



## Australian Government

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### Defence Force Remuneration Tribunal

## DECISION

*Defence Act 1903*

s.58H(1) — Determination of the salaries and relevant allowances to be paid to members

### Officer Aviation Remuneration Structure - Allowance

(Matter No. 4 of 2012)

THE HON. A. HARRISON, PRESIDENT  
THE HON. A. BEVIS, MEMBER

CANBERRA 30 May 2013

#### Introduction

[1] This decision relates to an application by the Australian Defence Force (ADF) pursuant to s.58H of the *Defence Act 1903* (the Act) to establish an enduring allowance, which is to be applied to a specifically identified cohort of Air Force Pilots within the Officer Aviation Remuneration Structure. This decision relates to the statement we published on 30 November 2012 and Defence Force Remuneration Tribunal Determination 12 of 2012 dated 28 November 2012. The operative date of effect for the Determination was on and from 1 January 2013.

[2] At the hearing in Canberra on 22 October 2012 and 21 November 2012, Mr Kenzie AM, QC appeared on behalf of the ADF and Mr Tarlinton appeared on behalf of the Commonwealth. Air Vice-Marshal Gavin Neil Davies, Deputy Chief of Air Force appeared as a witness for the ADF. He provided an affidavit dated 19 October 2012 which was tendered as evidence during the hearing on 22 October 2012. Group Captain Paul James Willmot, Director Air Force Planning also appeared as a witness for the ADF and his affidavits dated 22 October 2012 and 20 November 2012 were tendered during the hearings on 22 October 2012 and 21 November 2012 respectively.

#### Background

[3] On 15 April 2008, the ADF briefed the Tribunal on the Aircrew Sustainability Project (ASP), its primary purpose being to “*establish a sustainable workforce model for ADF aircrew capable of delivering the required capability with effective return on investment*”<sup>1</sup>. The ADF listed three primary objectives for the project: delivery of an acceptable and sustainable aircrew remuneration system; delivery of a non-financial initiatives framework and the delivery of

sustainable workforce structures in order to meet ADF/Defence capability requirements. To achieve these objectives, the ADF presented a “*Total Employment Package*” concept, which included remunerative elements within the jurisdiction of the Tribunal<sup>2</sup>. The ADF submitted that a significant driver of this concept included the fundamental requirement that the remuneration system should “*support and facilitate initiatives to deliver a sustainable Aircrew workforce structure... and respond to a volatile external market*”<sup>3</sup>.

[4] In submissions and evidence tendered between 18 June 2009 and 12 August 2009, the ADF and Commonwealth presented a series of documents titled “*Agreed Statement of Facts*”. The parties proposed that the key features of the ADF Officer Aviation Remuneration model included establishing a remunerative system that seeks to manage the ADF aviation workforce as a singular group in recognition of the unique external market and internal capability drivers impacting the sustainability of the group.

[5] The parties further agreed on the requirement to establish a framework and key performance indicators for the application of a flexible Aviation Capability Allowance (ACA) that was designed to mitigate “*unacceptable capability degradation caused by an inability to retain sufficient numbers of relevantly trained and experienced Aircrew*”<sup>4</sup>. The purpose of the allowance was “*to provide flexible salary supplementation to mitigate potential or actual inability to retain sufficient trained and experienced personnel*”<sup>5</sup>. The parties further submitted that the ACA was to be “*utilised as a predictive and proactive mechanism, designed to anticipate and react to internal and external supply and demand dimensions in order to protect the delivery of ADF aviation capability before excessive separation occurs*”<sup>6</sup>.

[6] The Tribunal decided to approve the establishment of the Officer Aviation Remuneration Structure (OARS), associated Specialist Structure and the introduction of the ACA. However, the Tribunal said it proposed to “*closely monitor the implementation and effectiveness of the Capability Allowance on the retention of pilots/aircrew and we will require a report back from the ADF each six months after the date of introduction*”<sup>7</sup>. At the third report back, the ADF submitted that there was insufficient empirical evidence to demonstrate the effectiveness of the ACA in retaining personnel. However the availability of the allowance appeared to be a significant factor for experienced aircrew when considering their employment options outside the ADF.

### **The basis of this application**

[7] The ADF reported that on conclusion of Matter 3 of 2009 (Officer Aviation Remuneration Structure (OARS)), the Air Force established a team charged with the development and implementation of the ‘Temporal’ Human Resource Management (HRM) strategy for aviation workforce management. The ADF submitted that the now mature Temporal strategy or Temporal Discipline (TD) is driving reforms that are intended to redesign, enhance integration, manipulate and stabilise the Officer Aviation workforce flows and deliver ‘cost-effective’ combatant capability. The ADF also submitted that the TD has the objective of minimising ‘internal vulnerability’ in force generation and views the external market as a singular catalyst rather than a cause of this vulnerability. The ADF further submitted that the TD views aviation combatants as a military product that must be developed internally through the generational transfer of collective knowledge, which is central to developing and sustaining Officer Aviation workforce capability.

[8] The ADF submitted that managing the workforce from a force generation flow perspective enables the objective of mission readiness at any time. While OARS presented two employment pathways (being career and specialisation) to manage the Officer Aviation combatant capability, an effective workforce flow model must also consider separation to

industry on completion of the Initial Minimum Period of Service (IMPS). The ADF further submitted that the career, specialisation and separation pathways need to be regulated both individually and collectively if workforce flows are to be optimised. It submitted that currently, the separation post IMPS is an uncontrolled feature of the workforce, and to gain control a fixed OARS Allowance that is seniority limited at the Squadron Leader – Wing Commander ranks and within the Officer Aviation Specialist Stream (OASS) should be introduced as this will eliminate such problems and stabilise the workforce.

[9] The ADF proposed to establish an enduring OARS Allowance under s.58H of the Act, that would be subject to Biennial Review and have the following attributes or features:

- “a) Applicable to the Permanent Air Force members of OARS.*
- b) Limited initially to Fixed Wing and Fast jet Pilot work groups at the 04 and 05 Ranks, with seniority limited between zero and four years in rank; and within the OASS with seniority between three and six years. No further eligibility constraints are proposed.*
- c) An annual completion payment of up to \$25,000 based on effective service for an eligibility period calculated to 31 December each year. Ineffective service during the period will initiate pro-rata calculation and separation from service will mean there is nil entitlement for the allowance.....*
- d) Provision within the section 58H Determination to address any potential double payment in circumstances where a section 58B bonus has been offered to members who may also be eligible for the section 58H allowance.....*
- e) Consistent with current practices for capability allowances and retention bonuses, the ADF proposes the allowance quanta is not subject to WRA increases.*
- f) The ADF will provide a Q1 annual report back.”<sup>8</sup>*

[10] The ADF further submitted that the OARS Allowance structure will target the 04 rank to regulate Junior Officer workflows; at the 05 rank to regulate higher promotion demand; and within the OASS to stabilise personnel in the three to six year seniority zone. The ADF submitted that to ensure the OASS is not more attractive than command progression, the proposed allowance should be established between three and six years seniority within the stream.

[11] The ADF proposal was limited to Fast Jet and Fixed Wing pilot work groups as these are the only groups that have had the “Temporal HRM strategy” applied thus far. Further applications for Joint Battlefield Airspace Controller, Air Combat Officer and Rotary Wing work groups may be considered in the future.

[12] The ADF proposed a rate of \$25,000 as a completion payment submitting that historically bonuses in the range of \$25,000 - \$30,000 have tended to influence workforce behaviours as desired. The ADF also submitted that it would be inappropriate to apply this value within the permanent salary rates as it is an inflexible approach that would distort pay grade profiles and create long term inequity and the application of a “*global application across entire rank groups will cause flow stagnation, as was the case with the previous ACA*”<sup>9</sup>. The ADF submitted that trying to capture market value of pilots in a superannuated pay space is not an attractive concept because it attempts to capture something that is variable which will rise and fall within a fixed space. Thus the solution is to apply a targeted allowance to manage workflows through positively altering the amount of time a member spends as a Junior Officer, which in practice results in increased tenure and capability. The ADF also submitted that the net effect of this proposal is to increase the capacity to produce capability at the peak time in a member’s career, while reducing the necessary inputs achieve this outcome.

[13] As justification for the proposal, the ADF submitted that:

- The majority of pilot separations occur either side of the Squadron Leader promotion point and that intervening at this point would have a maximum targeted effect.
- By targeting this specific group through profiling, rather than applying rank wide allowances, stagnation can be avoided.
- When combining the competitive promotion process and the placement of eligibility and seniority zones as proposed, members at the late 03 and mid 04 ranks with higher suitability would soon expect to have enhanced conditions of service while exposing those uncompetitive for promotion to the external market at base salary.
- Targeting the allowance in this manner would create the promotional reality of fast achievers having a lower exposure to market while those less competitive for promotion will have a higher exposure to market will induce a self-regulating feature of the allowance.
- Regulating the individual and collective workforce flows as proposed, will translate into increased tenure and the ability to generate capability, with an overall increase in productivity.
- While personnel management had always been applied, the proposed Temporal HRM strategy is intended to harness personnel capability more directly and achieve organisational objectives.
- In pursuing the above, from a strategic HRM perspective, in lieu of managing employment groups by population, Air Force will be able to influence the workforce flow period profile to capitalise upon skill development, productivity and enable mission readiness.

[14] The ADF argued that to successfully manage the individual and collective workflows, it is not ideal to have a singular decision and distribution point in the career path for members of the of the Officer Aviation workforce. Rather, optimal distribution of the workforce flow can be better achieved through a period of targeted supplementation that is biased towards those who are competitive for promotion while exposing those not competitive to market at base salary. Moreover, by structuring allowance eligibility through selectivity and seniority, both workforce population and flow stability can be achieved as the ADF will be able to influence the Career Stream, Specialisation Stream or separation to industry decision points for the Officer Aviation workforce. The ADF additionally submitted that the proposed allowance coupled with other human resource management reforms are intended to improve workforce flows and enhance capability and mission readiness. The ADF submitted that under the Aviation 2020 program, the other human resource management reforms include the implementation of a revised recruitment and selection process and training systems. The ADF further submitted that the quanta and cohorts identified in this application for the OARS Allowance be considered as ‘initial settings’ that should remain stable until the 2016 annual review to allow sufficient time for the effect of the Allowance to be seen.

[15] The Commonwealth supported the introduction of the OARS Allowance and submitted that while the effectiveness of the allowance is yet to be proven, stabilising the workflow through better regulating the flow of personnel, *“is of such importance that this comprehensive proposal warrants testing over several years”*<sup>10</sup>. The Commonwealth also submitted that the ADF proposal *“will enable a broader workforce productivity initiative to enhance combat skills and experience levels which warrants testing over several years”*<sup>11</sup>.

[16] The Commonwealth submitted that given the significant cost of training pilots, the ADF proposal, if realised, would successfully increase mission readiness, reduce training and

improve workflows and that the savings presented are likely to be significantly higher than the cost of the allowance while improving efficiencies.

[17] The Commonwealth submitted that it is important to set the allowance at a quantum that is sufficient to clearly influence the career decision points of pilots and hence stabilise the workflows. It submitted that the allowance should be set between \$20,000 - \$25,000, with scope to adjust it in the future and any such adjustment being dependent upon how successful the allowance proves to be. Accordingly, the Commonwealth supported that annual report backs against specific benchmarks to assess the success of the allowance to be implemented. The Commonwealth supported the ADF proposal that the allowance should not be subject to WRA adjustments.

[18] The Commonwealth noted that the ADF will consider the applicability of the OARS Allowance to other ADF aviation groups and may seek to introduce similar allowances for these groups, if the current proposal is considered to be effective. The Commonwealth submitted that it is conceivable that the ADF may seek to apply the allowance model to other aviation employment categories and thus it is important that this proposal should not be considered as a one-off unique allowance that is only relevant to Air Force fast jet and fixed wing pilots. The Commonwealth further submitted that such an allowance should not be introduced to other work groups without a substantial review being conducted for these groups, in a similar fashion to the current application by the ADF, with analysis to include training, development and retention of Air Force Pilots being set as benchmarks.

[19] The Commonwealth noted the ADF has identified three key indicators for success of the allowance:

- Increase Junior Officer tenure from 10.5 years to 11.5 years;
- Increase categorisation tenure from 3 years to 4 years; and
- Increase the percentage of Category A and Category B pilots.

The Commonwealth further submitted that if there has not been substantial progress towards achieving these goals within a four year period, consideration should be given to the withdrawal of the allowance.

## **Considerations**

[20] The ADF submitted that capability allowance reviews demonstrate that overall the original ACA resulted in stagnated workflows because it was a blanket application of an allowance, which included some members for whom it was desirable to be exposed to market, which has resulted in negative impacts. We are persuaded by the ADF submissions that the previous ACA approach has caused stagnation of the workforce flows. We are also persuaded by the ADF submission that the proposed allowance design principle seeks to reverse that effect by creating competitive behaviours, with future supplementation being based upon performance. We consider that a targeted allowance may alleviate the issues caused by the blanket application of an allowance and may lead to improved workforce flows. We also consider that through limiting eligibility for the allowance as proposed, workflow stability may be enabled as career decision points are changed for targeted personnel.

[21] We consider it appropriate that regular report backs will aid in determining the success of this targeted approach to the OARS Allowance. We consider that the identified metrics and report back periods are appropriate. We also consider that should the analysis demonstrate that the OARS Allowance is not achieving the anticipated goals, it may need to be varied. Any application to vary the OARS Allowance will require a substantial application and we refer to our previous decisions regarding capability allowances, insofar that any application for such an allowance must stand on its own merits. We also consider that a

period of four years is a period of appropriate duration to establish the validity of the allowance, and should it not achieve the desired goals within this timeframe it may be terminated following the 2015 review.

[22] As we have earlier noted the ADF indicated the OARS Allowance is limited to Air Force rank and employment specific Pilot cohorts of fast jets and fixed wing workflows. At this time the ADF does not propose to expand this approach to Air Traffic Controllers and other aircrew employment categories including Air Combat Officers and Joint Battlefield Airspace Controllers. We note the ADF submissions regarding the current status of the Officer Aviation workforce structures for both Navy and Army and that the application to pursue a tri-Service s58H allowance was not in the interest of the individual Services after taking account of their different needs and workforce states. We consider that given the status of these workforces within Navy and Army, it is appropriate at this time for the allowance to be limited to the Air Force pilot cohorts as proposed.

[23] We are concerned about the ADF submissions regarding workforce endorsement, specifically the ADF submission that it *“is problematic to expect the workforce to understand the benefits of a long term structural proposal guiding future career paths when members have been accustomed to pervasive supplementation countering market forces”*<sup>12</sup>. We refer to the witness testimony of Group Captain Willmot, regarding the exceptionally high calibre of the Officer Aviation workforce and consider that the ADF must develop an appropriate communication strategy to engage and inform relevant members about the key principles underpinning this new approach.

[24] We are persuaded by the ADF submissions regarding the quanta of the OARS Allowance. While we note that salaries offered in the airline industry are substantially higher than that within the ADF, we are also persuaded by the evidence that the quanta offered is likely to alter the career decision points of aircrew as desired. We are also persuaded by the evidence tendered regarding the application of pro rata rates, the definition of effective service and that there should be no double payment of capability allowances. We are also persuaded that the proposed metrics to assess the impact of the allowance are appropriate.

[25] The ADF submitted that the OARS Allowance as proposed will have a self-regulating feature as Air Force will be supplementing a higher percentage of the 04 group when demand increases and automatically supplementing less when demand for this cohort decreases and that 05 promotion rates can be adjusted accordingly. In reaching our decision we have been assisted by the written evidence and oral testimony provided by the ADF regarding the combination of factors including market demand, promotion models and features of the command structure that will enable the self-regulating nature of the allowance. We thank the witnesses for the comprehensive evidence and testimony tendered regarding this subject.

[26] The ADF submitted that the OARS Allowance submission has the strong support of the Chief of Air Force as the *“most effective means to maintain the long term capability of Air Force”*<sup>13</sup>. We refer to our previous decisions regarding capability allowances insofar that any such allowance should be temporary in nature. However, we are persuaded by the ADF submissions that, while the OARS Allowance is enduring, it is temporary in effect for those members of the Officer Aviation work force who pass through the eligibility zones for the Allowance.

[27] We appreciate that a combination of broader strategic workforce reforms coupled with appropriate targeted remuneration can assist in building and sustaining enduring capability. We are persuaded by the ADF submissions regarding proposed restructuring of the workforce flows and the implementation of revised recruitment and training measures. We consider that a meritorious case has been presented and we have decided to approve the application.

## Conclusions

[28] Having considered the submissions, and evidence, we decided to approve the application as sought in the ADF submissions, specifically:

- The OARS Allowance will only be applicable to the Permanent Air Force members of OARS cohort.
- The allowance is limited initially to Fixed Wing and Fast Jet Pilot work groups at the 04 and 05 Ranks, with seniority limited between zero and four years in rank; and within the OASS with seniority between three and six years. No further eligibility constraints apply.
- There will be an annual completion payment of up to \$25,000 based on effective service for an eligibility period calculated to 31 December each year. Ineffective service during the period will initiate pro-rata calculation and separation from Service will mean there is nil entitlement for the allowance.
- This allowance shall not be paid to a member in receipt of a section 58B allowance provided for the same or similar purpose as this allowance.
- The allowance quanta is not subject to WRA increases.
- The first annual report back is to be conducted in 2015 in conjunction with the biennial review, as required by s.58H of the Act.

[29] As noted in paragraph 1 of this Decision and in accordance with Defence Force Remuneration Tribunal Determination 12 of 2012, the operative date of effect for the OARS Allowance was on and from 1 January 2013.

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

### *Appearances:*

*Mr. R. Kenzie, AM QC with Squadron Leader J. Magro for the Australian Defence Force*

*Mr. R. Tarlinton with Mr. J. O'Reilly for the Commonwealth*

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<sup>1</sup> Defence Force Remuneration Tribunal Reasons for Decision Matter 3 of 2009 ADF Officer Aviation Remuneration Structure Dated 16 October 2009, Para 4

<sup>2</sup> Ibid

<sup>3</sup> Matter 3 of 2009 Exhibit ADF1, Page 5 Para 1

<sup>4</sup> Matter 3 of 2009 Agreed Statement of Facts V Page 10, Table 1.2

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Defence Force Remuneration Tribunal Reasons for Decision Matter 3 of 2009 ADF Officer Aviation Remuneration Structure Dated 16 October 2009, Para 16

<sup>8</sup> Exhibit ADF1 Page 16 Para 2.2

<sup>9</sup> Ibid

<sup>10</sup> Exhibit Commonwealth1 Page 2 Para 4 - 5

<sup>11</sup> Exhibit Commonwealth1 Page 2 Para 5

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<sup>12</sup> Exhibit ADF1 Page 115 Para 7.10

<sup>13</sup> Exhibit ADF1 Page 108 Para 6.40