



Australian Government

Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

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

NON-PUBLIC OFFICE HOLDER O9 REMUNERATION

(Matter No. 18 of 2012)

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

CANBERRA, 24 OCTOBER 2013

Introduction

[1] This decision arises from an application by the Australian Defence Force (ADF) for amendment to the current salary structure for non-public office holder O9 Officers, pursuant to s.58H of the *Defence Act 1903*. The ADF seeks to introduce a new remuneration model for non-public office holder O9 Officers and remuneration specific to holders of the positions of Chief Capability Development Group (CCDG) and Chief Joint Operations (CJOPS).

[2] During the hearing on 16 April 2013, Mr R. Kenzie AM QC appeared on behalf of the ADF and Mr J. O'Reilly appeared for the Commonwealth. Major General (MAJGEN) Gerard Fogarty AO, Head of People Capability, appeared as a witness for the ADF.

Background

[3] The ADF's proposal is based on management of the O9 relativities across two jurisdictions – the Remuneration Tribunal and the DFRT. The submission sought to cease individual remuneration determinations and establish generic Three Star remuneration, as well as specific remuneration for CCDG and CJOPS. The Service Chiefs' remuneration was used as a point of reference, but not as a point of replicationⁱ.

[4] This matter is part of a series of reviews dealing with cessation of individual determinations for Star Rank remuneration.

Submissions

[5] The ADF submission sought a ‘common superannuable base salary’ across the 09 familyⁱⁱ with work value differences of individual positions informing additional remuneration via a ‘positional component’. Using the Service Chiefs’ total actual salary as the point of reference (at 100%) the submission proposed a model with the generic Three Star at 79%, CCDG at 86% and CJOPS at 93%ⁱⁱⁱ.

[6] Work value analysis completed by Mercer Consulting (Australia) Pty Ltd (Mercer) was used by the ADF to develop a work value informed remuneration framework for all non-public office holder 09 appointments^{iv}. The Mercer job evaluation informed by the accountability, judgement and expertise was applicable to each position. It was not a measure of the volume of work.

[7] The Mercer findings identified the differential in work value of the positions of CJOPS and CCDG. Evidence by MAJGEN Fogarty at the hearing confirmed that the CDF is of the view that the construct of a common superannuable base, along with a differentiated non-superannuable positional component, is a logical reflection of the Mercer findings^v.

[8] The ADF sought the implementation of a number of staged remuneration adjustments that would correspond to increases awarded to Service Chiefs, and proposed the rates would be maintained through a multi-year remuneration arrangement with periodic reference back to the Service Chiefs’ remuneration^{vi}.

[9] The Commonwealth was generally supportive of the ADF’s proposals to implement this model for setting and maintaining 09 remuneration and supported the assessment that the Service Chiefs were an appropriate comparator^{vii}. The Commonwealth did consider that there would have been benefit in Mercer considering the work value of comparable Department of Defence Senior Executive Service Band 3 positions^{viii} however did not propose to challenge the Mercer findings on this basis.

Considerations

[10] We considered the ADF’s work value analysis as the means for setting remuneration for the proposed non-public office holder 09 group. We included consideration of the establishment of differentiated job specific pay points on the basis that the Service Chiefs were an appropriate comparator and reference point for this purpose.

[11] We considered the Mercer work assessment, which articulated clear work value differences between 08 and 09 ranks, as well as recognition that CCDG and CJOPS do not have the same work value as the Service Chiefs with differences in job complexity and unique statutory obligations. MAJGEN Fogarty gave evidence that the Mercer findings were reflective of practice and confirmed the ADF understanding that the 09 family was distinct from any other grouping within the ADF.

[12] We accept that promotion to 09 brings with it levels of accountability that focus on joint capability outcomes enabling ‘whole of government’ operations and demanding consideration of multi-department, industry and foreign relations matters, as well as significantly less command support to guide or correct outcomes. The notion of a positional based salary component based on the job’s complexity and role is supported.

[13] We noted that under the non-public office holder remuneration model, the ADF will cease the use of individual determinations for 09 remuneration and set a prescribed salary pay point^{ix}. The cessation of these determinations is recognised by the Tribunal and acknowledges the ADF’s prior commitment to no longer use them for remunerating Star Rank members.

[14] Any further adjustments to the principles, application and administration of the non-public office holder 09 remuneration model will occur only after consultation with the Commonwealth and consideration of this matter by the DFRT.

[15] We were not persuaded of the need for an assessment against comparable Department of Defence senior executive service officers at this time. We were cognisant of the evidence of MAJGEN Fogarty in stating that Defence senior executive rates had been used as a point of reference but were of less weighting than that attributed in relativity to the Service Chiefs.

[16] We are satisfied that the new remuneration model sets the conditions for the ADF to more appropriately respond to future workforce needs for the non-public office holder 09 group and recognises the judgement, accountability and expertise required at this level.

Decision

[17] Having considered the ADF and Commonwealth submissions, we were satisfied that an amendment to the salary structure for non-public office holder 09 was appropriate and accordingly we made our Determination No. 8 of 2013 on 15 May 2013 with salary increases effective from 23 May 2013 with further phased increases on 1 July 2013, 1 January 2014, and 1 July 2014.

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

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

Appearances:

R. Kenzie, AO, QC for the Australian Defence Force

J. O'Reilly for the Commonwealth

ⁱ ADF Submission, Matter No 18 of 2012, page 20, paragraph 2.4.

ⁱⁱ Affidavit of MAJGEN Gerard Paul Fogarty, page 3, paragraph 7.

ⁱⁱⁱ ADF Submission, Matter No 18 of 2012, page 38, paragraph 2.42.

^{iv} ADF Submission, Matter No 18 of 2012, page 27, paragraph 2.20.

^v Affidavit of Major General Gerard Paul Fogarty AO, page 3, paragraph 8.

^{vi} ADF Submission, Matter No 18 of 2012, page 41, paragraph 2.48.

^{vii} Commonwealth Submission, Matter No 18 of 2012, page 2, paragraph 6.

^{viii} Commonwealth Submission, Matter No 18 of 2012, page 2, paragraph 7.

^{ix} ADF Submission, matter No 18 of 2012, page 35, paragraph 2.36.