



DEFENCE FORCE REMUNERATION TRIBUNAL

TWENTY-FIRST REPORT

2005 – 2006

(Period from 1 July 2005 – 30 June 2006)



Australian Government

Defence Force Remuneration Tribunal

1 November 2006

The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

My dear Minister

I have great pleasure in presenting to you the Twenty-first Report of the Defence Force Remuneration Tribunal, which covers the period of the Tribunal's operations from 1 July 2005 to 30 June 2006.

Yours sincerely

(signed)

The Honourable Senior Deputy President R N Cartwright
President

DEFENCE FORCE REMUNERATION TRIBUNAL

President: The Honourable Senior Deputy President R N Cartwright

Members: Air Vice Marshal F D Cox AO (Retd)

Mr G D John

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1. INTRODUCTION

The Tribunal has been operating for over 21 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 Act 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 *Defence 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.

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:	Air Vice-Marshal Frank Cox AO (Retd) Mr G D John

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.

Air Vice-Marshal Frank Cox AO (Retd) was first appointed as a Member of the Tribunal on 11 August 1999. He relinquished his appointment as a Member of the Tribunal on 28 February 2006. He served with distinction on the Tribunal for over five years and was highly respected by all associated with the work of the Tribunal. He made a lasting contribution to its operation.

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.

3. THE PARTIES

The main parties in matters before the Tribunal are the ADF and the Commonwealth. The Returned and Services League of Australia, the Armed Forces Federation of Australia and the Regular Defence Force Welfare Association 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 roles 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.

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

The Armed Forces Federation of Australia has been represented by Mr Graham Howatt.

4. THE WORK OF THE TRIBUNAL

The Tribunal's decision in February this year to approve a differential pay structure for officers and Warrant Officers' is likely to have a significant impact on the work of the Tribunal in coming years. For reasons outlined in that decision, it stresses the need for the ADF to develop and apply a cohesive remuneration policy across the various processes that determine elements of total remuneration. It requires change to the pay structure applying to Other Ranks and opens the opportunity for further reform. The speed of implementation sensibly required of the new system and introduction of a more flexible one for setting Senior Officers' salaries require all participants to rethink aspects of process that may previously have been regarded as "givens". That is a matter for future report, but in the meantime the need is even more apparent for the Tribunal to have a good understanding of the ADF and for the principal parties to continue the productive collaboration that has marked the last year.

In that context, we express our appreciation to the Chief of the Defence Force and to all of the members who have supported the Tribunal's visits to ADF establishments or inspections in connection with particular cases to demonstrate their work. Details of those visits and inspections are covered elsewhere in this report, but they are critical to the Tribunal's informed judgement. We observed last year that we were impressed on our visits by the hard work and dedication of members of the ADF and by its investment in trade and skill training. That continues to apply, especially in the light of the demands of high operational tempo.

Cases considered this year are summarised in the next part of this Report. In addition to reform of the officers' pay scale, the Tribunal reviewed Flying Allowance for aircrew, Salary of Senior Officers of the Reserve Forces, Salary of the Chief of Capability Development Group, Tri-Service Medical and Dental Categories, Medical Officers Specialist Career and Salary Structure, Electronic Warfare Technical Category Restructure, Paratrooper Allowance, Army Illustrator Reprographic Category and the Army Reserve Light Cavalry Scout Trade. For more detailed information, reference should be made to the Reasons for Decisions published by the Tribunal in each matter and to the Determinations made. A list of Determinations made by the Tribunal is included as **Appendix 3** to this Report.

5. MATTERS CONSIDERED

A. Remuneration Reform Project

The Australian Defence Force (ADF) sought the introduction of a flexible, differentiated pay structure for ADF officers. The current project, which commenced in early 2002, has been titled the Remuneration Reform Project (RRP).

The RRP affects all ADF officers with the exception of those paid under specialist officer career and salary structures set by the Tribunal and officers of the rank of three star and above whose remuneration is determined by the Commonwealth Remuneration Tribunal. Accordingly, the ADF submitted that the RRP potentially affects 97% of the ADF's officer population.

The RRP has been developed in three phases:

- Phase 1 aimed to quantify each element of Disability, Attraction & Retention and Qualification & Skills in the major environmental allowances set under s.58H of the *Defence Act 1903 (the Act)*. The ADF presented a test case in February 2003 to disaggregate the elements of Submarine Service Allowance and Seagoing Allowance, but revised its approach when the Tribunal expressed difficulties disaggregating an Attraction & Retention element.
- Phase 2 resulted in the Qualification & Skill elements of existing environmental allowances being recognised as salary for superannuation purposes.
- Phase 3 has the focus to develop a flexible pay structure for officers, and to make consequential adjustments to the Other Ranks pay structure.

Hearings on the proposal began on 25 August 2004, following a series of presentations to the Tribunal on the project and the approach proposed.

Due to the size and scope of the task, the ADF sought to present the Phase 3 case in a series of 'blocks'.

Block 1: *The Remuneration Framework*

Block 2: *The Underlying Principles and Business Processes*

Block 3: *The Placement Methodology*

Block 4: *Career Profiles for Colonel (equivalent) to Major General (equivalent) Officers*

Block 5: *Placement of Warrant Officer Class 1 (equivalent) and the Service Warrant Officers*

Block 6: *Rules Regarding the Use of Pay Grades 1 and 2*

Block 7: *Summary of Phase 3 submissions*

Block 8: *Flying Allowance Review*

In opening its case, the ADF informed the Tribunal that it had taken a fresh approach to the RRP.

The ADF:

- assumed that the Officer Common Scale (OCS), as the extant officers pay structure, is the foundation on which any flexible model can be built;
- took the approach that the RRP is a pay reform process, not a process designed to achieve across the board pay rises;
- looked to use existing industrial benchmarks as the basis for pay grades, rather than re-benchmark all officers simultaneously;
- sought to make Qualification & Skill elements of existing environmental allowances superannuable early in the reform process;
- provided the Defence Senior Leadership Group with a highly structured, modular approach to minimise risk and cost; and
- progressed cases for Chaplains, Doctors, Dentists and Legal Officers under a separate Specialist Officers Salary Structure.

The Commonwealth and interveners have been generally supportive of the ADF's approach in progressing the case before the Tribunal.

On 25 August 2004, the ADF presented submissions on Block 1: *The Remuneration Framework*. The ADF submitted that the need for remuneration reform has evolved as a result of recommendations from a number of reviews, the most recent being *The Review of ADF Remuneration* (the Nunn Review) in 2001. Preservation of the existing remuneration arrangements is not only inconsistent with the drivers for remuneration reform; it also fails to provide the ADF with an appropriate means to address the deficiencies of the current arrangements.

The ADF proposed a new 12 graded officers' pay scale, in which the current OCS would form Pay Grade 3. The addition to the OCS of Qualification & Skill elements of Submarine Service, Special Action Forces and Specialist Operations Allowances would then provide benchmark employment groups, against which other officer employment groups may be compared and positioned, as required.

Any special attraction and retention considerations would be incorporated in separate s.58H Capability Allowances, which may go up or down or be retracted, but which would remove distortions from other allowances.

In its closing submission, on 7 December 2005, the ADF put a different interpretation on the intended use of s.58H Capability Allowances. It submitted that a capability allowance is envisaged as a mechanism that is used in response to enduring market forces related pressure.

On 25 August and 20 October 2004 and 29 and 31 August 2005, the ADF made submissions on Block 3: *The Placement Methodology*. In order to provide appropriate guidance to ADF employment category sponsors and those within the ADF responsible for the conduct of future pay case proposals, the ADF submitted that it was necessary to determine a methodology by which propositions for pay placement could be managed and prepared.

Submissions on Block 4: *Career Profiles for Colonel (Equivalent) to Major General (Equivalent) Officers* were made on 3 December 2004 and 26 October 2005. The ADF submitted that it proposed to deal with these officers separately, as it is generally accepted that promotion to Colonel (Equivalent) marks the progression to the senior management level; the nature of work at this level is increasingly managerial or generalist in nature; and career management at this level is generally conducted on an individual basis.

On 24 May and 26 October 2005, the ADF presented submissions on Block 5: *Placement of the Warrant Officer Class 1 (Equivalent) group*. It submitted that the Warrant Officer Class 1 (Equivalent) employment group, comprising the three Service Warrant Officers and the Warrant Officer Class 1 ranks be remunerated within the general officer pay structure, on the basis that the nature of work performed by this employment group had changed sufficiently as to now warrant the provision of differential pay treatment.

Additionally, on 24 May 2005, the ADF presented its submission on Block 6: *Rules regarding the use of Pay Grades 1 and 2*. Pay Grades 1 and 2, at values of \$3,000 and \$1,500 less than Pay Grade 3 (OCS) respectively, were to allow employment groups to be placed at values less than the current OCS, where work value is less than those at Pay Grade 3. While some groups may be identified in this category in future, none were contemplated at this stage.

The ADF made its final submissions to the Tribunal on 7 and 8 December 2005, summing up its position on each 'block' of work and highlighting areas of agreement between the parties, addressing and clarifying matters raised by the Tribunal and outlining areas where modification to the original ADF proposition was made.

The Returned and Services League of Australia (RSL) and the Regular Defence Force Welfare Association (RDFWA) made a joint submission generally supportive of the ADF proposals on the principles, structure and methodologies of the RRP. However, the RSL/RDFWA took issue on the level of understanding among officers of the RRP and on the ADF's ability to implement the change.

The Armed Forces Federation of Australia (ArFFA) did not support the ADF's method for creating the new structure. Inclusion in the pay grades of the Qualification and Skill components of each allowance would mean the Tribunal's regular review of this element would not take place for officers, potentially disadvantaging them. The ArFFA proposed that a graded officer pay structure could be more easily and more simply achieved, based on a percentage increase between the bands. Under this structure, the allowances could be left out of the structure altogether.

At the conclusion of hearings on 8 December 2005, the ADF and Commonwealth undertook to provide an agreed pay structure model, taking into account observations made by the Tribunal during the course of proceedings.

To assist the parties, on 9 December 2005 the Tribunal issued a statement giving the following indications on structural matters:

- the General Officer Pay Structure should apply to officers in the 01 – 06 ranks;
- a separate salary structure should apply to senior officers in ranks 07 and 08; and

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- the General Officer Pay Structure should not apply to Warrant Officer Class 1 (Equivalent). A separate scale for Warrant Officers, based on the same principles as the General Officer Pay Structure should be provided.

On 16 December 2005 the ADF and the Commonwealth, in a joint supplementary submission, provided two options, one of which was based on the inclusion of Flying Allowance at present rates and the other based on the ADF's proposed rates for Flying Allowance. The difference in rates applied only to Warrant Officer Class 1 (Equivalent).

Having considered all the submissions, the Tribunal was satisfied that the differential pay structure should be introduced in 2006, incorporating into salary rates the Qualification and Skill elements of current allowances. The Tribunal therefore decided:

- to adopt the new structure for 01 – 06 officers as agreed between the ADF and the Commonwealth;
- to continue inquiry to determine the salary structure to apply to 07 and 08 officers; and
- to adopt a new salary structure for Warrant Officer Class 1 (Equivalent).

In commenting on further reform required as a result of this case, the Tribunal set a timetable for consolidating Qualification and Skill allowances into the salary structure for Other Ranks. It did not support the ADF's closing submission on the intended use of s.58H Capability Allowances, but saw this element of the system proposed by the ADF as providing a temporary or varying adjustment, should it be necessary in response to market exigencies, subject to two yearly review.

B. Flying Allowance and Flight Duties Allowance

At the Annual Review of Salary and Allowances on 22 June 2004, the Tribunal noted that Flying Allowance had not been reviewed since 1997 and directed that such a review commence in December 2004. The review was programmed in parallel with the Remuneration Reform Project, to be completed by December 2005.

The Tribunal undertook an extensive range of inspections as part of the review. These inspections covered the full range of aviation in Navy, Army and Air Force and included:

- RAAF Base Williamtown – 81 and 78 Wings (F/A-18 and Hawk aircraft) and 2 Squadron (Airborne Early Warning and Control aircraft);
- HMAS ALBATROSS – Australian Naval Aviation Group (Seahawk, Super Seasprite, Sea King and Squirrel aircraft);
- Tamworth – Basic Flying Training School and ADF Pilot Selection Agency;
- RAAF Amberley – 82 Wing (F-111 aircraft) and 38 Squadron (Caribou aircraft);
- Oakey – 16 Brigade (Army Aviation);

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- RAAF Pearce – No 2 Flying Training School (PC-9 aircraft) and 79 Squadron (Hawk aircraft);
 - RAAF Edinburgh – 92 Wing (AP-3C aircraft), Air Operations Support Group (Flight Test) and Institute of Aviation Medicine;
 - RAAF East Sale – Air Training Wing, Central Flying School (PC-9 aircraft), School of Air Navigation and 32 Squadron (B350 aircraft);
 - RAAF Richmond – 84 Wing (C130H and C130J aircraft), 33 Squadron (B707 aircraft) and 34 Squadron (BBJ aircraft);
 - Shoalwater Bay Training Area – deployed Army Aviation elements; and
 - RAAF Fairbairn – Crew Attendants.

In this review the ADF sought:

- retention of the time-based progression structure for all aircrew;
- retention of the present tiers and rates of Flying Allowance (Qualification and Skill) for officers;
- an increase in the quanta of Qualification and Skill for Other Ranks and the introduction of a new sixth tier;
- an increase in the quanta of the Disability element of the allowance for Colonel (Equivalent) and below;
- a reduction in the sunset period for officers from 6 to 3 years; and
- extension of Flying Allowance to RAAF Crew Attendants and Navy Other Ranks Fighter Controllers.

The structure and rates proposed by the ADF were:

Qualification and Skill	Officers Colonel(E) and below	Other Ranks
	<i>\$ per year</i>	<i>\$ per year</i>
Completed less than 2 years	3055	1950
Completed 2 but less than 4 years	5092	4296
Completed 4 but less than 6 years	9169	5856
Completed 6 but less than 8 years	17316	7420
Completed 8 but less than 10 years	25462	8980
Completed 10 or more years	28183	10590
 Brigadier Qualification and Skill	 \$20033	

Flying Allowance (Disability)

Major General (E)	1/365 th of the Brigadier rate
Brigadier (E)	\$5229 per year
Colonel (E) and below	\$6349 per year
Reserve Member	1/365 th of the applicable rate
Flight Duties Allowance	1/365 th of the applicable rate

The ADF argued that the same rate of Flying Allowance, according to time progression, be paid to aircrew across the different platforms. There have been numerous changes in military aviation that have resulted in increases in the skills and responsibilities of aircrew and a heightening of tasks intensity. When this is averaged across aircrew, these increases absorb any attraction and retention component in the allowance to such a degree that the current rate remains the appropriate qualification and skill level.

The changes in work value since the last review in 1997, on which the ADF relied, were:

- increases in technology and capability in the form of new equipment and software;
- additional operational roles, tasks and tactics;
- increased training requirements;
- flight safety and aviation governance issues; and
- the operational environment.

For Other Ranks aircrew, the ADF sought an increase of 15% to the existing rates and the addition of a sixth tier. It submitted that Other Ranks aircrew were exercising more responsibility and possessed greater skills and knowledge than was the case in 1997. The ADF also submitted that since the 1997 review many work value changes have affected Other Ranks more than officers and therefore the skills and responsibilities required of Other Ranks aircrew have increased in a disproportionate manner. Accordingly, the ADF argued that the work value difference between Officer and Other Ranks aircrew had narrowed since the last review.

On Disability, the ADF relied on the items below to establish further change in the conditions in which aircrew work and in the risks associated with military aviation:

- increased night operations;
- extended duration fighter sorties;
- longer missions in general facilitated by increases in technology;
- operational tempo;
- Australian airspace changes;

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- operations in extreme weather conditions;
 - wearing of ballistic protective equipment in flight;
 - training, carriage and use of nuclear, biological and chemical (NBC) protective equipment;
 - simulator use; and
 - basic flying training aircraft conditions.

The Commonwealth opposed continued application of the current structure, submitting that differences in work value between groups of officers should be recognised and that the attraction and retention component of the allowance should be defined and separated from the Qualification and Skill component of the allowance.

The Armed Forces Federation did not support the levels sought for officers or Other Ranks aircrew, arguing that work value had increased substantially and that the Qualification and Skill and Disability rates were undervalued.

The Returned and Services League of Australia and the Regular Defence Force Welfare Association supported the ADF proposals.

The Tribunal decided largely to approve the revised structure and rates proposed by the ADF. In summary the decision was that:

- the time based competency structure be retained for Officers and Other Ranks;
- the current Qualification and Skill component for Officers be retained;
- the Qualification and Skill element for Other Ranks be increased by 15%;
- a new 6th tier of the allowance be introduced for Other Ranks;
- the Disability component for Colonel (Equivalent) and below be increased to \$6100 per annum;
- the sunset period for officers be reduced from 6 to 3 years;
- Flying Allowance be extended to RAAF Crew Attendants;
- Flying Allowance be paid to qualified Navy Other Ranks Fighter Controllers;
- the current relationship between Flight Duties Allowance and the Disability component of Flying Allowance be maintained; and
- retention considerations for the future should be more appropriately dealt with by a s.58H Capability Allowance.

This decision is to be read in conjunction with the Tribunal's decision on the Remuneration Reform Project.

C. Paratrooper Allowance

The ADF sought changes to the Paratrooper Allowance through the creation of a new rate for Parachute Jump Masters (PJM) in recognition of their higher level of qualification and skill compared to the Military Free Fall (MFF) Paratroopers.

Paratrooper Allowance is paid in recognition the qualifications, skills and disabilities associated with military parachute operations.

The Tribunal had the benefit of an inspection at the Parachute Training School (PTS) in Nowra on 2 August 2005. The Tribunal was briefed on the role of PTS and the duties of the PJM and the MFF.

The ADF submitted that the PJM must undergo significant additional training, compared to that of the MFF. The PJM is also responsible for a wide range of personnel internal and external to the unit for the conduct of parachute jumps. Additionally, the PJM is required to exercise a higher level of skill and responsibility for the safe conduct of parachute descents, from planning to the completion of the activity. The ADF therefore sought a differential of \$548.

Having considered the submission and evidence, the Tribunal was satisfied that there was a difference in the work of the PJM and therefore approved the structure sought by the ADF.

D. Army Illustrator Reprographic Trade Restructure

The ADF sought a restructure of the Army Illustrator Reprographic Trade which included a retitling of the trade as Multimedia Technician.

The Army Illustrator Reprographic trade has a current employment strength of 54 members, ranging in rank from Sapper to Warrant Officer Class 1 and consists of a two graded structure at Pay Groups 3 and 4. The trade had not been reviewed since 1979, when the Committee of Reference for Defence Force Pay (COR) placed it at Pay Level 5.

The Tribunal had the benefit of comprehensive briefings and demonstrations at an inspection of the trade at the School of Military Engineering on 2 March 2006.

On 3 May 2006 a joint submission was made to the Tribunal on behalf of the ADF and the Department of Employment and Workplace Relations.

The ADF submitted that the Illustrator Reprographic Trade has assumed significantly greater responsibility since last reviewed by the COR, particularly within the last decade. The trade members provide support in operational and non-operational environments with the role developing from that of an artist skilled in illustrative methods required for training

publications to that of a broad multimedia specialist with increased employment responsibilities, particularly in Land Command units.

The Multimedia Technician is a skilled member who produces multimedia products for visual communication, being expert in still and video imagery, graphic design, web design, interactive products, 3D and virtual capabilities and CD based learning tools.

The ADF sought a revised three-tiered structure as follows:

- Multimedia Technician Grade 1 – PG4;
- Multimedia Technician Grade 2 – PG5; and
- Multimedia Technician Grade 3 – PG5.

The ADF submitted that the tiered structure reflects the qualifications, experience and work value at each skill grade and aligns the trade with similar trades in Navy and Army, maintaining the structural relativities across the ADF Other Ranks structure, in particular with the Army Geomatic Technician trade and the Navy Photographer category.

The Commonwealth fully supported the structure and pay groups proposed by the ADF.

The Armed Forces Federation of Australia supported the ADF proposal with one exception. It submitted that the proposal not to seek pay group advancement for the proposed Skill Grade 3 level “ignores and undermines the increased skill and work value of personnel qualified for employment at this level”. The Federation held the view that Pay Group 6 would be more appropriate for the Skill Grade 3 member.

On the basis of the evidence and submissions, the Tribunal decided to adopt the structure and pay groups as proposed by the ADF and supported by the Commonwealth, noting that the trade members’ skills are now utilised by Land Command units in operational settings.

The new structure and pay groups applied on and from 3 May 2006.

E. Army Reserve Light Cavalry Scout Category

The ADF sought the introduction of a new category, Army Reserve Light Cavalry Scout. The Light Cavalry Scout is a skilled Army Reserve combat soldier who conducts mounted and dismounted Cavalry operations. They are employed to locate the enemy and develop an intelligence picture through patrolling and surveillance.

The ADF proposed a four-tiered structure as follows:

- Light Cavalry Scout Grades 1 and 2 placed at Pay Groups 2 and 3 respectively.
- Patrol Commander placed at Pay Group 4.
- Supervisor Troop Operations placed at Pay Group 5.
- Supervisor Squadron Operations placed at Pay Group 5.

The Tribunal inspected the work of the category members at Irwin Barracks, Karrakatta, Western Australia, on 14 March 2006. The Tribunal was briefed on the roles and tasks of the category and was shown both practical and static demonstrations.

The Commonwealth and the Armed Forces Federation of Australia supported the ADF proposal.

At the conclusion of the inspection the Tribunal approved the structure and pay groups as sought. The quality of the presentations and evidence obviated the requirement for a formal hearing on the matter.

F. Tri-Service Medical and Dental Categories Restructure

The ADF sought a review of the trade structure and pay group allocation of the Tri-Service Medical Categories and the Dental Auxiliary Trades. It has also proposed the introduction of a new Reserve trade and training continuum for Medical Assistants.

Medical Assistants and the members of the Dental Auxiliary Trades in the ADF are responsible for providing health care support and maintaining the health and well being of ADF personnel and, more recently, civilians when deployed on humanitarian or civil community assignments.

The Medical Assistant and Underwater Medicine categories were last reviewed in 1992 and 1978 respectively. The Dental Auxiliary Trades were last reviewed in 1978. The Tribunal had the benefit of an inspection of ADF Dental Auxiliary Trades at HMAS KUTTABUL, Garden Island, Sydney, on Tuesday 11 October 2005. The inspection comprised individual presentations, working displays in a dental surgery and outdoor presentation/ displays of the Army and Air Force deployable field dental facilities.

The inspection for the ADF Medical Categories was conducted at HMAS KUTTABUL and HMAS PENGUIN (Sydney) on 11 October and at Holsworthy Barracks on 12 October 2005. It included individual presentations and demonstration of casualty scenarios within a field environment at Holsworthy and on the wharf at HMAS PENGUIN.

The ADF submitted that since 1992 there has been a significant change in the roles and responsibilities of Medical Assistants in the ADF and a commensurate change in the level and length of training. This has been driven by a number of factors, including the rationalisation of ADF medical training, the findings of the ADF Medical Assistant job analysis, the implementation of competency based training and assessment and increased requirements for clinical currency.

ADF Medical Assistants are currently placed at Pay Groups 3 and 4, with Underwater Medicine Personnel (Navy and Army only) placed at Pay Group 4. The Medical (Additional Responsibilities) Allowance is also payable to some Navy Medical Grade 3 and 4 sailors, and some Navy Underwater Medics, recognising the extra responsibilities of service in a location with limited access to a medical practitioner.

The ADF proposed a two tiered structure whereby on completion of the ADF Basic Medical Assistant Course, members are posted for employment at Medical Grade 1 level and placed at

Pay Group 3. They would subsequently progress to Skill Grade 2, Pay Group 4, upon completion of the ADF Advanced Medical Assistant Course and on posting to a health facility for employment at Medical Grade 2 (or Medical Technician in the Army). Army or Navy personnel who undertake the Underwater Medicine Clinicians Course would be posted to a unit as an Underwater Medicine Clinician and would progress to Pay Group 5. Navy would have a third tier with movement to Pay Group 6 for personnel completing the Leading Seaman Medic Course and a posting for employment at Medical Grade 3.

The roles and tasks of the ADF Dental Auxiliary Trades have significantly changed since their last review in 1978. Changes to the roles and nature of duties have occurred through the introduction of infection control legislation and guidelines, impact of technological changes on equipment and protocols, which have led to increased dental training, and an increased focus on humanitarian and deployed responsibilities. The ADF submitted that training and skills have increased in response to the changed roles and that the restructure would recognise the significantly increased levels of work value within the ADF Dental Auxiliary Trades organisation.

The ADF proposed that upon completion of the Senior Dental Assistant Course and competency logs, Dental Assistants should progress to Grade 2 (Pay Group 3) as the increases in training, responsibility and work value are sufficient to justify pay group movement.

In regard to Dental Hygienists, the ADF submitted there was sufficient justification for an increase from Pay Group 3 to Pay Group 4.

The ADF further submitted that the changed roles and responsibilities of Dental Supervisors and Dental Managers warrant increases in their Pay Groups to 4 and 5 respectively. Finally, the ADF submitted that the current training and work value of Dental Technicians justifies their placement at Pay Group 5.

The ADF also proposed the introduction of a new Reserve trade and training continuum for Medical Assistants. The ADF submitted that, following changes to the Medical Assistant training continuum since 2001, Army Reserve personnel cannot reach the Medical Assistant standard in a reasonable time. The category is thus unsustainable in the Reserve. Consequently, the ADF has devised a new training continuum which necessitates the creation of a new trade – the Combat Medical Attendant.

The function of a Combat Medical Attendant Grade 1 would be to provide pre-hospital care as part of an Evacuation Team and health support to low to medium risk training activities. Grade 2 members would, in addition to the functions carried out by Grade 1 members, provide limited primary health care of common conditions as a member of the Primary Health Care Team. They would also act as orderlies or scribes in a resuscitation team. The ADF submitted that Combat Medical Attendant Grade 1 members should be remunerated at Pay Group 1 and Combat Medical Attendant Grade 2 members at Pay Group 2.

The Commonwealth supported the ADF proposals for new trade structures of Medical and Dental Assistants and the new reserve category of Combat Medical Attendants.

The Commonwealth also submitted that the placement of Combat Medical Attendants was warranted when the work of that category is compared to the definitional framework and the

work performed by other categories at Pay Groups 1 and 2. In relation to Dental Assistants, the Commonwealth was satisfied that the placements and structure were appropriate.

The Armed Forces Federation of Australia supported the ADF proposals.

The Tribunal was satisfied that the revised structure for Medical and Dental Categories, as proposed by the ADF, should be approved. It was also satisfied that the changes proposed for Medical Assistants in the Army Reserve were both sensible and realistic, recognising the progression in competencies and contribution by these members.

G. RAN Electronic Warfare Technical Category

The ADF sought changes to the Royal Australian Navy's Electronic Warfare Technical (EWT) category.

In 2001, the Tribunal determined a structure for the EWT category consisting of five competency based skill groups across Pay Groups 3-7. The structure linked training and development activities to increases in the level of skills, qualifications and responsibilities of members employed across the category. Under the structure members advanced to Pay Group 3 after approximately 32 weeks training and then Pay Group 4, after a further 52 weeks training.

The ADF submitted that, following a newly realised capability requirement, the EWT category has been refocussed on two streams, requiring amendment to the training continuum. The ADF sought a revised six tiered structure for the category and a change to current pay group placements whereby members would advance directly to Pay Group 4 after approximately 42 weeks training.

The Commonwealth supported the ADF proposal.

The Armed Forces Federation of Australia supported the ADF proposal to advance members to Pay Group 4 after 42 weeks training. However, it argued that members currently in training should nevertheless be advanced to Pay Group 3 after 32 weeks, because this was their understanding in entering the category.

In light of the Armed Forces Federation of Australia submission, the ADF amended its proposal to include a transition arrangement to ensure that members in training would not be disadvantaged. Under the proposed transition arrangement these members are to advance to Pay Group 3 after 32 weeks training and then Pay Group 4 after a further 10 weeks training.

On the basis of the evidence and submissions the Tribunal approved the revised structure as sought by the ADF.

6. INSPECTIONS

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

On 14 March 2006 the Tribunal inspected the work of the Army Reserve Light Cavalry Scout trade at Irwin Barracks, Karrakatta, Western Australia. The Tribunal approved the proposed structure after seeing demonstrations of mounted and dismounted cavalry operations and having been briefed on details of the proposal.

On 2 March 2006, the Tribunal inspected the work of members of the Army Illustrator Reprographic trade at the School of Military Engineering, Moorebank in Sydney. The inspection included formal presentations and practical demonstrations by the members of the trade

On 2 August 2005 The Tribunal inspected the work of Parachute Jump Masters at the Parachute Training School (PTS) in Nowra. The Tribunal was briefed on the role of PTS and the duties of the Parachute Jump Master and the Military Free Fall Paratrooper.

On 11 October 2005 the Tribunal inspected the work of the ADF Dental Auxiliary trades at HMAS KUTTABUL, Garden Island, Sydney. The inspection comprised individual presentations, working displays within a dental surgery and outdoor presentation/displays of Army and Air Force deployable field dental facilities.

On 18 October 2005 the Tribunal visited RAAF Fairbairn to observe the work of Crew Attendants.

The inspection for the ADF Medical Categories was conducted at HMAS KUTTABUL and HMAS PENGUIN, Sydney, on 11 October and at the 1st Health Support Battalion, Holsworthy Barracks, on 12 October 2005. The inspection included individual presentations and demonstrations of casualty scenarios within a field environment at Holsworthy and on the wharf at HMAS PENGUIN.

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 presentation on 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.

At the conclusion of the visit, the President of the Tribunal writes to the Chief of the Defence Force outlining the nature of significant issues raised during these forums. Matters raised by ADF members within the jurisdiction of the Tribunal are subsequently reviewed in conference with the Defence Personnel Executive.

The Tribunal also carries out familiarisation visits to ADF establishments to broaden its knowledge of the operations of the ADF.

From 3 – 7 October 2005 the Tribunal visited HMAS CAIRNS, in Cairns and 51 Far North Queensland Regiment in Townsville. The Tribunal had the opportunity to meet and discuss matters with a range of members and was shown the environments in which they have to operate.

On 28 March 2006 the Tribunal visited the Australian Defence Force Academy in Canberra. The Tribunal was briefed on the roles and functions of the Academy by the Commandant and Rector. The Tribunal met with and had discussions with Academy training staff, Officer Cadets and Midshipmen.

The number of visits to ADF establishments was limited during the period of this report due to programme of work on Phase 3 of the Remuneration Reform Project and hearings on Flying Allowance, for which inspections had been conducted in the prior period.

8. FINANCIAL MATTERS

The Tribunal's financial requirements are met through the Department of Employment and Workplace Relations, sub-program 2.2.6 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 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.

**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 subsection (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, 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.

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- (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.
 - (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.

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- (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.

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.

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.

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- (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 is 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.

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.

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.

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*.

FREEDOM OF INFORMATION

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.

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

Inquiries

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

LIST OF DETERMINATIONS

Determination	Subject	Date of Effect
6 of 2005	Salary of Senior Officers – Reserve Forces	1 July 2005
7 of 2005	Salary of Senior Officers – Reserve Forces	1 July 2005
8 of 2005	Salary of Chief of Capability Development Group - Repeal	1 July 2005
9 of 2005	Legal Officers Specialist Officer Career Structure	31 August 2005
10 of 2005	Dental Officers Specialist Officer Career Structure	31 August 2005
11 of 2005	Specialist Salary Structure – Medical Officers Not in Specialist Career Structure	31 August 2005
12 of 2005	Legal Officers Specialist Officer Career Structure	31 August 2005
13 of 2005	Navy Medical Grades (Additional Responsibility) – Repeal	15 December 2005
14 of 2005	Medical Assistant Trades	15 December 2005
15 of 2005	Dental Auxiliary Trades	15 December 2005
16 of 2005	Paratrooper Allowance – Amendment	26 October 2005
17 of 2005	RAN Electronic Warfare Technical Grades	31 August 2005
1 of 2006	Remuneration Reform Project – ADF and Star Ranks	9 March 2006
2 of 2006	Army Reserve Light Cavalry Scout	20 April 2006
3 of 2006	Reserve Remuneration Program – Officer And Warrant Officer Salaries	5 October 2006
4 of 2006	Flying Allowance and Flight Duties Allowance	30 June 2006

Determination	Subject	Date of Effect
5 of 2006	Army Reserve Light Cavalry Scout – Salary Non-Reduction	20 April 2006
6 of 2006	Army Illustrator Reprographic	3 May 2006

SECRETARIAT

Secretary:	Chris J Wallace
Adviser:	Robert Eccles
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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.

COMPLIANCE INDEX

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