



Australian Government
Defence Force Remuneration Tribunal

STATEMENT

Defence Act 1903
s.58H—Functions and powers of Tribunal

ANNUAL REVIEW OF DETERMINATIONS: SALARIES AND ALLOWANCES - 2016
(Matters No 1 and 2 of 2016)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 14 OCTOBER 2016

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] Subsection 58H(6) of the *Defence Act 1903* (the Act) prescribes that “*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 place – within the shorter period”.*

[2] Pursuant to this obligation, the ADF submitted 36ⁱ determinations made by the Tribunal between January 2013 and May 2016 and outlined the intended purpose and impact of each one.

[3] At a hearing in this matter on 14 September 2016 Mr J. Phillips SC appeared for the ADF and Ms J. Menaglio for the Commonwealth.

Background

[4] Historically this task has come to be referred to as an ‘annual review’ although we note that s.58H(6) refers to an obligation to ‘inquire into’ determinations. We continue to adopt the description noting the obligation as set out in the legislation.

Submissions

[5] The ADF submissionⁱⁱ provided a synopsis of the status of each of the 36 determinations, their position on the short term future of the related salary and/or allowance, and any key points for our consideration.

[6] The submission made findings on those determinations in three categories as detailed below:

a) Determinations that require no further action:

- 1 of 2013 - RAA Corps of Signals
- 3 of 2013 - Navy Imagery Specialist*
- 4 of 2013 - Army Employment Categories*
- 5 of 2013 - Navy Training Systems Officer*
- 6 of 2013 - Medical Procedural Specialists*
- 7 of 2013 - Senior Legal Officers*
- 8 of 2013 - Senior Officers*
- 9 of 2013 - Army Radar Operator*
- 10 of 2013 - SAS Trooper Grade 2
- 11 and 13 of 2013 - ADF Allowances
- 15 of 2013 - Navy Supply Branch
- 16 of 2013 - Specialist Officer Aviation
- 17 of 2013 - Dental Officer*
- 19 of 2013 - Workplace Remuneration Arrangement (WRA)
- 20 of 2013 - Maritime Allowances
- 1 of 2014 - Chaplains
- 2 of 2014 - Medical Officers
- 3 of 2014 - Air Force Employment Categories
- 4 of 2014 - Senior Officers
- 5 of 2014 - Operator Catering, Supply and Handler Petroleum
- 6 of 2014 - Reserves
- 7 of 2014 - Reserve Legal Officers
- 8 of 2014 - Army Employment Categories
- 9 of 2014 - WRA
- 10 of 2014 - RAA Corps of Signals
- 12 of 2014 - Chaplains
- 13 of 2014 - SAS Trooper Grade 2
- 14 of 2014 - Removal of discounted rates

b) Determinations that require further amendment:

- 2 of 2013 - Trainee Allowance*
- 12 of 2013 - Language Proficiency Allowance

c) Determinations for review in 2017:

- 14 of 2013 - Allowance for Specialist Operations*
- 18 of 2013 - Allowance for Specialist Operations
- 11 of 2014 - Special Forces
- 1 of 2015 - Combat Controllers and Combat Control Officers
- 10 of 2015 - Special Forces
- 11 of 2015 - Special Forces
- 12 of 2015 - Clearance Diver and Unpredictable Explosives
- 13 of 2015 - Paratrooper

* reviewed in 2015.

[7] The Commonwealth indicated ‘*broad support*’ⁱⁱⁱ to the ADF application and acknowledged “*a number of determinations...which the ADF are intending to review next year as a whole*”.^{iv}

Consideration

[8] We considered the ADF submission that “*most determinations were implemented successfully and without unforeseen difficulties*”. We accept that where a need for change was identified it was “*generally due to substantial changes in the environment which required review outside the initial scope of the determination*”.^v

[9] We require an assessment of the determinations listed at paragraph 6.b) and c) be returned to us within the next calendar year.

Conclusion

[10] We accept that an evaluative approach was undertaken by both the ADF and Commonwealth. We agree this was completed with the intention of recommending whether there was a need for a further determination in order for the original determination to achieve its intended effect.

[11] Having inquired into each of the determinations, and taking into account the submissions, we do not intend to issue a further determination in respect of salaries or allowances reviewed in this matter. The consideration of these matters and this Statement constitutes review as required under the Act.

[12] This review does not preclude the ADF or the Commonwealth bringing forward any employment categories or existing determinations for consideration by this Tribunal at a future date. Any application to do so should be made in the usual manner.

MS I. ASBURY, PRESIDENT
MR A. MORRIS, MEMBER
RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

Appearances:

Mr J. Phillips SC assisted by Ms Robertson for the ADF

Ms J. Menaglio assisted by Mr S Leung for the Commonwealth

ⁱ Of these determinations, ten were reviewed last year in Matters 3 and 4 of 2015 - *Annual Review of Allowances and Salaries* and are included here to maintain a chronological approach.

ⁱⁱ ADF1 – 2016 Review of Salary and Allowance Determinations of 14 and 15 September 2016.

ⁱⁱⁱ Commonwealth 1 – Annual Review of Salary and Allowance Determinations dated 6 September 2016.

^{iv} Transcript 14 September 2016 page 7 line 38.

^v ADF 1 page 9 para 1.03