

# DEFENCE FORCE REMUNERATION TRIBUNAL

## FLYING ALLOWANCE AND FLIGHT DUTIES ALLOWANCE

### REASONS FOR DECISION

The Australian Defence Force (ADF) has sought a review of the structure and rates of Flying Allowance and Flight Duties Allowance.

In the 1997 Flying Allowance decision, the Tribunal stated that Flying Allowance is paid to ADF aircrew to compensate for the additional skills needed to operate aircraft, including:

- the increased responsibility involved;
- the exposure to hazards and environmental factors; and
- the possibility of members losing their flying status due to a loss of medical fitness.

The allowance has also traditionally taken into account the need for the ADF to be able to attract and retain suitable personnel in aircrew positions.

The present rates of the allowance are:

#### Qualification and Skill

<i>Period of Qualified Flying Service</i>	<i>Rate of Flying Allowance (Qualification and Skill)</i>	
	<i>Colonel(E) or Officer with a Lower Rank \$ per year</i>	<i>Member other than an Officer \$ per year</i>
Completed less than 2 years	3055	1696
Completed 2 but less than 4 years	5092	3735
Completed 4 but less than 6 years	9169	5092
Completed 6 but less than 8 years	17316	6452
Completed 8 but less than 10 years	25462	7809
Completed 10 or more years	28183	7809

Qualification and Skill for Brigadier (Equivalent) \$20033.

The Disability Element for Brigadier (Equivalent) is \$5229 and for all ranks Colonel (Equivalent) and below is \$5772.

The Qualification and Skill component of the allowance continues to be paid so long as the member is medically fit for flying duties and remains qualified and liable for flying duties. The Disability component is paid during a posting which requires flying to be “a significant part of the primary duties of the member”.

Members under training for flying duties receive only the Disability component.

Flight Duties Allowance is paid to personnel who are not aircrew in recognition of the disabilities encountered when performing flight duties on board service aircraft. It is paid at the rate of \$15.79 for each day such duties are performed.

#### The 1997 Review (Matter No 15 of 1996)

In 1997 the ADF sought a review of Flying Allowance based on:

- significant changes in the nature of work, skill and responsibility;
- increased risks associated with military aviation; and
- the proposition that rates struck in the 1988 review of the allowance, on the basis of attraction and retention considerations, were no longer adequately achieving that purpose.

In the review the ADF sought:

- The introduction of a new structure and rates based on years of experience after the award of flying qualifications. A six point scale for payment was proposed, with incremental increases for each two years of flying experience gained.
- Retention of the two components of ‘Qualification and Skill’ and ‘Disability’.
- The introduction of a reduced Qualification and Skill component for Brigadier.
- The introduction of sunset provisions: 8 years for officers of Colonel (Equivalent) and below, 3 years for Brigadier and 3 years for Other Ranks.

The ADF proposal was supported by the Commonwealth, the Armed Forces Federation of Australia and the Returned and Services League of Australia.

The Tribunal approved the agreed structure and rates but determined a lower sunset provision for officers of Colonel (Equivalent) and below of 6 years and a lower disability rate for Brigadier than had been sought.

## THE PRESENT REVIEW

### INSPECTIONS

The Tribunal undertook an extensive range of inspections as part of the review. These inspections covered the full range of aviation in Navy, Air Force and Army. The inspections, carried out in the periods 29 May to 3 June and 20 June to 24 June 2005, 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);
- 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.

### SUBMISSIONS

#### **The Australian Defence Force (ADF)**

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 are as follows:

<b>Qualification and Skill</b>	<b>Officers Colonel(E) and below \$ per year</b>	<b>Other Ranks \$ per year</b>
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
<b>Brigadier Qualification and Skill</b>	<b>\$20033</b>	

#### **Flying Allowance (Disability)**

Major General (E)	1/365 <sup>th</sup> of the Brigadier rate
Brigadier (E)	\$5229 per year
Colonel (E) and below	\$6349 per year
Reserve Member	1/365 <sup>th</sup> of the applicable rate
Flight Duties Allowance	1/365 <sup>th</sup> 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. While there have been changes in military aviation that have resulted in increases in the skills and responsibilities of aircrew and in the intensity of tasks, averaged across aircrew these absorb any attraction and retention component in the allowance such 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, are:

- 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 seeks 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 has 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;
- operations in extreme weather conditions;
- wearing of ballistic protective equipment in flight;
- training, carriage and use of NBC protective equipment;
- simulator use; and
- basic flying training aircraft conditions.

It submitted that the RAAF School of Aviation Medicine has observed negative physical and psychological impacts on aircrew such as: stress, fatigue, anxiety, depression, unknown fear and disruption to personal relationships. Such impacts can, and do, affect flight safety, mission achievement and the physical and mental health of ADF aircrew. The ADF also considered that the intensity and persistence of operational deployments is compounded by the environment in which aircrew perform their duties: that is, confined spaces, wearing full protective equipment, with limited flexibility and mobility and increased mission durations across all aircraft types. The ADF therefore proposed an increase in the disability component of 10%.

The ADF submitted that the sunset provision of three years for all aircrew receiving Flying Allowance “can be manageable, albeit with a likely additional management overhead.” It proposed that the extant discretionary clause in the current determination be retained for the CDF to extend this period under certain circumstances.

In support of the proposal to extend Flying Allowance to Air Force Crew Attendants, the ADF submitted that the category members are now an integral part of aircrew on the relevant aircraft. Members participate in mission planning, flight administration, acceptance (from the contractor) of responsibility for safety and security of the aircraft on behalf of the Commonwealth, co-ordination of catering and additional requirements, baggage handling, operations room support, aircraft cleanliness and away from base terminal liaison.

RAAF Crew Attendants are exposed to a number of aviation-specific requirements not included in civilian Flight Attendant training, including:

- aircraft ground handling;
- air traffic control procedures;
- aviation medicine;
- basic navigation;
- combat survival;
- meteorology; and
- theory of flight.

Other Ranks Fighter Controllers will form an integral part of the soon to be introduced Airborne Early Warning and Control (AEW&C) capability. The Navy commitment to this capability is 5 officers and 6 non-commissioned officers. Commissioned Fighter Controllers of the RAAF and Navy currently receive Flying Allowance. Accordingly, the ADF proposes that Other Rank aircrew receive Flying Allowance on completion of the AEW&C conversion course and on posting to No 2 Squadron.

The Qualification and Skill component of Flying Allowance is payable to a qualified member who is posted for flying training, or occupies a designated flying position or a flying related position. A flying related position is currently defined in the relevant determination as a non-flying position in which the member is required to hold a flying qualification in order to perform the duties of the position. The ADF submits that definition of flying related positions would be assisted by specifying the approving authority for these positions within each service and providing guidelines for the delegate in determining such positions.

During the course of the proceedings witness evidence was provided by:

- Air Marshal G.D. Shepherd – Chief of Air Force;

- Air Commodore M.D. Binskin – Commander Air Combat Group;
- Air Commodore G.W. Steed – Commander Air Lift Group;
- Brigadier A.P. Fraser – Commander 16<sup>th</sup> Brigade (Aviation);
- Air Commodore K.N. Birrer – Air Force Personnel;
- Captain M.G. Campbell – Acting Commander Australian Naval Aviation Group;
- Wing Commander G. Hampson – Commanding Officer RAAF Institute of Aviation Medicine; and
- Wing Commander M.B. Smith – Officer Commanding the ADF Pilot Selection Agency.

### **The Commonwealth**

The Commonwealth opposed continued application of the current structure of the allowance, submitting that:

- differences in work value between groups of officers should be recognised; and
- the attraction and retention component of the allowance must be defined and separated from the Qualification and Skill component of the allowance.

The Commonwealth also opposed the ADF's proposals on the Qualification and Skill component for Other Ranks aircrew, on the basis of its critique of the ADF case and proper application of work value principles. The Commonwealth also submitted that there is no evidence to justify the introduction of a new 6<sup>th</sup> tier. It argued that increases to base salary and the allowance, effected by Workplace Remuneration Arrangements since 1997, were to be considered.

The Commonwealth supported the ADF proposal to reduce the sunset period for officers from 6 to 3 years as this would be consistent with the provisions that apply to the other environmental allowances and to Other Ranks receiving Flying Allowance.

Further, the Commonwealth supported the ADF proposal to extend the allowance to RAAF Crew Attendants on the basis that they would remain in their current pay groups.

Similarly, the Commonwealth did not oppose the extension of the allowance to Navy Fighter Controllers, on the proviso that these members would occupy the same pay groups as the Navy Combat Systems Operators in non-flying positions.

In regard to flying related positions, the Commonwealth did not oppose the application of the allowance to members occupying those positions as long as those positions are genuinely flying related and can be justified on the basis of requiring flying knowledge, expertise, qualifications or experience to perform the duties of that position. It

submitted that the criteria applying to these positions should be tightly defined and an audit of flying related positions should occur after the introduction of such a definition.

### **The Armed Forces Federation of Australia (ArFFA)**

ArFFA did not support the ADF proposal to retain the current levels of Qualification and Skill for officer aircrew. ArFFA submitted that in its judgement the work value of officer aircrew specialisations have increased substantially since 1997, justifying an increase of not less than 20% to the Qualification and Skill component. ArFFA also considered that the time-based progression applying to officer aircrew should be applied to Brigadier (Equivalent).

In relation to Other Ranks aircrew, ArFFA submitted that prior to applying a flat 15% increase, a correction to the tiering structure should occur as the Qualification and Skill gap between officers and Other Ranks should be a lot closer than is currently the case. It submitted that once the structure had been adjusted a further increase of not less than 20% be applied in recognition of work value increases since 1997.

ArFFA supported the ADF contention that the Disability component of the allowance should be increased, but proposed different rates as follows:

- |   |                         |
|---|-------------------------|
| - Tier 1 - Brigadier (Equivalent)   | \$5572 (10% increase)   |
| - Tier 2 - Colonel (Equivalent) and below   | \$6637 (15% increase)   |
| - Tier 3 - Qualified Flying Instructors,<br>Qualified Loadmaster Instructors,<br>Flight Test/Experimental Pilots. | \$8827<br>(Tier 2+ 33%) |

ArFFA fully supported the ADF proposal to extend the payment of the allowance to RAAF Crew Attendants and Navy Flight Controllers but rejected the Commonwealth's submission that a caveat be placed on further pay group placement proposals for these categories.

### **The Returned and Services League of Australia (RSL) and The Regular Defence Force Welfare Association (RDFWA)**

The RSL and RDFWA supported the ADF's proposals.

## **CONSIDERATION**

At the Annual Review of Salary and Allowances (Matter No 7 of 2004) 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 (RRP), to be completed by December 2005.

At the conclusion of submissions on Flying Allowance, the parties sought guidance from the Tribunal relevant to the RRP hearing on 7 December 2005. On 1 December 2005, the Tribunal issued the following statement on Qualification and Skill issues:

“Having considered the evidence and submissions, we accept that the time-based structure of the allowance is appropriate to the progression of skills. Similarly, the Tribunal accepts that it is appropriate to pay the same level of allowance to officer aircrew within each time bracket. While we have not yet concluded a view, we recognize the difficulty of acceding to the Commonwealth’s submission to split the allowance.”

We now turn our attention to the various issues that have been raised during the course of the review.

### Time-Based Progression

The ADF has proposed that the present structure of Flying Allowance, that is, a progression of rates attached to competency tiers managed on a time basis, continue to apply to all Officer and Other Rank aircrew specialisations. The ADF argued that the present structure has served it well, corresponding to the required rate of competency development.

The Commonwealth opposed the application of the “all of one company approach” and submitted that a proper work value assessment of each identified employment category is required. The Commonwealth suggested categorisation by groupings would more accurately reflect work value.

We accept that the tiered structure of Flying Allowance has been designed over the years to match increases in competency required over a member’s career. We note that, under the ADF management system, aircrew unable to progress at the required rate or requiring an unacceptable level of training and supervisory resources may be suspended from flying duties. On the evidence before us, it remains appropriate for a progression in Flying Allowance to be tied to points in career development that reflect the attainment of competencies across the Officer and Other Ranks specialisations. We accept that aircrew within each time bracket are to be paid the same rate of relevant allowance.

In coming to our decision on this issue we do not endorse the concept of work value equivalency as it emerged in the evidence. We do, however, accept that historically Flying Allowance has been applied as an equal rate for all Officer aircrew and a different but equal rate for Other Rank aircrew despite the fact that there may be differing contributions in strict work value terms.

### Attraction and Retention

Since the 1958 Allison Review, Flying Allowance has been determined taking into account attraction and retention considerations. At the time of the 1997 Review, the ADF was experiencing problems attracting and/or retaining all aircrew types at various ranks. The retention problem was most acute for pilots, but was also evident for Flight Engineers and Observers.

Attraction and retention, in particular retention, considerations for pilots and certain other Officer aircrew specialisations have formed part of every major review of Flying Allowance conducted by the Tribunal. A discrete attraction and retention component

has not, in the past, been quantified nor identified as a percentage of the overall allowance, though it is apparent it has been a significant factor considered.

In 2003 (Matter No 2 of 2003) the ADF presented a case based on Submarine Service and Seagoing Allowances that tested the practicability of separating an attraction and retention element from the allowances. In a statement on 20 February 2003, the Tribunal advised the parties that “it has difficulties with the arguments regarding the disaggregation of a so-called attraction and retention element from Submarine Service and Seagoing Allowances.”

In the present review, the Commonwealth submitted that it is “imperative that the attraction and retention component of Flying Allowance be identified and isolated”. It further submitted that the allowance as constituted at the time of the 1997 review included a definable attraction and retention component, by reference to the quanta of the Flying Special Allowance rolled into Flying Allowance in 1988, that is 40.18% at the rank of Captain to Lieutenant Colonel (Equivalent).

The ADF argued in response that in the Flying Special Allowance Review (Matter No 8 of 1987), although retention issues were relevant, the major thrust of submissions by the ADF and the Commonwealth was that an increase for certain pilot groups was required as there was a perceived undervaluation of the allowance for this group.

Having considered this issue at length and reviewed previous decisions, we have come to the view that it is not possible to identify an amount attributable to attraction, but more particularly retention considerations. We are satisfied it was a significant consideration in setting the current levels of the allowance, but cannot identify a separate figure. We accept the ADF’s submission that the rates it proposes now on the basis of work value capture all relevant considerations. In our view, retention considerations for the future should be more appropriately dealt with by a s.58H capability allowance, avoiding distortion of the salary structure.

#### Qualification and Skill Rates for Officers

The Tribunal considers that it is appropriate to retain the present rates of Qualification and Skill for officer aircrew. While we accept that military aviation has become more demanding and note the ADF’s submissions on increases in work value for certain groups of officers, the net effect of retention and work value considerations is that the allowance is, in our view, appropriately set. We accept the ADF submission that “no significant net increase over and above the 1997 rates can be determined”.

#### Qualification and Skill Rates for Other Ranks

Whilst we accept that there have been changes to the work of Other Ranks aircrew, requiring greater expertise, problem solving skills and a greater level of accountability, the Tribunal is more swayed by the argument that the rates for Other Ranks should be closer to those of the officers. We therefore consider that there should be an increase to these rates for Other Ranks, based not only on work value increases but also on equity. We also consider that the addition of a sixth tier is justified on a similar basis.

## Disability Element

The ADF has proposed an increase of 10% to the current Disability rate of the allowance for Officer and Other Rank aircrew at the ranks of Colonel (Equivalent) and below. The Commonwealth submitted that any increase to this element has not been justified on the basis of a detailed critique of the ADF's case.

We are not unanimous on this issue. By majority, we have decided to increase the disability component of the allowance to \$6100. While the minority was persuaded that the increased demands of military aviation justified the increase sought, the majority considered that several of the factors relied on had already been taken into account in other elements or were not persuasive on the evidence.

The Tribunal accepts that application of night vision goggles to enable 24 hour operations, the use of ballistic and biological protective equipment and extended duration operations support an increase in disability.

The majority is less persuaded by the other arguments. For example, we note Wing Commander Hampson's evidence that overall he was unable to assess greater simulator use as increasing disability. Nor do we think that a disability allowance is the mechanism to deal with operational tempo, so often raised before us.

As a wider issue, in considering Flying Allowance we have difficulty continuing the concept that aircrew should be paid a broad-based disability allowance for doing their job. In future salary deliberations it may be more appropriate to include disability factors in the salary for the job. We understand the use of allowances in an Officers' salary system reliant upon a common scale, and the superannuation realities. Interestingly, the constraint of a common scale has not applied to Other Ranks for over 10 years; but the same level of disability allowance has applied equally to Officers and to Other Ranks.

In our view, this case has illustrated some of the difficulties in the current system with overlapping considerations. Air Commodore Birrer acknowledged that

*“...it's difficult sometimes to differentiate what is pushed into pay group placement and what is actually going into the Flying Allowance case. I guess my argument for a lot of these – for some of those aircrew groups there isn't a contemporary assessment of their pay grade placement. There hasn't been a regular review of it and it seems to me that the work value changes that we've seen in that time, given that, are, if you like more appropriately and contemporaneously dealt with as part of this Flying Allowance case.”*

We comment further in the RRP decision on remuneration policy, but in our view the issues of potential overlap here highlight the need for greater clarity in future arrangements.

### Sunset Provisions

The Tribunal accepts submissions that the “sunset” period for Officers should be reduced from 6 to 3 years. This is consistent with the period of three years currently being applied to Other Ranks aircrew and members receiving other allowances.

We note that the ADF has proposed retention of the current provisions of the determination that the CDF may extend the “sunset” period, based on exceptional circumstances.

### Flight Duties Allowance

The Tribunal is satisfied that the current relationship between Flight Duties Allowance and the disability component of Flying Allowance should be maintained.

### Flying Related Positions

The designation of positions as flying related and the consequent application of the Qualification and Skill element of Flying Allowance is properly a management decision for the ADF. We note, however, that the ADF has proposed to refine and tighten the definition in relation to flying related positions, to provide a set of guidelines for the delegate in determining such positions and to specify the approving authority within each service. The Commonwealth supported the ADF position, but added that an audit of flying related positions should occur after the introduction of such a definition.

We support the proposals. The parties should inform the Tribunal of the finalised definition of flying related positions and the guidelines for delegates by 30 May 2006.

### RAAF Crew Attendants

The Tribunal is satisfied that RAAF Crew Attendants should be paid Flying Allowance at the specified Other Ranks rates. This position was supported by an inspection of the work of the category, discussions with category members and the agreement of the Commonwealth and the other parties.

### Navy Other Ranks Fighter Controllers

We are also satisfied that the case has been made for the payment of Flying Allowance to Navy Other Ranks Fighter Controllers on completion of the Airborne Early Warning and Control conversion course and on posting to No 2 Squadron. In coming to our decision we had had regard to the briefings on the work of category members, the agreement of all parties and the fact that commissioned Fighter Controllers of the RAAF and Navy currently receive the allowance.

## DECISION

The Tribunal has decided largely to approve the revised structure and rates proposed by the ADF. In summary our decision is 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 6<sup>th</sup> 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.

The new structure and rates for Flying Allowance and Flight Duties Allowance will apply on and from the first pay period after the date of this decision.

We note that there is to be a 1.5% increase in salary and allowances on 9 March 2006 under the Workplace Remuneration arrangement. This increase is also to apply to the new rates for Flying Allowance that we have approved.

The ADF and the Commonwealth should prepare a draft determination to give effect to the decision. The draft determination should be forwarded to the Tribunal within fourteen days.

**APPEARANCES:**

R. Kenzie QC, Defence Force Advocate with Lieutenant Commander A. Bradshaw for the Australian Defence Force.

R. Kenzie QC, Defence Force Advocate with Lieutenant Commander H. Cameron for the Australian Defence Force.

J. Shingles with H. Marshall for the Commonwealth.

J. Shingles with M. Spaccavento for the Commonwealth.

M. O'Neill with M. Spaccavento for the Commonwealth.

**DATES AND PLACES OF HEARINGS:**

16 November 2004                      Canberra

24-25 August 2005                      Canberra

18-19 October 2005                      Canberra

22-24 November 2005                      Canberra