minister may make determinations under section 58B, not being a matter referred to in paragraph (2)(a).

### **Hearings in relation to discriminatory determinations**

#### **58HA.**

- (1) If a determination is referred to the Tribunal under section 50E of the *Sex Discrimination Act 1984*, the Tribunal must hold a hearing to review the determination.
- (2) Unless the hearing takes place before a single member of the Tribunal, sub-sections 58K(1) to (6) apply to the hearing as if it were a meeting of the Tribunal.
- (3) The Tribunal must decide whether or not the hearing is to be held in public.
- (4) If the Tribunal decides that the hearing is not to be held in public, then, subject to sub-section (5) and sub-sections 58K(9) and 58KB(5), the Tribunal may decide the people who may be present.
- (5) The Sex Discrimination Commissioner is entitled to notice of, and to be present at, the hearing and may make submissions to the Tribunal.
- (6) In this section:

*Determination* includes a variation to a determination.

*Tribunal* includes a single member conducting the Tribunal's business under a direction under sub-section 58KA(1).

### **Review of discriminatory determinations**

#### **58HB.**

- (1) If:
  - (a) a determination has been referred to the Tribunal under section 50E of the *Sex Discrimination Act 1984*; and
  - (b) the Tribunal considers that the determination is a discriminatory determination;the Tribunal must take the necessary action to remove the discrimination, by setting aside the determination, setting aside terms of the determination or varying the determination.
- (2) In this section:

*Determination* has the same meaning as in section 58HA.

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*Discriminatory determination* means a determination that:

- (a) has been referred to the Tribunal under section 50E of the *Sex Discrimination Act 1984*; and
- (b) requires a person to do an act that would be unlawful under Part II of the *Sex Discrimination Act 1984* except for the fact that the act would be done in direct compliance with the determination.

*Tribunal* has the same meaning as in section 58HA.

- (3) For the purposes of the definition of *discriminatory determination* in sub-section (2), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

**58J.**

- (1) The Minister may, by notice in writing given to the President, request the Tribunal to inquire into and report to the Minister on a matter specified in the notice, being a matter in relation to which the Tribunal may make a determination pursuant to section 58H.
- (2) When a request is made under sub-section (1), the Tribunal shall inquire into the matter concerned and give to the Minister a report in writing on the matter.

**58K.**

- (1) The President shall convene such meetings of the Tribunal as he considers necessary for the efficient performance of its functions.
- (2) Meetings of the Tribunal shall be held at such places as the President determines.
- (3) The President shall preside at all meetings of the Tribunal at which he is present.
- (4) If the President is not present at a meeting of the Tribunal, another member of the Tribunal nominated by the President shall preside at the meeting.
- (5) The Tribunal shall keep records of its meetings.
- (6) At a meeting of the Tribunal -
  - (a) 2 members of the Tribunal constitute a quorum;
  - (b) all questions shall be decided by a majority of votes of the members of the Tribunal present and voting; and
  - (c) the member of the Tribunal presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) The Tribunal shall, in making a determination, have regard to any decision of, or principles established by, the Commission that is or are, in the opinion of the Tribunal, relevant to the making of that determination.

- 
- (8) In the performance of the functions of the Tribunal -
    - (a) the Tribunal may regulate the conduct of its proceedings as it thinks fit and is not bound to act in a formal manner; and
    - (b) the Tribunal may inform itself on any matter in such manner as it thinks fit and is not bound by the rules of evidence.
  - (9) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the Tribunal, during any proceedings before the Tribunal.
  - (10) Where the Tribunal thinks that a person or body should be heard in relation to a matter that is being, or is to be, considered by the Tribunal, the Tribunal may permit the person or body to be present, and to make submissions to the Tribunal, during proceedings before the Tribunal in relation to that matter.

#### **58KA**

- (1) Subject to sub-section (2), the President may:
  - (a) if a person referred to in sub-section 58K(9) requests the President to do so and the President considers it appropriate; or
  - (b) in any case, on the President's initiative;direct, in writing, that a member of the Tribunal specified in the direction is to conduct the Tribunal's business in relation to any matter that is specified in the direction, being a matter that is being, or is to be, dealt with by the Tribunal.
- (2) The President must not, in a direction made under sub-section (1), direct that a single member is to deal with a request made under sub-section 58KC(1).
- (3) The President may, at any time, in writing, terminate a direction made under sub-section (1).
- (4) Where a single member is conducting the Tribunal's business in relation to a matter:
  - (a) the single member may exercise any powers or perform any functions of the Tribunal in relation to that matter; and
  - (b) any act of the single member in relation to that matter is taken to be an act of the Tribunal.
- (5) In this section, a reference to a matter that is being, or is to be, dealt with by the Tribunal includes a reference to any part of such a matter.

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**58KB.**

- (1) Where a single member is conducting the Tribunal's business:
  - (a) section 58K does not apply to the single member's conduct of such business; and
  - (b) the following provisions apply.
- (2) The single member may conduct such proceedings relating to the matter to which the direction relates as he or she considers necessary.
- (3) In the conduct of the Tribunal's business"
  - (a) the single member is not bound to act in a formal manner; and
  - (b) the single member may inform himself or herself on any matter in such manner as he or she thinks fit and is not bound by the rules of evidence.
- (4) The single member must, in making a determination, have regard to any decisions of, or principles established by, the Commission that is or are, in the opinion of the single member, relevant to the making of that determination.
- (5) The Defence Force Advocate and a person representing the Commonwealth are entitled to be present, and to make submissions to the single member, during any proceedings conducted by the single member.
- (6) Where the single member thinks that a person or body would be heard in relation to a matter that is being, or is to be, considered by him or her, the single member may permit the person or body to be present, and to make submissions to the single member, during proceedings conducted by the single member in relation to that matter.

**58KC.**

- (1) Where:
  - (a) a single member is conducting the Tribunal's business in relation to a matter; and
  - (b) in dealing with the matter, the single member exercises a power or performs a function of the Tribunal;

the Minister, the Secretary or the Chief of the Defence Force may, by notice in writing given to the President within 28 days after the single member has completed his or her conduct of that business, request the Tribunal to reconsider the exercise of the power or performance of the function.

- (2) The notice must specify the exercise of the power or the performance of the function requested to be reconsidered and the grounds for seeking the reconsideration.
- (3) As soon as practicable after the request is made, the Tribunal must:

- 
- (a) reconsider the exercise of the power or performance of the function specified in the request; and
  - (b) make a determination affirming, varying or replacing anything done by the single member in exercising that power or performing that function.

**58KD.**

The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates.

**58L.**

- (1) Subject to this Division, a member of the Tribunal holds office for such period, not exceeding 5 years, as is specified in his or her instrument of appointment, but is eligible for re-appointment.
- (2) A person shall not continue to hold office as a member of the Tribunal if -
  - (a) he becomes a member of the Defence Force;
  - (b) he becomes the Defence Force Advocate; or
  - (c) in the case of the President, he ceases to be a presidential member of the Commission.

**58M.**

A member of the Tribunal may resign his office by writing signed by him and delivered to the Governor-General.

**58N.**

The Governor-General may terminate the appointment of a member of the Tribunal by reason of misbehaviour or physical or mental incapacity.

**58P.**

- (1) The Minister may appoint a person to act as a member (including the President) of the Tribunal -
  - (a) during a vacancy in the office of that member; or
  - (b) during a period, or during all periods, when the member is absent from duty or from Australia or is, for any other reason (including the reason that, in the case of a member not being the President, he is acting as President), unable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- 
- (2) While a person is acting as President or as a member of the Tribunal other than the President, he has and may exercise all the powers, and shall perform all the functions, of the President or that member, as the case may be.
  - (3) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
  - (4) The Minister may -
    - (a) determine the terms and conditions of appointment, including fees and allowances, of a person acting as a member of the Tribunal; and
    - (b) terminate such an appointment at any time.
  - (5) Where a person is acting as a member of the Tribunal in accordance with paragraph (1)(b) and that office becomes vacant while that person is so acting, then, subject to sub-section (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
  - (6) The appointment of a person to act as a member of the Tribunal ceases to have effect if the resigns his appointment by writing signed by him and delivered to the Minister.
  - (7) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.
  - (8) A reference in section 58H, 58J, or 58K to the President or to a member of the Tribunal shall be read as including a reference to a person acting as the President or as a member of the Tribunal, as the case may be.

#### **58Q.**

- (1) A member of the Tribunal shall be paid fees and allowances as the Remuneration Tribunal determines.
- (2) The appointment of the holder of a prescribed office as a member of the Tribunal, or service by the holder of a prescribed office as such a member, does not affect his tenure of that prescribed office or his rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges as the holder of that prescribed office and, for all purposes, his service as a member of the Tribunal shall be taken to be service as the holder of the prescribed office.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) In this section, "prescribed office" means an office, appointment or other employment which is referred to in sub-section 7(11) of the *Remuneration Tribunal Act 1973* as an office, appointment or other employment or a full-time basis or a judicial office referred to in sub-section 7(12) of that Act.

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## **Division 3 - The Defence Force Advocate**

### **Interpretation**

#### **58R.**

In this Division, unless the contrary intention appears:

"Advocate" means the Defence Force Advocate appointed under section 58S; "Remuneration Tribunal" means the Remuneration Tribunal established by sub-section 4(1) of the *Remuneration Tribunal Act 1973*; "Tribunal" means the Defence Force Remuneration Tribunal established by section 58G;

### **Defence Force Advocate**

#### **58S.**

- (1) There shall be a Defence Force Advocate, who shall be appointed by the Minister on a part-time basis.
- (2) The person appointed as the Advocate shall be a person who:
  - (a) is experienced in industrial relations matters; and
  - (b) has a knowledge of the nature of service in the Defence Force.
- (3) In making an appointment under sub-section (1), the Minister shall have regard to any recommendations made by the Chief of the Defence Force.

### **Functions of the Advocate**

#### **58T.**

The functions of the Advocate are:

- (a) To advise the chief of the Defence Force in relation to matters that have been, or may be, referred to the Tribunal by the Chief of the Defence Force pursuant to sub-section 58H (3);
- (b) to prepare submissions to be made to the Tribunal on behalf of the Defence Force concerning any matter that is being considered by the Tribunal; and
- (c) to represent the Defence Force in proceedings before the Tribunal.

### **Tenure and terms of office**

#### **58U.**

- (1) Subject to this Division, the Advocate holds office for 3 years, but is eligible for re-appointment.
- (2) A person shall not continue to hold the office of Advocate if he becomes a member of the Tribunal.

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## **Resignation**

### **58V.**

The Advocate may resign his office by writing signed by him and delivered to the Minister.

## **Termination of appointment**

### **58W.**

The Minister may terminate the appointment of the Advocate by reason of misbehaviour or physical or mental incapacity.

## **Acting Defence Force Advocate**

### **58X.**

- (1) The Minister may appoint a person to act as the Advocate;
  - (a) during a vacancy in the office of the Advocate; or
  - (b) during any period, or during all periods, when the Advocate is absent from duty or from Australia or is, for any other reason, unable to perform the duties of his office, but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) While a person is acting as the Advocate, he has and may exercise all the powers, and shall perform all the functions, of the Advocate.
- (3) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (4) The Minister may:
  - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as the Advocate; and
  - (b) terminate such an appointment at any time.
- (5) Where a person is acting as the Advocate in accordance with paragraph (1) (b) and the office becomes vacant while that person is so acting, then, subject to sub-section (3), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (6) The reappointment of a person to act as the Advocate ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.
- (7) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

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## **Fees and Allowances**

### **58Y.**

- (1) The Defence Force Advocate shall be paid such fees and allowances as the Remuneration Tribunal determines.
- (2) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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**FREEDOM OF INFORMATION**

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**Establishment**

The Tribunal was established in 1984 under Part IIIA, Division 2, of the *Defence Act 1903*.

**Organisation**

The Tribunal comprises three part-time members, one of whom, the President, is required to be a presidential member of the Australian Industrial Relations Commission.

**Functions**

The functions of the Tribunal are:

- a. to inquire into and determine the salaries and relevant allowances to be paid to members of the Australian Defence Force; and
- b. to inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.

In addition, at the request of the Minister, the Tribunal shall inquire into and report on relevant matters.

**Power**

The Tribunal makes determinations in respect of salaries and relevant allowances to be paid to members of the Australian Defence Force. Where a determination of the Tribunal in respect of the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances within 2 years of the first-mentioned determination taking effect or within a shorter period if requested to do so by the Minister.

**Categories of documents**

Documents maintained by the Tribunal include:

- submissions from interested parties, including the public;
- transcripts of Tribunal hearings;
- determinations made by the Tribunal, including reasons for decisions; and
- files dealing with matters that have been referred to the Tribunal.

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## **FOI procedures and initial contact points**

Persons wishing to gain access to documents held by the Tribunal should write to or contact the Secretary of the Tribunal at the following address:

Defence Force Remuneration Tribunal  
GPO Box 2761  
CANBERRA ACT 2601  
Telephone: (02) 6257 3855  
Fax: (02) 6257 3795  
Email: [dfirt@dfirt.gov.au](mailto:dfirt@dfirt.gov.au)

## **Inquiries**

The Tribunal has not received any inquiries for access to its documents in the period covered by this Report.

<b>LIST OF DETERMINATIONS</b>
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<b>Determination</b>	<b>Subject</b>	<b>Date of Effect</b>
8 of 2006	Salary for Senior Officers – Reserve Forces	1 July 2006
10 of 2006	Salary of Chief of Capability Development Group	1 July 2006
11 of 2006	Salary for Senior Officer - Individual Determination	1 July 2006
12 of 2006	Salary for Senior Officer - Individual Determination	1 July 2006
13 of 2006	Salary for Senior Officer - Individual Determination	1 July 2006
14 of 2006	Salary for Senior Officer - Individual Determination	1 July 2006
15 of 2006	Salary for Senior Officer - Individual Determination	1 July 2006
16 of 2005	Remuneration Reform Project - ADF & Star Ranks	16 November 2006
17 of 2005	Remuneration Reform Project - 07 - 08 Salaries	5 October 2006
SO 2006/1-31	Salary Rates for Senior Officer - Individual Determinations	5 October 2006
SO 2006/32	Salary Rates for Senior Officer - Individual Determination	6 November 2006
SO 2006/33	Salary Rates for Senior Officer - Individual Determination	14 November 2006
18 of 2006	Restructure of Clerk Administrative Clerk, Clerk Finance and Operators Supply Categories	14 December 2006
19 of 2006	Army Mechanic Recovery Categories - Correction	21 November 2002
20 of 2006	Army Trade Case (RAEME) Ground Trades	14 December 2006
SO2007/1-2	Salary Rates for Senior Officer - Individual Determination	29&15 January 2007
SO2007/3-43	Salary Rates for Senior Officer - Individual Determination	8 February 2007
1 of 2007	Electronic Warfare Analyst Submarine (EWASM)	23 May 2007
3 of 2007	Air Force - Interim Pay Grade Placement Air Traffic Controller	8 February 2007
4 of 2007	ADF Engineers - Interim Pay Grade Placement	22 February 2007
SO2007/46-67	Salary Rates for Senior Officer - Individual Determination	8 February & 5 October 2006
5 of 2007	Remuneration Reform Project - ADF & Star Ranks	9 August 2007
6 of 2007	Remuneration Reform Project - Salary Rates for Other Ranks (Phase 4)	9 August 2007

<b><i>SECRETARIAT</i></b>
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Adviser:	Jason Window
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The Tribunal records its sincere appreciation to the officers of the Secretariat for the commitment and professionalism shown in their work for the Tribunal.

The challenges facing a part-time Tribunal with a busy workload could not be dealt with without the contribution of a hard working and able Secretariat. That has been particularly so over the last year.

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