

DEFENCE FORCE REMUNERATION TRIBUNAL

SPECIALIST OPERATIONS ALLOWANCE

REASONS FOR DECISION

The Australian Defence Force (ADF) has sought a number of changes to Specialist Operations Allowance affecting members and/or support personnel of the 4th Battalion, Royal Australian Regiment (Commando), the 301 (Commando) Signals Squadron, East and West Tactical Assault Groups and the Incident Response Regiment.

BACKGROUND

Specialist Operations Allowance (SOA) is paid in recognition of special demands that cannot be adequately reflected in the salary structure. The allowance comprises two distinct elements; Qualification and Skill, and Disability. Qualification and Skill acknowledges the significant levels of additional skill that must be acquired and maintained. Disability acknowledges the hazard and stress associated with service in the specialist operations environment.

SOA was introduced in 2002 from the amalgamation of a number of existing allowances. At that time, the ADF indicated to the Tribunal that ADF Specialist Operations capabilities were evolving and would mature over a number of years. Consequently, the ADF has conducted a review of SOA and has identified, what it submits are a number of issues that require rectification.

INSPECTION

The Tribunal had the benefit of an inspection of Holsworthy Army Base on Wednesday 4 August 2004. The Tribunal was briefed on the ADF review of Specialist Operations Allowance and the background and makeup of Australia's Special Forces capability. The Tribunal was shown both practical and static demonstrations of the role of Commandos, Tactical Assault Group East, Special Forces Signals Squadrons and the Incident Response Regiment.

SUBMISSIONS AND EVIDENCE

The Australian Defence Force (ADF)

Trainee Special Forces Commandos

The ADF has proposed that a component of SOA be established for Trainee Special Forces Commandos and that the new component consist of both Qualification & Skill and Disability elements (\$1,631 and \$5,438 respectively), applicable once members have completed the Commando Training Course, the Special Forces Weapons Course and either the Special Forces Parachute or the Commando Amphibious Operations course. The ADF asserted that this is the point at which a member is fully deployable.

The ADF submitted that trainee Commandos are exposed to the same hazards and stresses as a fully qualified Commando and have an increased exposure to possible fratricide.

It also submitted that the introduction of a trainee allowance for Commandos would be consistent with trainee allowances currently provided to other ADF elements such as Tactical Assault Group East and the Special Air Service Regiment.

Ammunition Technicians, Ammunition Technical Officers and Medical personnel posted to a Tactical Assault Group.

The ADF has sought an increase in the Disability payment provided to Ammunition Technicians, Ammunition Technical Officers and Medical personnel who have been posted to a Tactical Assault Group (TAG).

The ADF submitted that the role of these members has changed and that they may now be required to follow more closely behind TAG members involved in Special Operations. This close proximity means that they are subject to the same level of danger as TAG members, whose Disability element contains a component to compensate them for their hazardous work.

Ammunition Technicians and Ammunition Technical Officers posted to a TAG may be included with the first assault team to render explosive devices safe. They must be qualified in a range of weapons and deployment methods such as fast roping.

Medical personnel posted to a TAG may be required to accompany assault teams into large structures and operate in a live fire environment.

The Disability element proposed by the ADF is \$10,331 (up from \$5,438). The ADF submitted that this amount is similar to that provided to members of the Incident Response Regiment (IRR) who are required to render areas safe of chemical, biological and radiological agents. The ADF also submitted that, while the role of Medics and Ammunition Technicians are not identical with IRR members, the disabilities suffered are commensurate.

301 Signals Squadron

The ADF has recently established 301 Signals Squadron to provide reliable, rapid and high quality communications support to 1 Commando Regiment. The ADF has proposed a Qualification & Skills element of \$1,631 (or as a daily rate for reservists) and a Disability element of \$5,438 for Regular Army members on continuous short notice to move.

The ADF submitted that the training and skills level of members of 301 Signals Squadron are the same as those of members attached to 126 and 152 Signals Squadrons, who provide similar support to other Special Forces units.

The rates proposed by the ADF are the same as those currently payable to 126 and 152 Signals Squadrons.

Incident Response Regiment

The ADF has sought to clarify the payment of SOA to members of 2 Troop Emergency Response Squadron.

2 Troop Emergency Response Squadron is part of the IRR which was established to provide a new ADF capability for high risk search, improvised explosive device disposal and chemical, biological and radiological response support.

The ADF sought clarification as to whether 2 Troop qualify for SOA under Item 17 of Determination 19/2002 'members employed in decontamination, medical or search roles'. The ADF submitted that the role of 2 Troop is indistinguishable from that of other members whom the Tribunal had previously determined to be eligible for SOA under Item 17. 2 Troop is currently being paid SOA at a lower rate under Item 19 'members in the support role'.

Witnesses

The ADF called two witnesses. Lieutenant Colonel Richard Campbell, Commanding Officer of 4th Battalion, Royal Australian Regiment (Commando), gave evidence regarding the high intensity and dangerous nature of Special Forces training, whereby members are exposed to a very high level of live fire in environments where there may be low or no light. Lieutenant Colonel Campbell stated that the point at which the ADF proposes that Trainee Commandos would become eligible for SOA is the same point that Trainee Special Air Service Regiment members become eligible for Special Action Forces Allowance.

In regard to the additional danger to which Ammunition Technicians and Medical personnel posted to a TAG are exposed, Lieutenant Colonel Campbell gave evidence on the dangers associated with the environments in which TAG teams are expected to operate.

Lieutenant Colonel Nicholas Rowntree, Commanding Officer of the Incident Response Regiment, gave evidence regarding the role of 2 Troop Emergency Response Squadron, stating that their capability had increased markedly over the past two years, allowing them to contribute to and participate in chemical, biological and radiological operations in a Counter Terrorism role. Consequently, 2 Troop members are required to train with the Chemical, Biological and Radiological Response Squadron and TAGs East and West.

The Commonwealth

The Commonwealth supported the ADF proposal submitting that the training allowance for Commandos adequately reflected the substantial level of disability members experience when undergoing training. The Commonwealth also submitted that the proposed additional disability for Ammunition Technicians and medical personnel posted to a TAG should be recognised and that \$10,331 is an appropriate rate. In regard to 301 Signals Squadron, the Commonwealth agreed that there were substantial similarities between its work and that of 126 and 152 Signal Squadrons.

Therefore the Qualification & Skills and Disability elements, as well as requirements for eligibility, should be the same. Having examined Determination 19/2002 and the evidence put forward by the ADF, the Commonwealth was also satisfied that members of 2 Troop Emergency Response Squadron should receive SOA under Item 17 'members employed in decontamination, medical or search roles'.

The Armed Forces Federation of Australia

The Armed Forces Federation of Australia supported the ADF proposals on the review of SOA, stating that they removed anomalies and provided equitable outcomes.

DECISION

Having considered the evidence and submissions, the Tribunal is satisfied that the parties have established the case for the changes sought by the ADF and that the changes are appropriate.

The new allowance for trainee Commandos will consist of \$1,631 for Qualification & Skill and \$5,438 for Disabilities experienced and will be applicable once members have completed the Commando Training Course, the Special Forces Weapons Course and either the Special Forces Parachute or the Commando Amphibious Operations course. Eligibility for this allowance will preclude access to Field, Parachute and Hard Lying Allowances.

Ammunition Technicians, Ammunition Technical Officers and Medical personnel who have been posted to a Tactical Assault Group will be eligible for a Disability element of \$10,331 in recognition of the hazards and stresses in their Counter Terrorist roles. The Tribunal notes that this amendment will also affect the Special Action Forces Allowance which covers support members of TAG West.

The Tribunal is satisfied that the training and skill level of members of 301 Signals Squadron are the same as for members of 126 and 152 Signals Squadrons. A Qualification & Skill element of \$1,631 (or as a daily rate for reservists) and a Disability element of \$5,438 for Regular Army members on continuous short notice to move, is therefore, justified.

The Tribunal accepts the parties' submissions that, due to their role in dealing with chemical, biological and radiological incidents, members of 2 Troop Emergency Response Squadron qualify for SOA under Item 17 – 'member undertaking medical, decontamination or search roles'. We note that any question of underpayment, and the associated decision of a date of effect, is to be handled as an administrative issue by the ADF.

As agreed by the parties, the date of effect of the changes to Trainee Special Forces Commandos, Tactical Assault Group support personnel and members of the 301 Signals Squadron will be on and from 26 August 2004.

APPEARANCES: R Kenzie QC, Defence Force Advocate with Lieutenant D Talbot, for the Australian Defence Force

J Shingles with H Marshall for the Commonwealth

G Howitt for the Armed Forces Federation of Australia

INSPECTION:

4 August 2004 Holsworthy Army Base

DATE AND PLACE OF HEARING:

23 August 2004 Canberra