



Australian Government
Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

s.58H(2)(a)—Determination of the salaries and relevant allowances to be paid to members

CLOSURE OF SCHEDULE B.4 (TRANSITIONAL RATES)

(Matter 8 of 2014)

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

CANBERRA, 29 MAY 2015

BRIGADIER W. ROLFE, AO (Ret'd), MEMBER

[1] This decision arises from an application by the Australian Defence Force (ADF) pursuant to s.58H of the *Defence Act 1903* (the Act) to close schedule B.4 of DFRT *Determination 15 of 2008 – Consolidated Salaries Determination* and make alternate provision for transitional salary payment to members of the rank of Sergeant (SGT) and above who are selected, appointed and commissioned as officers.

[2] This submission was considered on the papers and in conference with the ADF and Commonwealth.

Background

[3] Schedule B.4 is a schedule in *DFRT Determination 15/2008 – (Consolidated Salaries Determination)*. It contains transitional salary rates for placement at the ranks of Second Lieutenant, Lieutenant and Captain (or equivalent) and is used to mitigate financial disadvantage when a member of the rank of SGT or above is commissioned as an officer and placed in the Graded Officer Pay Structure (GOPS).

[4] Currently two separate transitional methods apply for ‘other ranks’ members who are appointed and commissioned as officers where their existing salary is higher than their new placement under GOPS would be. These are:

- a) members at the rank of Corporal (or equivalent) and below retain their salary as paid immediately before their appointment as an officer; and
- b) members at the rank of SGT (or equivalent) and above receive the higher of their rate of salary as paid immediately before their appointment as an officer, or a rate of salary in schedule B.4 that corresponds to their officer rank.

[5] The length of time that members have their rate of salary prescribed in schedule B.4 varies depending on a number of factors including the members’ former employment category, their previous placement in the Graded Other Ranks Pay Structure (GORPS), and their new category in GOPS. As soon as the relevant GOPS salary that applies to the member is higher than the salary they receive under B.4 they move to that GOPS salary.

[6] The pay points in B.4 do not represent work value of the rank, as is the case for GOPS, but provide salary protection in recognition of the particular attributes and experience that the individual brings to the officer cohort. The member therefore is in receipt of increases from their previous salary rate without relativity to their position in GOPS.

[7] Members who are paid under schedule B.4 receive Workplace Remuneration Arrangement (WRA) increases.

Submissions

[8] In their submission¹ the ADF propose:

- a) to close schedule B.4 to new entrants (members who receive salary under schedule B.4 before it is closed will continue on their current arrangements);
- b) that members at the rank of SGT and above who are appointed and commissioned as officers after schedule B.4 is closed to new entrants be covered by the salary protection provisions that apply to members at the rank of Corporal and below on commissioning;
- c) a date of effect of 1 July 2015 for the closure of schedule B.4 to new entrants;
- d) that Chief of Defence Force (CDF) discretion may be used by the ADF to place members at the rank of SGT and above at an increment point that is above their minimum point on their appointment and commissioning; and
- e) that Workplace Remuneration Arrangement (WRA) pay increases should continue to apply to non-reduction and transitional provisions.

[9] In a previous joint submissionⁱⁱ for the WRA 2011-2014 the ADF undertook, in part, specifically to:

“examine the policy concerning non reduction provisions and consider:

- a) whether or not the Arrangement increases should apply to salary non reduction and transition rates; and*
- b) the viability of the current pay structure for SGT and above on commissioning at Clause B.2.4 and Schedule B.4...”*

Sub para (a) as detailed above will be dealt with later in this decision.

[10] In regard to sub para (b), in 2012 the ADF convened a working group to review salary non-reduction provisions (NRP) in regard to schedule B.4 which found:

- a) it is possible for a member to commence on B.4 at a higher rate than the highest GOPS rate;
- b) some cases lead to enduring remuneration over officer equivalents;
- c) members can be paid for previous rank skills with no relationship to their position in GOPS; and
- d) B.4 is complex to manage and administerⁱⁱⁱ.

[11] The ADF further submit that the working group identified the need for a common rule for salary protection for all other ranks on commissioning and identified the benefits to closing schedule B.4 as:

- a simple transparent and common process for salary protection for all members on commissioning;
- no detriment to members remaining in B.4;
- reduction in administrative overheads;
- an incentive for members to undertake training and promotion courses to transition to GOPS in a timely manner;
- reinforcement of GOPS principles in recognising work value and rank; and
- consistent treatment of the workforce within GOPS placement^{iv}.

[12] The ADF submit that there is provision under s.58B in *Defence Determination 2005/15 Conditions of Service* (over which this Tribunal has no jurisdiction) to enable the CDF to approve a salary on appointment which sits above the minimum rate for a member. This allows CDF to recognise particular experience, qualification and skill of an individual officer and can place the member at a higher increment point.

[13] The Commonwealth supports the closure of schedule B.4 and the proposed comparable treatment of all members being appointed and commissioned as officers for the purpose of transitioning into GOPS^v.

[14] With regard to the issue raised in the ADF submission and reproduced at paragraph 9(a) of this decision, the Commonwealth does not oppose the continued application of NRP under WRA in relation to transitional rates however ‘- *considers that the fundamental principles and purposes of non-reduction provisions have not been examined*^{vi}...’. We noted that the ADF was to address non-reduction provisions under the previous WRA (2011-2014) and this has not yet occurred.

[15] Additionally, in developing a determination to give effect to this matter the Commonwealth suggested that a proposed subclause in relation to WRA increases not be included in the Consolidated Salaries Determination. They proposed the subclause be placed in WRA determinations issued annually in order to “*avoid conflict with future WRA’s which may seek to adjust coverage or differentially apply increases*”^{vii}.

Consideration

[16] We considered the evidence that the 2011-2014 WRA joint submission^{viii} had included plans by the ADF for reform of the remuneration structures and policy with regard to Schedule B.4.

[17] We gave consideration to the ADF proposal that “*not applying WRA increases to the salary rates of members already in schedule B.4 would be prohibitively complex*” and that the “*non application of WRA increases would not have a significant impact on the number of members in B.4 or the length of time they would remain*^{ix}”.

[18] We note the Commonwealth intention to have the parties return to us on the issue of NRP as well as their concerns over the placement of WRA increases into the Consolidated Salaries Determination. We also consider this to have become a matter of ongoing concern and request the parties report back to us on a proposal to resolve this issue of NRP application in respect to transitional rates and to the WRA, prior to issue of the next WRA determination due in November 2015. We also note the advice that the parties are “*progressing a revised ADF Remuneration Policy...and may seek to raise these matters again during the life of the... WRA [2014]*^x”.

[19] We further considered the evidence that the current arrangements for officers remunerated through B.4 can place them at an advantage and considered the skill and experience they bring on commissioning against the evidence that B.4

affects the relative remunerative value of their peers. We accepted that there are direct entry officers who may be performing equally and at a level commensurate with the former non-commissioned officer for a lesser salary. We agree this raises an equity of remuneration issue across the officer work force and gave consideration to the period for which it is appropriate to pay a member at a higher rate of salary for the skills and experience they bring on commissioning.

[20] We considered the evidence of situations where members who receive salary under schedule B.4 are promoted beyond the rank of Captain (or equivalent) and still do not achieve parity, or better, under GOPS thereby remaining on schedule B.4 for extended periods.

[21] We sought advice on the ADF submission noting the date of closure for schedule B.4, and the date of effect for the new scheme, were both proposed to be 1 July 2015^{xi}. We note the resultant advice that the dates are aligned with the Service promotion cycles.

Conclusion

[22] We accept that schedule B.4 no longer provides an effective bridge between the GORPS and GOPS and delays a member's transition into GOPS.

[23] We agree that there should be an appropriate monetary value placed on the attributes and experiences brought by members on commissioning and accept that the gap between the direct entry officer and the former non-commissioned officer narrows as the direct entry officer gains experience and skill.

[24] We note that the CDF may continue to use existing discretion to place members at the rank of SGT and above at an increment point that is above the base increment point of the appointment and commission.

[25] We accept that the Services will align changes with their promotion cycles and approve the date of closure of schedule B.4 to be 30 June 2015.

[26] We accept that the closure of schedule B.4 will remove an administrative burden while making the transition of members more efficient. We approve the revised scheme.

[27] We conclude that the issue of NRP alignment in respect to transitional rates and WRA needs to be addressed as a matter of priority. We have excluded any cross reference in our determination. We will shortly issue the determination giving effect to our decision.

THE HON. A. HARRISON, PRESIDENT
THE HON. A. BEVIS, MEMBER
BRIGADIER W. ROLFE, AO (Ret'd), MEMBER

ⁱ ADF Submission Schedule B.4 Determination No.15 of 2008, Salaries dated 2 October 2014.

ⁱⁱ Joint submission Matter 9 of 2011 - Workplace Remuneration Arrangement 2011-2014 dated 27 October 2011.

ⁱⁱⁱ ADF Submission page 15, paragraph 30.

^{iv} ADF Submission page 16, paragraph 32.

^v Commonwealth Submission - Closure of Schedule B.4 (transitional rates) of 30 September 2014 page 3, paragraph 10.

^{vi} Commonwealth letter to the President dated 30 September 2014.

^{vii} Commonwealth letter to the President dated 26 February 2015.

^{viii} Joint submission Matter 9 of 2011 – Workplace Remuneration Arrangement 2011-2014 page 18, para 52.

^{ix} ADF Submission page 20, paragraph 44.

^x Commonwealth Submission page 4, paragraph 18.

^{xi} ADF Submission page 21 paragraphs 47 and 48.