

# DEFENCE FORCE REMUNERATION TRIBUNAL

## REMUNERATION REFORM PROJECT

### REASONS FOR DECISION

The Australian Defence Force (ADF) has 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.

### BACKGROUND

The Officers' Common Scale (OCS) was introduced in 1948, applying an "all of one company" philosophy to the profession of arms in the ADF. Officers at the same rank and seniority receive the same base salary, regardless of differences in work and performance. This system has come under stress with the accelerating pace of change, such that additional allowances have grown in number and amount over time to recognise differences in work and the pressure of market forces. A number of reviews and reports have recommended change to introduce greater flexibility in salary outcomes across the wide range of officer roles and, for approximately ten years, the ADF has been exploring options for change.

The project which has now culminated with the proposal in this case commenced in early 2002. It 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 been the focus of this case, to develop a flexible pay structure for officers, and to make consequential adjustments to the Other Ranks pay structure.

Hearings on the current 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*

The Tribunal initiated a review of Flying Allowance concurrently with the RRP and a decision on Flying Allowance is published as Matter 16 of 2004.

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

- assumed that the 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.

## **EVIDENCE AND SUBMISSIONS**

### The Australian Defence Force (ADF)

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 existing remuneration system for officers consists of:

- salary from the OCS, determined by the Tribunal under s.58H of the Act;
- salary related allowances set by the Tribunal pursuant to s.58H of the Act;
- a range of compensatory allowances, retention allowances and bonuses set under delegation from the Minister for Defence pursuant to s.58B of the Act.

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. The ADF submitted:

*“The ADF position is that the remuneration structure must maintain the capacity to respond promptly to capability related attraction and retention issues but that attraction and retention issues should not influence pay grade placement and should be attended to by raising separate s.58H allowances.”<sup>1</sup>*

The factors relevant to raising a Capability Allowance were specified as: sustainability, contribution and criticality to the provision of ADF capability and the cost of replacing capability. The ADF went on to refer to s.58B of the Act and said:

*“This section is utilised currently and has been used extensively in the past to raise allowances and bonuses for attraction and retention purposes. It remains open to the ADF to pursue this jurisdiction to raise allowances and bonuses. In relation to the proposed remuneration structure, the ADF proposes to raise capability related attraction and retention allowances pursuant to section 58H. It is submitted that this is desirable for the purpose of maintaining relevant and appropriate relativities in the quanta and application of such allowances.”<sup>2</sup>*

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 to respond to enduring market forces related pressure.

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<sup>1</sup> Exhibit ADF-1, para 5.15

<sup>2</sup> Para 5.18

*“The s.58H Capability Allowance is proposed as a means to mitigate long term, exceptional and enduring capability related attraction and retention pressures. It is not intended to address “moment by moment” market forces driven pressures by this means. These matters will continue to be the subject to the application of s58B allowances.”<sup>3</sup>*

Further,

*“Application for a s.58H Capability Allowance would involve an acknowledgement that the relevant attraction and retention pressures confronting the ADF are long term in nature, and the likelihood that they will diminish significantly over time being not great, but possible.”<sup>4</sup>*

In Block 2: *The Underpinning Principles and Business Processes*, the ADF submitted that the principles underpinning the RRP were:

- ADF remuneration decisions will support the achievement of organisational goals and be consistent with the Policy Parameters for ADF Pay Setting Arrangements;
- salary options would be based on a sound business foundation that links capability with workforce numbers; and
- employment/job groups may be placed at lower pay grades (non reduction provisions would apply to individuals).

In regard to the business processes, the ADF submitted that progression of cases to the Tribunal would be achieved through a collegiate and corporate approach ensuring decisions have regard to all considerations, including funding; have an appropriate degree of transparency; would not result in anomalous outcomes or untenable internal relativities; and arise from the application of consistent data.

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.

The ADF proposed the following placement methodology:

- establish officer employment/job groupings by applying appropriate taxonomies to the officer population;
- identify key factors for establishing value;
- develop key benchmark categories; and

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<sup>3</sup> Exhibit ADF-8, para 3.14

<sup>4</sup> Para 3.12

- assess employment groups against identified criteria and benchmark categories.

The ADF submitted that the key factors relevant to placement in the benchmark categories were expertise, problem solving and accountability.

As to the taxonomies,

- The RAAF preliminary approach is to manage officers by specialisation. Air Traffic Controllers and Aerospace Engineers are employment categories identified for review.
- Army proposed to identify employment groups on a different basis. Army submitted that it employs graduates of the Command and Staff College in a distinctly different profile to that of other officers of equal rank not selected for Staff College. It would apply a similar approach to those officers selected for sub-unit and unit level command, which it views as a highly competitive appointment process.
- Navy proposed placement by specialisation, but has also identified a number of gates through which officers move that could represent significant increases in work value, such as qualification as a Principal Warfare Officer, Major and Minor War Vessel Command and Major Fleet Unit Command.

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.

In making its submissions on management of this group of officers, the ADF advised:

- Colonel (Equivalent) to Major General (Equivalent) Officers should transition to the proposed structure at their present rates;
- officers at this rank will be considered separately and distinct job groups will be identified within each rank;
- indicatively, grouping might be identified as being Command, Specialist, Staff and Senior Command; and
- s.58H Capability Allowances would be available for application in appropriate circumstances.

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.

The ADF proposed:

- the establishment of a Warrant Officer Class 1 (Equivalent) common scale of remuneration within the proposed new structure;
- that the nature of work within this employment group is able to be differentiated such that sub-groups can be identified;
- that sub-groups so identified might warrant the provision of differential pay; and
- the Warrant Officer Class 1 (Equivalent) group would be placed within the new structure in the same manner as is proposed for officer groups.

Also 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 Commonwealth

The Commonwealth submitted that it supported the creation of a graded officers' pay scale, informed in the first instance by rolling the quanta of the Specialist Operations Allowance, Special Action Forces Allowance and Submarine Service Allowance into the OCS Rates.

The Commonwealth expressed concern in relation to the margins between the pay grades identified in the 12 graded structure proposed by the ADF and the relevance of the current quanta of the allowances to be rolled in as a basis for differentiating work value.

The Commonwealth proposed instead a matrix of seven pay grades at an approximate differential of \$3,000. The framework included four temporary pay grades that would be abolished once pay grade placements for these groups were determined.

In regard to the *Underpinning Principles and Processes*, the Commonwealth noted that the ADF's framework and placement criteria were not complete and

acknowledged that these issues would be addressed when pay grade placement applications are brought before the Tribunal.

The Commonwealth noted the ADF's proposed service taxonomies and expressed concern that the application of the Army taxonomy facilitates movement to higher pay grades as Unit Command and Sub Unit Command milestones are achieved, without any adjustment when such functions are no longer performed.

The Commonwealth also submitted that it supported the concept that all pay grade placement applications should be determined on the basis of work value.

The Commonwealth did not support the ADF proposal to deal with officers at the rank of Colonel (Equivalent) to Major General (Equivalent) separately. The Commonwealth contended that officers at the Brigadier (Equivalent) and Major General (Equivalent) ranks should be excluded from the graded officers' pay structure and that the introduction of individual remuneration arrangements for these ranks would align with the Government's workplace relations policies and would achieve:

- more direct relations between the Chief of the Defence Force and senior ADF officers;
- a closer linkage between remuneration, work value and performance outcomes; and
- an approach that is more closely aligned with Senior Executive Service officers in the Australian Public Service.

On the placement of the Warrant Officer Class 1 group, the Commonwealth submitted that, conceptually, it had no difficulty with the thrust of the ADF proposals. The Commonwealth did express some concern as to how initial placement of the group would interact with the officer pay structure and submitted that the placement of the Warrant Officer group should be done in a post RRP environment.

The Commonwealth supported the introduction of a pay grade lower than the OCS in the structure, submitting that it would provide flexibility in the context of future cases for pay grade placement.

#### Returned and Services League of Australia (RSL)

#### Regular Defence Force Welfare Association (RDFWA)

The RSL and the 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. They submitted that the ADF had not committed sufficient resources to implement the new structure and, on the grounds above, the RSL/ RDFWA were unable to recommend to the Tribunal that it agree to the RRP proposals.

The RSL/ RDFWA also expressed concern about the practical effect of the Services having differing placement taxonomies and also about how Flying Allowance would fit into the new officers' pay structure.

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

ArFFA supported the construct of a differential pay structure for officers and a move away from the OCS. ArFFA submitted that it shared the same general concerns as the RSL/ RDFWA regarding RRP acceptability to ADF members and stated that it would like to see the same placement taxonomy used by all three Services.

ArFFA did not support the ADF's method for creating the new structure. Inclusion in the pay grades of the Qualification & Skill components of each allowance would mean the Tribunal's regular review of this element would not take place for officers, potentially disadvantaging them. 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.

On placement of Warrant Officers Class 1, ArFFA submitted that remuneration for this group should be reviewed and made contemporary, prior to any placement within a new structure. Particular concern was expressed about the adequacy of the on-promotion rate from Warrant Officer Class 2 to Warrant Officer Class 1.

#### Supplementary Submissions

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
- 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).

They submitted that the graded pay structures in the agreed options for Star Ranks, General Officers and Warrant Officers Class 1 (Equivalent) were established with the following broad characteristics:

- all structures have 10 substantive pay grades based around approximate \$3,500 differentials;
- where possible, current s.58H allowances have informed the rate for the substantive pay grades;
- where no s.58H allowance rate could be utilised as a substantive pay grade (at the appropriate differential of approximately \$3,500) the rate has been established by calculating the halfway point between the lower and higher pay grades – for example, the provision of Submarine Service Allowance which cannot be accommodated directly with the use of \$3,500 differential amounts;
- transitional pay grades have been established to accommodate members currently in receipt of s.58H allowances on start up of the new structures where these allowances cannot be accommodated by placement into a substantive pay grade;
- transitional pay grades will not be populated by future pay cases; rather future placement will be required to be in one of the ten substantive pay grades;
- transitional pay grades will eventually close after each category is placed in a substantive pay grade following full work value analysis and subsequent determination by the DFRT.

The ADF and the Commonwealth proposed placements within the structure as follows:

- the Officer Common Scale in pay grade 2;
- Incident Response Regiment (IRR) Allowance placed in pay grade 2A (being a temporary pay grade);
- Commando, Flying Allowance tier 0-2 years and Incident Response Regiment Additional Specialisation placed in pay grade 3 (Flying Allowance tier 0-2 years has been rounded up by \$407 and Incident Response Regiment Additional Specialisation by \$578 to achieve structural efficiency for the model);
- Flying Allowance tier 2-4 years placed in pay grade 3A (being a temporary pay grade);
- Clearance Diver Advanced placed in pay grade 4;
- Training TAG East Allowance placed in pay grade 4A (being a temporary pay grade);

- TAG East and Flying Allowance tier 4-6 years placed in pay grade 5 (Flying Allowance tier 4-6 years has been rounded up by \$636 to achieve structural efficiency for the model);
- Special Action Forces Allowance placed in pay grade 5 together with Flying Allowance tier 6-8 (SAFA has been rounded up by \$13);
- Flying Allowance tier 8-10 years placed at pay grade 9; and
- Flying Allowance tier 10+ years placed at pay grade 10.

**CONSIDERATION**

The Tribunal agrees that change is necessary. The case for change has been well rehearsed in the various reviews to which the ADF and Commonwealth took us, and we see little point in restating it. This case is about the implementation of change for officers.

Differential pay across the officer population is already a reality, and has been for some time. On our calculation, 31% of officers are paid above the OCS rate by various mechanisms, as the table below shows.

		% Total
Total ADF Officers	12672	
- Officers whose salary is set by, or by reference to, the Remuneration Tribunal (Commonwealth)	<u>6</u>	
= Officers potentially paid according to Officers' Common Scale	12666	100%
- Officers on special pay scales	554	4.4%
- Officers receiving s.58H Q&S allowances		
Flying Allowance	1647	
Submarine Service	135	
SAFA (various levels)	105	
SOA (various levels)	<u>130</u>	
	2017	15.9%
- Officers receiving s.58B payments		
Retention allowances	1320	
Retention bonuses	112 *	
Completion bonuses	4	
Less elimination of double counting	<u>- 18</u>	
	<u>1418</u>	11.2%
= Officers paid only Officers' Common Scale level	8677	68.5%
* Plus unquantified number to qualify for Submarine Arm Completion Bonus and RAN Observer Completion Bonus		

The diversity of adjustments summarised in the table is indicative of another feature of the system. Pay and benefits are determined by several authorities, in different categories, such that it is difficult to assess overall remuneration, particularly in making external comparisons. The following table illustrates the complexity and diversification of decision-making for ADF salary related matters.

### Total Employment Package

Base salary *	}	
Service allowance *	}	
s.58H Q&S allowances *	}	Determined by DFRT
s.58H Disability allowances	}	
s.58B allowances		Set under Ministerial delegation
Deployment allowance		Determined by Government
Service conditions	}	Set under Ministerial delegation
- allowances (various)	}	
- housing assistance	}	
Superannuation: employer contribution		Provided by legislation

\* Salary for superannuation purposes

While in the commercial world, remuneration is often expressed and monitored as Total Employment Cost, seemingly no one authority reviews the components and delivery of overall remuneration in the ADF. Further, operation of the current system implies high administrative overheads.

In this context, the RRP represents some advance. But we think that the ADF would be well repaid for developing a cohesive remuneration policy, to be advocated through the various decision processes. There has been no shortage of external reviews, and we do not suggest another. Rather, much of the necessary thinking is to be done within the ADF. The ADF has already committed to change the pay system for Other Ranks by incorporating the Qualification & Skill element of s.58H allowances into base pay - we comment on that later. But the thinking should not stop there.

Integration of the elements into total remuneration requires clarity of purpose and of the basis for movement. We observe that in cases before us, the same arguments can be, and are, advanced as justification for change of different elements of total remuneration, at different times. The RRP project provides an opportunity to improve the integrity of the ADF's remuneration system, but it is not sufficient on its own. Certainly, the Tribunal will be seeking in its determinations to assist the parties to develop and apply cohesive remuneration policy.

That said, we set out our conclusions on the operation of the new salary structure.

## Work value

Firstly, both the ADF and the Commonwealth submitted that determination of salary for each officer group is to be based on work value. But it was apparent throughout proceedings that there are different understandings of work value and that the parties risk reliance on work value beyond its ability to assist. If the principal parties wish to rely on work value, further work is required to ensure understanding of what it is, and what it is not.

We understand work value in terms of the AIRC's current Wage Review Principle 6. It is a relative concept, where the value of work is to be determined by comparison to other work on the basis of its nature, skill and responsibility required or the conditions under which the particular work is normally performed. The work environment is dynamic, rather than static. So change in work value cannot be established by evaluating change in that work only: it is to be compared to the change in other work. Hence, the establishment of benchmark categories or jobs is a necessary condition for establishing and maintaining relativities.

Further, it is significant change that affects differences in value. Consequently, given the emphasis of the parties on work value, the Tribunal has been concerned that the new salary structure should have significant gaps between pay grades, such that the Tribunal is not asked to continue such fine differentiation as is evident in the numerous current levels of disability allowances. Also, the Commonwealth helpfully referred to an AIRC decision which discusses some of the factors in assessing work value change (Print K4004).

Similarly, pay grade placement would be the prime means of recognizing differences in work value. Many arguments now advanced for change in allowances would be more properly directed to pay grade placement. For example, disability allowances have a role to play primarily where conditions of work are irregular. The proposition that either a regular or a long term element of work value is not reflected in pay grade placement could not be sustained. The application of work value implies that pay grade placement must represent the long term market value of the work.

## Attraction and Retention

Greater clarity is also required in discussion of "attraction and retention" considerations. While the terms are used together, we note that most often it is retention that is meant. We do not think it helpful to uncritically link the two, and do not intend to do so ourselves. Nor do we see this as a separate consideration from work value, as will be evident from the discussion above.

## Role of s.58H Capability Allowance

We see the role for any s.58H Capability Allowance, proposed by the ADF as an element of the system, as providing a temporary or varying adjustment, should it be necessary in response to market exigencies. Since long term adjustment in relativities is properly expressed as a change in how the work is valued, we do not see how the argument for a long term correction factor can be sustained, as the ADF proposed in

its closing submission. Rather, we agree with the ADF's opening submission on 24 August 2004. A Capability Allowance, envisaged there, must of its nature be temporary, or varying over time. Being an allowance, it would be subject to two yearly review, as required by the legislation. As an adjustment mechanism in response to varying conditions, the Tribunal envisages that a Capability Allowance would either be determined for a maximum period of two years or be subject to detailed review at that point. We doubt the wisdom of a temporary or varying payment being made superannuable, given the operation of the present military superannuation schemes.

The Tribunal does not intend that the parties be constrained in considering the role of s.58H Capability Allowance by the cycle time that currently applies to pay cases contemplated by the ADF. The Act provides that the Tribunal is to "inquire into and determine the salaries and relevant allowances to be paid to members" of the ADF. In doing so, the Tribunal is not limited to practices developed by the parties in the past, but may determine its own processes, just as the ADF may adapt its management practices. If determining short term adjustments is important to maintaining the integrity of the system now introduced, the Tribunal will apply an appropriate process. Implementation of RRP provides the opportunity for the parties to rethink matters that may previously have been regarded as "givens".

We want to be clear on this. We reject the ADF's closing submissions about the role of any Capability Allowance in the officers' salary system; we consider the ADF's opening proposal in this case is appropriate, save for the superannuation aspect, and intend to operate as set out above.

### The General Officer Pay Structure

Given our decision in the Flying Allowance case, we have considered the graded pay structures provided on 16 December 2005, agreed between the ADF and the Commonwealth, which are based on the revised rates of Flying Allowance (Option 2).

Having considered all the submissions in this case, we are satisfied that the Qualification and Skill elements of allowances we determine should be incorporated in the rates. ArFFA correctly highlights that there will now be a different treatment of this element for officers and Other Rank members. However, we reach a different conclusion to that which ArFFA argues. In our view, the same consolidation should promptly take place for the Other Rank salary structures as a priority matter, to ensure that this obvious anomaly is short lived.

The current OCS rates are at Pay Grade 2 in the new structure. We note that the proposed General Officer structure provides worthwhile differentials between pay grades (around 5% at the top of the 03 range), which allow for discernible differences between jobs. Rank progression differentials are modest to 04 rank but more significant thereafter, even allowing for the Service Allowance difference. Eliminating any Service Allowance difference, there is a 13% jump to 05 rank, the point where unit command generally occurs, and then 11% to 06. Intrusion of pay grades across ranks is significant at the higher pay grades. This implies that placement in the higher pay grades is a very significant decision and, once made, will require careful management by the ADF. We also note that intrusion of Warrant

Officer Class 1 salary rates into the General Officer structure is consistent with existing structures.

In our view, the agreed approach to include transitional pay grades, which are not to be used as benchmarks or populated in future, is appropriate. We also note the agreed approach that grades 9 and 10 will not be benchmark grades. What this means in practice remains to be seen. But given that approach for grades 9 and 10 for officers, we query the inclusion of grades 9 and 10 in the Warrant Officer scale.

We endorse the changes proposed to fit the existing Qualification and Skill allowance levels into the structure. Specifically, Flying Allowance tiers 0-2 years and 4-6 years, Incident Response Regiment Additional Specialisation and Special Action Forces Allowance are to be accommodated as proposed. However, we are puzzled at how Pay Grade 3A can be a transitional grade, without rethinking the progression of aircrew salaries. Being the point proposed for aircrew in the 2-4 year tier, it will continue to be populated and has all the signs of being a permanent pay grade. This was not addressed in the Flying Allowance case and accordingly represents unfinished business for the parties.

On a point of detail, we note that the parties may want to correct the figures for Pay Grade 6, to be \$13560 higher than Pay Grade 2.

Taking account of everything before us, we have decided to approve the agreed structure sought by the principal parties, subject to the reservations expressed. The structure shall apply to General Officers in the ranks 01-06.

#### Star Ranks Pay Structure

We have not accepted the submissions of the ADF on setting salaries for 07 and 08 rank officers and are sympathetic to the course proposed by the Commonwealth. During the course of this case the Tribunal suggested that the ADF consider a more flexible arrangement that might apply to the more senior ADF ranks. In this regard, we note that separate remuneration arrangements now apply to 01-06 officers and officers of star ranks.

As advised in our statement of 9 December 2005 we will continue inquiry to determine the salary structure to apply to these officers.

#### Warrant Officers Class 1 (Equivalent)

In our statement of 9 December we indicated that the General Officer Pay Structure should not apply to Warrant Officer Class 1 (Equivalent) and that a separate scale for these members, based on the same principles as the General Officer Pay Structure, should be provided. We agree that differential pay ought be available to Warrant Officers, as for officers. But we see no utility in including Warrant Officers in the General Officers structure, when the same end can be achieved with a separate Warrant Officer scale and Warrant Officers given the recognition they deserve as the most senior Other Ranks leaders in the ADF.

As stated above, we have considered Option 2 of the agreed models, based on the revised level of Flying Allowance applying to Warrant Officers. We are not able to express a view on whether the salary rates are contemporary, the matter not having been argued or evidence provided. The case proceeded on the basis of current rates providing the foundation for the new pay grade structure. We note that proposals to seek future placement within the structure may be advanced to the Tribunal in due course and that such submissions would require supporting evidence.

We have decided to approve the structure as agreed by the principal parties, subject to our observation on grades 9 and 10.

### Schedule 3 Officers

Officers commissioned from the ranks have traditionally been paid at higher rates in ranks 01-03 than provided by the common scale. The parties have not, as yet, provided a revised structure for these officers and should do so without delay so that it may be included in the determination.

### Taxonomies and Placement Process

We note that employment group taxonomies and proposed placements within the structure are in the early stages of development. Each service currently envisages a different approach, though Navy proposes elements of each of the other service's approach.

The Tribunal is not, at this stage, being asked to endorse the proposed taxonomies and we do not do so. Employment groupings will be tested as they are brought to the Tribunal for placement. We should indicate, however, that the practical effect of the Army taxonomy may be to reward rank progression twice for a large number of officers, as Army submitted that completion of staff college is a discriminator for future rank progression. The same rationale could be applied in the other services, in addition to other criteria. Were we asked at this stage to endorse the Army taxonomy as proposed, we would have trouble doing so.

The parties acknowledge, and we note, the need to examine:

- mechanisms for possible reversion in pay grade when, for example, an officer moves from command of a unit to another position; and
- the use of sunset/non-reduction provisions, which should be minimized.

A necessary condition for the graded pay scales to operate effectively is that the ADF support the structure with rigorous management processes, applied with integrity. The Other Ranks placement system has been operating since 1995 with a definitional framework and benchmark categories that have established a stable matrix. The rigour of internal review through the Employment Category Review Committee has ensured appropriate placement of categories within the OR structure. In approving the new structure for officers, the Tribunal has placed considerable weight on the ADF's commitment that the same internal management systems are to be applied in the placement of officer categories, with equal rigour.

The Tribunal notes that the ADF and the Commonwealth are collaboratively developing benchmark category descriptors which will serve to provide a point of comparison for the placement of employment groups within the structure. The need for common understanding throughout the ADF of the language used is obvious, a matter we commend to the parties.

### The Other Ranks Structure

The Tribunal is responsible to determine salary across the whole ADF and is consequently concerned with the interfaces between the salary systems for officers and for Other Ranks.

The Tribunal has agreed to the implementation of the proposed General Officer Pay Structure and a structure for Warrant Officer Class 1 (Equivalent) which includes the absorption of the Qualification and Skill element of allowances. Work must now progress, as a matter of urgency, to complete a pay structure for the Other Ranks which also includes the Qualification and Skill elements of allowances. Not to do so would cause an anomalous situation when a s.58H allowance is reviewed.

Accordingly, we consider unacceptable the timeframes indicated by the ADF during these proceedings for dealing with the Other Ranks structure. In our view, a review of the structure is required in the third quarter of 2006 and we will program accordingly, confident that the ADF will allocate the required resources to comply with the Tribunal's timetable.

### Reserves

We agree that the historic relationship between Reserve and Permanent officers should be maintained, pending outcomes from the ADF's Reserve Remuneration Review.

The daily rate for a Reserve member is calculated by dividing the annual salary for the appropriate Permanent member employment category by 365 and applying a discount factor dependant on rank. The Nunn Review commented that "the Permanent member is liable for duty for 365 days in each year. The Panel found no evidence to support a move away from the 365 division in calculating Reserve pay." We have no reason to adopt a different approach.

### RRP Implementation

The Tribunal accepts that there is much administrative work to adjust the ADF's pay systems and associated elements. However, it is important that the new arrangements are implemented promptly. We remain concerned that if implementation is delayed, the effect of changes taking several years risks undermining confidence in the new structure.

But this is a risk to be managed by the ADF, rather than a reason for the Tribunal to maintain the status quo. We therefore encourage the ADF to apply the requisite effort and resources to ensure the success of the new system.

## **DECISION**

In summary the Tribunal has decided:

- to adopt the new salary structure for 01-06 officers as agreed between the ADF and the Commonwealth, subject to our observations above;
- to continue inquiry to determine the salary structure to apply to 07 and 08 officers;
- to adopt a new salary structure for Warrant Officer Class 1 (Equivalent), proposed by the ADF and the Commonwealth as option 2 to incorporate the revised levels of Flying Allowance; and
- on transfer to the new pay structure, officers and Warrant Officers Class 1 will be paid in accordance with Pay Grade 2. Those previously receiving s.58H Qualification and Skill allowances will be paid according to the corresponding pay grade.

The parties are to prepare appropriate determinations in accordance with our decision and lodge them with the Tribunal Secretariat.

The date of effect is to be 1 July 2006.

### **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.

M. Frawley with L. Cullen for the Commonwealth.

H. Marshall with J. Shingles for the Commonwealth.

M. Spaccavento with J. Shingles for the Commonwealth.

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

### **Dates and Places of Hearings**

19 February 2003	Canberra
20 February 2003	Canberra
25 August 2004	Canberra
20 October 2004	Canberra
03 December 2004	Canberra
24 May 2005	Canberra
29 August 2005	Canberra
31 August 2005	Canberra
26 October 2005	Canberra
07 December 2005	Canberra
08 December 2005	Canberra