



Defence Force Remuneration Tribunal

STATEMENT

Defence Act 1903

s.58H—Functions and powers of Tribunal

ANNUAL REVIEW OF DETERMINATIONS: SALARIES AND ALLOWANCES – 2021

(Matter 1 of 2021)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 22 DECEMBER 2021

MAJGEN G. FOGARTY AO RETD, MEMBER

[1] Subsection 58H(6) of the *Defence Act 1903* (the Act) prescribes that: “*where a determination of the Tribunal in respect to 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 two years of the first-mentioned determination taking effect; or*
- b. If the Minister, by notice in writing given to the President, requires the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking place – within the shorter period.”*

[2] Pursuant to this obligation, the Australian Defence Force (ADF) submitted all determinations made by the Tribunal during 2019 for its review.¹ An opening hearing in this matter was held on 4 March 2021. The matter was finalised in a hearing on 2 December 2021.

Background

[3] The task of this legislated review is described by the parties and the Tribunal as an “*Annual Review*” although we note that s.58H(6) of the Act refers to the obligation being to “*inquire into*” determinations. We continue to adopt that description.

[4] Each Annual Review process incorporates analysis of each determination by providing:

- a. a background to the related employment category;
- b. the intended purpose;
- c. an evaluation of the implementation and effectiveness to date; and
- d. recommendations for further consideration where applicable.

[5] The Annual Review process does not preclude the ADF from filing an application in respect of any of the determinations for consideration by the Tribunal in the future.

[6] We intentionally do not consider the determinations made in respect to each ADF Workplace Remuneration Arrangement (WRA) within this Review, as they are reviewed annually when each increment is determined.

Submissions

[7] When undertaking this Review, the ADF states that it gathered feedback from the following areas of Defence to “*get a complete picture of the success (or otherwise) of the implementation and effectiveness*” of each determination:

- a. the relevant leadership of the affected workforce;
- b. each of the Services’ industrial policy units;
- c. each of the Services’ career management agencies; and
- d. any other relevant business unit affected by the issue.²

[8] The ADF submission provided a review of the 12 determinations made in 2019 as detailed below:

Determination Number	Matter Number	Effect	Outcome
1 of 2019 ³	10 and 11 of 2018	Revoked Determination 8 of 2018.	Taken effect. No further action required
2 of 2019 ⁴	2 of 2019	Made provision for the Navy Retention Incentive Payment.	Covered in report back processes
3 of 2019 ⁵	6 of 2018	Introduced the ADF Rotary Wing Aviation Officers Pay Structure.	Covered in report back processes
4 of 2019 ⁶	4 of 2019	Set in place transition arrangements for O9 and O10 officers.	Taken effect. No further action required
5 of 2019 ⁷	5 of 2019	Provided technical clarification and correction.	Taken effect. No further action required
6 of 2019 ⁸	3 of 2019	Introduced three new employment categories within Army and Air Force.	To be reviewed further in 2022.
7 of 2019 ⁹	12 of 2018	Introduced pay grade allocations for Warrant Officers within two Navy employment categories.	Taken effect. No further action required
8 of 2019 ¹⁰	8 of 2019	Expanded scope and criteria for selected Army Construction Engineer employment categories.	Implementation date of November 2019. Review delayed to 2022
9 of 2019 ¹¹	WRA – no further action required		
10 of 2019 ¹²	6 of 2019	Introduced the Air Force Network Technician category.	Taken effect. No further action required
11 of 2019 ¹³	10 of 2019	Created the Maritime Personnel community within Navy.	Implementation date of March 2020. Review delayed to 2022
12 of 2019 ¹⁴	6 of 2018	Provided transitional arrangements.	Covered in report back processes

[9] The Commonwealth noted the outcome of the review and made no further analysis.¹⁵

Consideration

[10] We considered the analysis of each determination and agree that of the 12 determinations made in 2019, six require no further consideration and are considered to be complete. The remaining six will either be reviewed in 2022, noting the proximity of their implementation date to this review, or as part of a required report back process on the matter the determination gave effect to.

[11] We accept the evaluative approach taken by the ADF and agree this was completed to meet the legislative requirements of the Act, with the intention of recommending any need for further determinations.

Conclusion

[12] Having inquired into each of the determinations made in 2019, and having regard to the submissions and published decisions, we do not intend to issue any further determinations in respect to salaries and allowances determined in 2019.

[13] The consideration of these 12 determinations, and this Statement, constitute review as required by the Act.

MS I. ASBURY, PRESIDENT
MR A. MORRIS, MEMBER
MAJGEN G. FOGARTY AO RETD, MEMBER

Appearances:

Mr J. Phillips SC for the ADF assisted by *Mr P. Blady*

Mr P Hoang for the Commonwealth assisted by *Ms E Beresford-Jones* (March 2021)

Mr H. Miller for the Commonwealth assisted by *Mr N Doukas* (December 2021)

¹ ADF Submission 2021 *Annual Review of Salary and Allowances Determinations* (ADF1)

² ADF1 page 5 paragraph 3.2

³ <https://www.dfrt.gov.au/matters/navy-electronic-warfare-submariner>
and <https://www.dfrt.gov.au/matters/navy-physical-training-instructors>

⁴ <https://www.dfrt.gov.au/matters/navy-retention-incentive-payment>

⁵ <https://www.dfrt.gov.au/matters/adf-rotary-wing-aviation-officers>

⁶ <https://www.dfrt.gov.au/matters/transition-arrangements-o9o10-officers>

⁷ <https://www.dfrt.gov.au/matters/technical-amendments-dfrt-consolidated-determinations>

⁸ <https://www.dfrt.gov.au/matters/adf-joint-cyberspace-warfare-employment-categories>

⁹ <https://www.dfrt.gov.au/matters/navy-submariner-employment-categories-warrant-officers>

¹⁰ <https://www.dfrt.gov.au/matters/army-construction-engineer-employment-streams>

¹¹ <https://www.dfrt.gov.au/matters/adf-workplace-remuneration-arrangement-2017-2020>

¹² <https://www.dfrt.gov.au/matters/air-force-network-technicians>

¹³ <https://www.dfrt.gov.au/matters/navy-maritime-personnel-community>

¹⁴ <https://www.dfrt.gov.au/matters/adf-rotary-wing-aviation-officers>

¹⁵ Commonwealth submission *Annual Review of Salary and Allowances Determinations 2021* dated 17 February 2021 (CWLTH1)