



## 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

## Salary Related Allowance Review

(Matter No. 3 of 2012)

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

CANBERRA, 16 JULY 2013

### Introduction

[1] This decision concerns an application by the Australian Defence Force (ADF) for amendment to the current salary related allowances pursuant to s.58H of the *Defence Act 1903* (the Act). The ADF seeks to introduce a new Salary Related Allowance Structure (SRAS).

[2] Hearings were conducted in Canberra as follows:

- 2 May 2012
- 14 June 2012
- 19 – 20 July 2012
- 6 – 7 August 2012
- 26 September 2012

[3] A conference was held with the ADF and Commonwealth on 14 February 2013.

[4] Inspections were conducted in conjunction with the review and include:

- 5 June 2012 – HMAS STIRLING:
  - RAN School of Survivability and Ship Safety;
  - Submarine Training Systems Centre;
  - HMAS SIRIUS;

- HMAS DECHAINAUX; and
- Submarine Escape Training Facility
- 6 June 2012 – HMAS STIRLING:
  - Australian Clearance Diving Team 4; and
  - Training Unit ANZAC Ship Support Centre.
- 7 June 2012 Special Air Service Regiment, Campbell Barracks Western Australia
- 15 June 2012 HMAS ANZAC (at sea)
- 10 July 2012 Exercise Hamel, Rockhampton
- 11 July 2012 RAAF Base Amberley:
  - 6 Squadron
  - 33 Squadron
  - 36 Squadron

[5] During the 2012 hearings in Canberra, Mr R Kenzie, AM, QC appeared on behalf of the ADF and Mr R Tarlinton and Mr J O'Reilly appeared on behalf of the Commonwealth. Commodore S Lemon, AO (Ret'd) appeared on behalf of the Returned and Services League of Australia (RSL). Group Captain P Morall, CSC (Ret'd) and Mr G Nelson appeared on behalf of the Defence Force Welfare Association. A number of witnesses were also called throughout the proceedings. A full list of Exhibits and Witness details is available at Annexure A.

## **Background**

[6] This allowance review occurs as the culmination of almost a decade of remuneration reform, beginning in 2001 with the Review of Australian Defence Force Remuneration (2001 Nunn Review), which led to Matter 3 of 2003, the Remuneration Reform Project. This project subsequently led to other significant remuneration reform initiatives including the Graded Officer Pay Structure (Matter 3 of 2007), the Graded Other Ranks Pay Structure (Matter 3 of 2008) the Pay Grade Placements for Warrant Officer Class 1 (Matter 5 of 2007) and the Senior Officer Graded Structure (Matter 5 of 2010).

[7] In 2008 the Defence Force Remuneration Tribunal (the Tribunal) raised concerns over the complexity of the s.58H allowance structure and the effectiveness of the allowances structure as a whole<sup>1</sup>. Subsequently in 2011, the ADF conducted an examination of all s.58H allowances with a view to simplification and creation of efficiencies in a contemporary military remuneration environment. In proposing the review of allowances and the development of the SRAS, the ADF produced a document referred to as the Disability Elements Matrix. The ADF submitted the matrix as a guide in identifying disabilities associated with all allowances and informing considerations of quantum for all allowances within the proposed SRAS.

## **The basis of the application**

[8] The ADF submitted that this review should be conducted under the following guiding principles<sup>2</sup>:

- a. Greater transparency for ADF members of the content and value of their benefits package;*

- b. *Reduced complexity and ease of administration;*
- c. *Enable automation of allowances in an integrated HR and Payroll system;*
- d. *Fairness for members of the ADF;*
- e. *Meet legislative requirements of biennial review of s.58H allowances; and*
- f. *Enable capability outcomes for Defence.”*

[9] The ADF proposed to reduce the number of pay points within the s.58H allowance schedule through implementation of a tiered system that places allowances with similar dollar values on the same dollar value tier. This tiered system consolidates existing allowance placements as relative to each other and underpins all of the individual allowance review submissions. The ADF argued that the tiered model creates the basis of a more efficient allowance schedule and in the case of some of the allowances eligibility and payment criteria would be simplified.

[10] The ADF submitted that when the 138 pay points (rates) in the existing allowances were reviewed, it was found that the rates could be grouped into tiers of similar values. The “*concept was to identify clusters of like rate allowances and then test the impact of moving them all to the one rate within that cluster*”<sup>3</sup>

[11] In developing the basis of the application, the ADF submitted that following a conference with the Tribunal on 18 July 2011, it became apparent that this review would need to be conducted in a stepped process comprising discrete phases<sup>4</sup>:

- a. *Phase 1A – Submission of Proposed Structure for Endorsement;*
- b. *Phase 1B – Submit individual allowances for review and placement on the newly endorsed structure;*
- c. *Phase 2 – Detailed review of Special Forces Disability Allowance, Allowance for Special Operations and Paratrooper Allowance as a continuation of Special Operations Command Force Modernisation Review (2012-2014); and*
- d. *Phase 3 – Increased system autonomy informed by introduction of a new Personnel Management System, amalgamating the current three ADF pay systems into a single Human Resources / payroll IT system.”*

[12] At the opening hearing on 2 May 2012, the ADF proposed the following outcomes should be achieved from the review<sup>5</sup>:

- Reduce the number of pay points within the s.58H allowance schedule, and renaming of the schedule as the SRAS;
- Pay an equal allowance for similar disabilities, on a like for like basis across all environments;
- Simple transition of current allowances into the structure at no detriment to members;
- Remove further qualification and skill elements from the disability allowance schedule;
- Determine a disability relativity across all s.58H allowances;
- Improve allowance efficiencies through increased provision of annual rates and automated payments;
- Address the placement of non-disability related allowances;
- Rationalise allowances of diminishing relevance; and
- Remove allowances with duplicate elements of overarching allowances.

## Disability Elements Matrix

[13] The ADF submitted that historically disability allowance submissions to the Tribunal had been presented individually and without consideration of the broader relativities between the allowances<sup>6</sup>. Having developed the SRAS from dollar value principles, the ADF “*wished to apply allowance disability relativities*”<sup>7</sup> across the spectrum of allowances and adopt a consistent methodology for the treatment of allowances. The ADF subsequently submitted that it had engaged a consultancy to identify and clarify what disabilities were being remunerated within the existing allowance structures.<sup>8</sup> Out of this research the Disability Elements Matrix (DEM) was developed<sup>9</sup>, which for the “*first time allowed the s58H allowances to be assessed and reviewed from a common standard and be placed objectively and relatively*”<sup>10</sup>.

[14] The ADF submitted that analysis of the research conducted identified five major elements of disability, which are:

- Working Hours – hours in excess of those recompensed through Service Allowance;
- Working Conditions – that are adverse, giving rise to discomfort;
- Living Conditions – that are adverse, giving rise to discomfort;
- Exposure to Occupational Risk – the hazard scale as accepted by the Services based upon the Australian and New Zealand Risk management Standard 4360:2004; and
- Impact on Home Life – including the curtailment of home contacts; secrecy; short notice to move; and lack of leisure<sup>11</sup>.

[15] The ADF noted that each of these elements were carefully examined, with the objective of clearly defining each element and its associated sub-elements, with the analysis enabling the future elimination of duplication in respect of disability factors that are manifestly equivalent; and classifying disability factors by type, grouping disability factors by incidence.<sup>12</sup>

[16] In determining the relativities and placement of the allowances in the SRAS, the ADF submitted that exposure to all or some of these elements had been considered with careful regard being given to the duration and degree of exposure and severity for each disability. A scale had been developed, which endeavoured to value the different exposures to disability through assessing the task and/or the environment. The ADF further submitted that the process of evaluating the disabilities was not a dollar-for-dollar comparison, rather analysis of each allowance against the DEM was conducted. This process was carried out by staff from the Directorate of Military Salaries and Allowances – Policy, individual Service Industrial Relations representatives and subject matter experts in each type of allowance. The ADF submitted that this methodology provided a clear level of integrity in assessing the disability elements.

[17] Further, through applying this methodology, the ADF submitted that the DEM had been developed as a decision support tool for the comparison and placement of allowances into the SRAS. Additionally, the ADF argued that the DEM was not a tool that would lead to a mathematical and precise result. Rather, it is a tool that aids in developing an understanding of the disability that is remunerated in the s.58H allowances<sup>13</sup>. The Tribunal infers from this argument that value judgements will remain a necessary element in application of the DEM.

[18] The ADF submitted that the use of reference points to establish dollar value relativities compared through the DEM and identifying appropriate relativities had subsequently enabled a consolidation of the allowances without any detriment to individuals<sup>14</sup>.

[19] We consider that the development and application of the DEM provides a useful tool that broadly supports the review of disability allowances on a like for like basis. We also consider that while the DEM does not provide a singular benchmark against which the current or future applications should be made, we acknowledge that it is a useful tool which enables the equitable comparison of disability allowances. That said, to remain a reliable reference for allowance fixation it will need refinement and further development from time to time.

[20] The review of individual allowances under Phase 1B proceeded as follows:

Hearing date	Allowance to be reviewed
14 June 2012	Separation Allowance Service Allowance Reserve Allowance Trainee Allowance
19 – 20 July 2012	Flying Allowance (Flight Disabilities Allowance) Field Allowance Special Forces Disability Allowance Dive Allowance Allowance for Specialist Operations
6 – 7 August 2012	Seagoing Allowance, including the Boarding Party Element Submarine Service Allowance Hard Lying Allowance Arduous Conditions Allowance Paratrooper Allowance
26 September 2012	Adventurous Training Instructor Allowance Language Proficiency Allowance Closing Submissions

[21] On 13 February 2013, the ADF filed an additional written submission regarding the proposed SRAS. The ADF submitted that it “*withdraws its submission to seek endorsement of the SRAS as presented during the Closing Submissions*”, proposing alternatively that the “*fulfilment of the SRAS be an iterative process throughout Phase 2 of SRAR*”<sup>15</sup>.

[22] As justification for this amended position, the ADF reported that its work on Phase 2 had demonstrated that the adoption of allowance rates prior to completion of the

fundamental reviews of individual allowances may compromise the validity of the proposed SRAS<sup>16</sup>. Subsequently, the ADF advised that it “*seeks a more graduated approach*” with respect to achieving allowance reforms<sup>17</sup>. However, the ADF contended that the original “*guiding principles*” for the review remain relevant, as does the “*underlying philosophy*” of the SRAS and the DEM<sup>18</sup>. The ADF submitted that adopting this graduated approach would provide stakeholders with a greater level of confidence with respect to the achievement of review outcomes.<sup>19</sup>

[23] The ADF reported that the graduated approach to transitioning allowances into the new structure could be achieved by limiting the inclusion into the SRAS to those allowance rates that had been comprehensively reviewed in detail, with other allowances being included as reviews were completed<sup>20</sup>. Accordingly the ADF proposed its revised position is to:

- a. *progressively reduce the complexity and number of pay points within the s58H allowance schedule and renaming the schedule as the SRAS;*
- b. *only incorporate allowance rates into the SRAS after their detailed review;*
- c. *quarantine those allowances identified for review in Phase 2; and progressively incorporate them into the SRAS after their detailed review;*
- d. *achieve greater relativity between the various disabilities associated with S58H allowances;*
- e. *where practicable, remove further qualification and skill elements from allowances;*
- f. *where possible, pursue outcomes that can be aligned with automated pay systems (Phase 3); and*
- g. *ensure the appropriate placement of allowances within the ADF remuneration environment.”<sup>21</sup>*

[24] The ADF further submitted that its rationale for adopting the graduated approach was “*heavily influenced*” by its work on Phase 2. The ADF advised that including rates scheduled for fundamental review may compromise the integrity of the SRAS through artificially constraining substantively placed allowances in the structure and those that are to be reviewed in Phase 2. As a specific example, the ADF identified the impending reviews of Seagoing and Submarine Service Allowance, Allowance for Specialist Operations and Special Forces Disability Allowances, which by virtue of their quanta and/or high usage, are considered to be benchmark allowances.

[25] The ADF submitted that its revised approach would result in only a small number of allowances initially populating the SRAS. In applying this approach, the ADF seeks to establish the initial SRAS rates based on allowances already reviewed in detail and maintains its position regarding earlier submissions, with the qualification that some rates will revert to the original quanta. Consistent with this approach the ADF submitted that the initial SRAS rates will be derived from:

- Service Allowance;
- Trainee Allowance;
- Separation Allowance;
- Arduous Conditions Allowance;
- Flying and Flight Duties Allowance;
- Adventurous Training Instructor Allowance;

- Diving Allowance (structural alignment removed, the ADF proposed to use the current daily rate of \$60.40); and
- Submarine Escape Disability Allowance (structural alignment removed, the ADF proposed to use the current rate of \$36.62 per day)<sup>22</sup>.

[26] For the purposes of clarification, the ADF proposed that submissions led for other allowances be treated as being quarantined and without prejudice, until the allowances are reviewed in detail. These allowances are:

- Seagoing Allowance including the Boarding Party Element;
- Submarine Service Allowance;
- Hard Lying Allowance;
- Allowance for Specialist Operations including:
  - Deep and Experimental Diving;
  - Clearance Diving;
  - Unpredictable Explosives Allowance (UEA);
  - Special Designated Duty,
- Submarine Escape Open Water ascent rates;
- Special Forces Disability Allowance;
- Paratrooper Allowance;
- Reserve Allowance (to be reviewed under Plan SUAKIN); and
- Field Allowance (FA)<sup>23</sup>.

[27] At the conference on 14 February 2013, the Commonwealth supported the ADF proposal to quarantine those allowances from the SRAS until such time as a substantial review of each of the allowances had been completed<sup>24</sup>. However, the ADF submitted that it wished to make an exception within the quarantined allowances, specifically relating to UEA, in which the ADF maintains its position of the substantive change of the move from daily rates to on occurrence rates for item 3 and item 6 of UEA with a maximum of three payments per day<sup>25</sup>. The Commonwealth indicated that while it does not oppose the ADF submissions in respect of UEA as presented, it *“reserves the right to consider the disability relativities further in the course of Phase Two”*<sup>26</sup>.

[28] Noting the revised submissions regarding the UEA, and the Commonwealth position in respect of this particular variation to the UEA, we are persuaded that a meritorious case has been made regarding the substantive change from daily to on-occurrence rates for Items 3 and 6 of the allowance, with a maximum of three payments per day.

[29] In its written submission filed on 19 February 2013, the Commonwealth presented an allowance structure that identifies the remaining points of difference between the ADF and Commonwealth on the initially proposed SRAS. These differing rates result from the contested positions on Service, Separation and Dive Recompression Chamber allowances.

### **Allowances subject to determination in this matter**

[30] Having considered the submissions of the parties both at and following the conference on 14 February 2013, we consider it appropriate that a graduated approach should be undertaken in populating the SRAS. This approach will enable the integrity

of the new structure to be maintained while other allowances are the subject of a review. We acknowledge the support of the Commonwealth to the revised ADF position and the adoption of a graduated approach to the review of the allowances.

[31] We now turn to consider the allowances that are subject to determination in this matter. In considering these allowances, we note the allowance rates upon which the ADF and Commonwealth submissions are based have changed over time due to routine adjustments flowing from the ADF Workplace Remuneration Arrangement 2011-2014 (WRA). For the purpose of providing clarity to our discussion, we have listed the proposed allowance rates in an attachment that specifies the rates both before and after the WRA increase effective from 8 November 2012. This list is provided at Annexure B. Throughout this decision, we indicate in brackets whether the rate quoted is before or after the WRA adjustment.

### **Separation Allowance, Service Allowance, Reserve Allowance and Trainee Allowance**

[32] On 14 June 2012, the ADF made submissions in respect of Separation, Service, Reserve and Trainee Allowances. During the proceedings, the ADF called Major Mark Wilkinson as a witness. Major Wilkinson also provided a sworn affidavit dated 14 June 2012. In relation to Separation Allowance, the ADF made the following proposals (based on pre-8 November 2012 rates):

- Transfer a \$173 per annum (21 days at the current daily rate) component of Separation Allowance to Service Allowance to compensate members for all periods of separation between 15 – 35 days, inclusive, making the component available to a broader group of the ADF. The existing 14 day qualifying period for the allowance remains extant.
- Remove the entitlement to the daily rate of Separation Allowance to all ADF members except eligible Reserve members.
- To compensate for the removal of the daily rate, adjust LTCOL(E) and above salary by \$173 per annum.
- Remove the old rate of \$824 per annum and establish a new annual rate of \$2,448. The new annual rate will be made available to those with a posting of greater than 60 days duration.
- Restrict the eligibility of the proposed annual rate to Members With Dependants (Unaccompanied) and Members With Dependants required to perform duty away from home location for greater than 60 days.
- Remove the qualifying period and the conditions for suspension of the annual rate of the allowance.
- Replace the existing continuous rate, payable to Members With Dependants in receipt of specific allowances, with the proposed discounted annual rate of \$704 per annum.
- After 45 days of living back at home eligibility for Separation Allowance ceases.
- Roll-in \$0.18 per day into Reserve Allowance.
- Roll-in \$129 per annum into Trainee Allowance.

[33] As justification for the proposals, the ADF submitted:

- All ADF members are exposed to and endure the stress of separation. The periods of absence are significant with strong impacts on financial circumstances and with non-tangible effects.
- Costs associated with separation have increased and such costs are no longer limited to those members with dependents, for example over 85% of members live off base and endure the same costs as others while separated from home. For example, these costs include the set up and maintenance of electronic communications facilities, electricity water usage garden maintenance and pet care. These additional costs are not otherwise covered by s.58B allowances and warrant remuneration.
- Substantial administrative savings will be made as transactions will be significantly reduced, while providing equitable remuneration for members enduring separation. Removing the qualifying period creates further efficiencies and savings.
- The newly proposed rate of \$2448 per annum (300 days x the current daily rate of \$8.16) is considered appropriate and realistic, because members are not usually separated from home for more than 300 days per year.
- The ADF argued that rolling a component of Separation Allowance into Service Allowance appropriately remunerates those members separated for 60 days or less in a contemporary and fulsome manner that doesn't create inequities but addresses the vast majority of applications, which are between 15 – 35 days duration.
- The roll-in to Service Allowance is based upon a historical analysis of Service Allowance data and aims to provide an equitable solution.
- The proposal remunerates personnel with a transparent payment devoid of complicated administration previously associated with debt recovery and high administration overheads that only targeted a specific group within the workforce.
- 45 days is the maximum continuous period of leave that can be applied for.
- The 60 day period was determined having regard to:
  - Operational deployments are usually greater than 60 days duration
  - Field deployments are usually less than 60 days duration
  - Between 35 – 60 days is to be remunerated within Service Allowance.

[34] The Commonwealth does not support the roll-in of a component of Separation Allowance into the salaries for LTCOL(E) and above or the roll-in to Trainee Allowance<sup>27</sup>. The Commonwealth submitted that it considers the \$173 increase proposed by the ADF should be discounted for employer superannuation contributions arising from their proposal. The Commonwealth submitted that it also considers that the rate should be further discounted to take account of Travelling Allowance which currently is not paid concurrently with Separation Allowance.

[35] We consider that a meritorious case has been presented by the ADF regarding Separation, Service and Trainee Allowances. In particular, we consider that the case for the simplification and reduced administrative burden through the restructuring of these allowances is consistent with the overall objectives of this review.

[36] We note that the 60 day period of duration is not cumulative, rather the full rate of Separation Allowance will now only be awarded for members who endure postings of over 60 days duration. We rely heavily on the evidence tendered and witness testimony presented by Major Wilkinson regarding the differences of posting durations for operational and field deployments, such that operational deployments are typically greater than 60 days duration while field deployments are usually less than this period.

[37] We consider that separation is a constant feature associated with military service, which cannot be remunerated through salary alone and accordingly consider that a component of this feature of military life should be accommodated within Service Allowance.

[38] We note that the ADF has elected to withdraw its submission regarding the application of Separation Allowance in relation to Reserve Allowance, until such time as this quarantined allowance has been reviewed under Plan SUAKIN.

[39] We note that the Commonwealth does not support the roll-in of a component of Separation Allowance into the salaries for LTCOL(E) and above or the roll-in of such a component into Trainee Allowance. We are not persuaded by the Commonwealth submissions that a discounted rate should be applied based upon employer superannuation contributions or further discounting the rate to account for Travelling Allowance. This is based upon two key principles. Firstly, there is no precedent for the application of a discounted rate being applied to any allowance where the discount is based upon superannuation entitlements. Secondly, the functions of both superannuation and the payment of travel allowance to ADF members are features of ADF remuneration that are not within the remit of this Tribunal, and we have not on this occasion been persuaded that a case based on merit has been made to amend our existing determination based upon these considerations.

[40] We also note that the Reserve Allowance amount of \$12.83 (pre-8 November 2012 rate) per day is currently outside the proposed SRAS.

### **Arduous Conditions Allowance**

[41] On 7 August 2012, the ADF made its submissions regarding Arduous Conditions Allowance. Proceedings for the review of this allowance were informed by inspections conducted at the Royal Australian Navy School of Survivability and Ship Safety (RANSSSS) at HMAS STIRLING on 5 June 2012. In summary, the ADF proposed to:

- Repeal the daily rates of Arduous Conditions Allowance.
- Create an annual rate of the allowance to be paid to Instructors at the RANSSSS.
- Set the annual rate at \$651 per annum (pre-8 November 2012 rate).

[42] The ADF argued that the daily rates for this allowance should be repealed due to the “*diminishing relevance*”<sup>28</sup> of the allowance. The ADF also submitted that the nature of disability for this allowance is confined to Working Conditions, which is considered to be minimal when compared to other allowances.

[43] The ADF reported that eligibility for the allowance has declined due to GOPS/GORPS placements, with the cost of administering the allowance having become

“*grossly inefficient*”<sup>29</sup>. Moreover, the ADF identified that the declining occurrence of the allowance has resulted in minimal use of the allowance outside the RANSSSS.

[44] A large percentage of recipients of Arduous Conditions Allowances receive more than one allowance for the same activity on a single day, with cumulative effects being noted, suggesting simplification of the allowance can be applied. ADF submitted that the frequent and prolonged exposure warrants maintenance of the allowance, albeit limited to an annual allowance paid to instructional staff at the RANSSSS<sup>30</sup>.

[45] The ADF submitted that 81 RAN personnel and 16 RAAF personnel receive the allowance, which would now only be applied to instructors at the RANSSSS<sup>31</sup>. Additionally, the ADF noted that the proposed rate of \$651 is lower than the upper level of approximately \$866; however, the ADF considers the difference in rates to be “*de minimus*”<sup>32</sup> and that the RAAF personnel can be managed so these members will not be exposed to the conditions that attract the allowance<sup>33</sup>. The Commonwealth supported the ADF propositions<sup>34</sup>.

[46] In respect to the 16 RAAF personnel who currently receive Arduous Conditions Allowance and will cease eligibility for it we rely heavily on the evidence that these personnel will be managed appropriately to “*minimise the effects of working in Confined Spaces for these personnel and can limit the hours of exposure in a single day for any individual*”<sup>35</sup>. We also note that the Commonwealth supported the ADF position in the overall reduction of this allowance.

[47] We consider that a meritorious case has been presented regarding Arduous Conditions Allowance. We consider that the creation of a single annual rate for instructors at the RANSSSS presents the opportunity to extensively reduce the administrative burden of this allowance through its simplification. We note that the ADF has submitted a proposed rate of \$667 (post-8 November 2012 rate) for this allowance, which is lower than the current upper level of approximately \$887<sup>36</sup>. We rely on the evidence presented by the ADF that this reduction in the overall rate is considered to be “*de minimus*” and that this reduction can be appropriately managed by the ADF, without adverse reaction from its members. That said, we note that a key principle of the ADF submission is that no financial detriment should result for any member under these proposals. We acknowledge that the identified upper level of the allowance is an approximation and that due to the varied nature and application of this allowance the cumulative annual rate of the allowance would vary for all personnel who receive the allowance. Pursuant to s.58H of the Act, in the next biennial review of this allowance the ADF should provide:

- A report back regarding the identification and proposed treatment of any detriment endured by its members; and
- How the identified 16 RAAF personnel have been managed to mitigate their exposure to the conditions that currently warrant the payment of the allowance.

### **Flying and Flight Duties Allowance**

[48] On 19 July 2012, the ADF made submissions in respect of Flying and Flight Duties Allowance. In summary, the ADF proposed to:

- Consolidate Flying and Flight Duties Allowances to form ‘Flying Disability Allowance’.
- Remove the Brigadier (E) annual rate and daily rates of Flying Allowance.

- Set Flight Duties Allowance as a daily rate of the annual rate of Flying Allowance.
- Simple transition the rates into the SRAS structure with no change in quanta.

[49] As justification for the proposals, the ADF submitted that Flying and Flight Duties Allowances meets the needs of both the ADF and the individual members<sup>37</sup>. The ADF also submitted that it had engaged Subject Matter Experts (SMEs) to assess disabilities across the different platforms. The SMEs unanimously decided to average the disabilities across the platforms and maintain an all of one company approach, which aids in achieving simplification of the allowance. Further, the SMEs confirmed placement of the disabilities within the proposed structure, with no additional disabilities being identified<sup>38</sup>.

[50] The ADF submitted that remunerative recognition of the difference between Aircrew and Non-aircrew employment is no longer an issue as work value differentiation is achieved through GOPS and GORPS placements, and thus the allowance is now only for disability. Moreover, the ADF also submitted the daily occurrence of Flying or Flight Duties does not entail any significant additional working hours or impact on home life not already compensated for in Service Allowance; it is only when duties are regularly experienced that specific consideration is required<sup>39</sup>.

[51] The ADF also identified that simple transition of Flying Disability Allowance into the SRAS is a minor structural change that brings together existing entitlements on a collective basis, achieving allowance simplification.

[52] The Commonwealth supported the proposal to discontinue the Flight Duties allowance and discontinue the discounted rates of Flying allowance for Brigadier(E) and above. The introduction of a new Flight Duties Allowance would recognise all flying related disabilities in a single annual and daily rate, with no change to the current rates of \$7,749 per annum and \$21.23 per day (pre-8 November 2012 rates).

[53] We also note the RSL and DFWA support the proposal<sup>40</sup>. Having regard to the initial position of the Commonwealth concerning Brigadiers, the ADF submitted that this is rarely used<sup>41</sup> and there is no reason to restrict the rates for Brigadiers to the daily rate<sup>42</sup>.

[54] We consider that a meritorious case has been presented regarding Flying and Flight Duties Allowance. We endorse the simplification of this allowance and reduction of the number of pay points concerning the removal of the annual and daily rates for Brigadier (E) and amending the title of the annual and daily rates for the allowance to become Flying Disability Allowance.

### **Adventurous Training Instructor Allowance**

[55] On 26 September 2012, the ADF provided submissions regarding Adventurous Training Instructor Allowance. In summary, the ADF made the following proposals (based on pre-8 November 2012 rates):

- Simple transition the allowance rates into the SRAS.
- Reduce the annual rate for Instructors from \$6,160 to \$5,990
- Maintain the daily rate for Unit Adventurous Training Leaders at \$43.99

- Provide a sunset clause to protect existing instructors, thereby allowing them to remain on the higher rate. New instructors posted to the Army Adventure training wing will be placed on the lower rate.

[56] The ADF submitted that the value of adventure training remains constant and the opportunity to place personnel in a challenging position presents the organisation with a training medium that supports capability. The ADF submitted that there is no defined relationship between the annual and daily rate, therefore there is no conflict in the combination of reducing the annual rate and maintaining the existing daily rate. The ADF further submit that the current daily rate is set at 1/140<sup>th</sup> of the current annual rate. Reducing the annual rate by \$170 changes the daily rate to be set at 1/136<sup>th</sup> of the annual rate, which is no more anomalous than the existing rate. The ADF also identified that a cost saving of \$2,040 per annum can be achieved by lowering the annual rate. The ADF also submitted that the proposed amendments “*will appropriately place the Adventurous Training Instructor allowances with regard to disability exposure and in comparison with other salary related allowances*”<sup>43</sup>.

[57] The Commonwealth supports the proposals to reduce the annual rate, maintain the daily rate and provide a sunset provision for existing instructors.

[58] We consider that a meritorious case has been presented regarding Adventurous Training Instructors Allowance. We consider the simple transitioning of this allowance into the SRAS is appropriate, as is maintaining the existing rate for the Unit Adventurous Training Leaders Allowance. We also endorse the protection of the allowance payable to eligible instructors currently posted to the Adventurous Training Instructors Wing. We note however, that the ADF submitted that the new rate to be applied for this allowance is a “*structural reduction*”<sup>44</sup> and we rely on the evidence presented that the ADF will manage this reduction. We also note that the Commonwealth supported the reduction in this allowance. In the next biennial review of this allowance the ADF should provide a report back regarding the identification and proposed treatment of any detriment experienced by its members.

### **Diving Allowance**

[59] On 19 July and 20 July 2012, the ADF made submissions regarding Diving Allowance. The ADF called three witnesses: Lieutenant Commander Joel Hissink, Sergeant Stretton Lyle Kimber, and Leading Seaman Eaian Edward MacLean-Russell. Lieutenant Commander Hissink provided an affidavit dated 19 July 2012, and both Sergeant Kimber and Leading Seaman MacLean-Russell provided affidavits each dated 20 July 2012. The hearings in relation to the review of this allowance have also been informed by inspections conducted with Clearance Diving Team 4 at HMAS STIRLING. In summary, the ADF made the following proposals (based on pre-8 November 2012 rates):

- Consolidating the allowance rates for Treatment in Recompression Chamber and Trainee Diver daily rates into the one daily rate of \$43.99 for Dive Disability and removing the 40 day cap that applies to the both aspects of the allowance.
- Transitioning the rate for Qualified Diver from \$58.93 to \$60.22 per day and Dive Instructor at the same \$5,990 per annum rate (i.e. no change) to the SRAS.

[60] The ADF submitted that the 40 day cap is regularly exceeded without any compensation for the disability endured<sup>45</sup>. The removal does no harm to relativities with Clearance Diver rates<sup>46</sup> and the removal is not opposed by the Commonwealth<sup>47</sup>.

[61] The ADF considers the increase associated with the consolidation of the Recompression Chamber and Trainee Diver rates into one allowance is justified when focusing on the inherent similar disabilities of each allowance<sup>48</sup>. The ADF argues that the cumulative effect of treatment at an increased ambient pressure in the Recompression Chamber with greater duration of exposure (dry dives significantly exceed that of wet dives) to the arduous working conditions i.e. confined space, lack of communications and ablutions, heightened occupational risk (the longer the dive the higher the risk) is a comparable offset for the disability encountered below the waterline. In effect, the ADF submitted that the risks and disabilities for wet and dry dives balance each other out.

[62] The three witnesses confirmed their support for the similarities in the disabilities and the consolidation of the rates<sup>49</sup>, and that the disabilities being experienced for both qualified divers and trainees is the same, with both being exposed to the same environment<sup>50</sup>.

[63] The ADF also noted that the consolidation of the rates in respect of the treatment of disabilities for instructors and trainees for Dive Allowance share a similar relationship to the treatment of the instructor and trainee Submarine Escape Allowance rates<sup>51</sup>.

[64] The Commonwealth objected to the structural alignment for qualified divers on the basis the tier is derived from the daily rate of Special Forces Disability Allowance Items 6-12 and submitted that it is inappropriate for allowances that will be reviewed under phase two to influence quanta adjustments to allowances under this phase of the proceedings. The Commonwealth further submitted that there was no justification for an increase beyond the reasons of structural alignment and instead proposed the rate of \$58.93, the current Qualified Diver rate (based on pre-8 November 2012 rates), being used to replace the ADF's proposed \$60.22 tier within the proposed allowance structure.

[65] The Commonwealth also opposed the consolidation of the Trainee Diver rate with the RCC rate, citing that the ADF submission for Trainee Diver disability primarily relies upon their assessment of the disabilities experienced by an Army Works Diver trainee. The Commonwealth argued that the ADF assessment is based on less than 15% of the historical population of users for the allowance and therefore is an insufficient basis to be seeking an increase in the allowance.

[66] The Commonwealth further assert the Trainee Diver courses are conducted under highly supervised conditions, in vetted locations and during temperate months. It does not consider the ADF has provided sufficient evidence to justify an increase to the Trainee Diver allowance and notes the incursion upon the Qualified Diver allowance rate that would result. Alternatively, the Commonwealth proposed using the rate of \$35.73, the current rate for Submarine Escape Trainee allowance (based on pre-8 November 2012 rates), in place of the ADF's proposed tier of \$38.14, on the basis that the \$38.14 rate is derived from Special Forces Disability Allowances which are pending further review. This would increase the Trainee Diver rate from \$33.69 to \$35.73.

[67] We consider that a meritorious case has been presented regarding Dive Allowance. We accept the arguments presented regarding the environmental disabilities

that are endured by both instructors and trainees are substantially identical. We are also persuaded by the evidence and oral testimony presented by the three witnesses regarding the similarities of the disabilities associated with wet and dry dives. We consider that it is appropriate to consolidate the rates for Treatment in Recompression Chamber and Trainee Diver daily rates into the one daily rate of \$45.09 and remove the 40 day cap that applies to the both aspects of the allowance. We also consider that the simple transitioning of the rate for Dive Instructor into to the SRAS at the current annual rate of \$6,140 is appropriate (based on post-8 November 2012 rates). We note the revised submissions regarding the removal of the structural alignment for the Qualified Diver rate and consider it appropriate to transition the rate to the SRAS at the current daily rate of \$60.40 (based on post-8 November 2012 rates).

### **Submarine Escape Allowance**

[68] On 6 August 2012, the ADF presented its submissions regarding Submarine Escape Allowance (SEA). The hearings were informed by the inspection conducted at the Submarine Escape Training Facility at HMAS STIRLING and the inspection conducted onboard the submarine HMAS DECHINEAUX. In summary, the ADF made the following proposals (based on pre-8 November 2012 rates):

- Remove the Qualification and Skill (Q&S) component of the Submarine Escape Instructor Allowance and create a plus one pay grade placement within the Graded Other Ranks Pay Structure (GORPS) for qualified Instructors for the duration of the posting.
- Consolidate the remaining Qualified Instructor rate with the Trainee Instructor and the Trainee Other rates to form one disability allowance, titled 'Submarine Escape Disability Allowance', which is to be paid either as an annual or daily rate.
- Increase the quanta of the allowance rates to achieve structural alignment with SRAS increasing the rates from \$5960 to \$5990 per annum for the annual rate and from \$35.73 to \$38.14 for the daily rate.
- Simple transition of the Open Water ascent rates to the closest tier on the proposed SRAS.

[69] The ADF indicated that it intends to adopt a different approach to instructors in receipt of SEA by introducing a plus one pay grade placement, and removing the Q&S element from the allowance. The instructor quantum at \$8940 per annum includes a Q&S component that should be moved into salary which settles the consolidation of the disability rate at \$5990 per annum, with trainees and instructors sharing the same disabilities. The ADF further submitted that roll-in of the Q&S components into salary is consistent with GOPS & GORPS principles and this move is positive for members. The ADF also identified that the plus one pay grade placement is only for the duration of the posting.

[70] The ADF submitted this proposal consolidates the disability allowances paid to instructors and trainees into a single annual and daily rate and this simplification will reduce the administrative burden<sup>52</sup>.

[71] The ADF argues that there is similarity in the treatment of disabilities in this allowance when compared to Dive Allowance, and notes the evidence in this respect given by SGT Kimber. The RSL and DFWA supported the ADF submission.

[72] The Commonwealth generally supported the principle of rolling Q&S elements into salary and the principle of consolidating and simplifying the allowance<sup>53</sup>. Based on the ADF's submission regarding Open Water Ascents, this allowance is to be thoroughly reviewed in Phase 2 alongside the allowances for Specialist Operations, the ADF therefore agrees with the Commonwealth's position to quarantine these rates for consolidation in that later phase.

[73] We consider that a meritorious case has been presented regarding SEA. We accept the ADF submissions to remove the Q&S component of the Submarine Escape Instructor Allowance and create a plus one pay grade placement for qualified Instructors for the duration of the posting. We further accept the ADF submissions to consolidate the Qualified Instructor rate with the Trainee Instructor and the Trainee Other rates to form one disability allowance, namely 'Submarine Escape Disability Allowance', to be paid at an annual or daily rate. We note the revised submissions regarding the removal of the structural alignment for this allowance and consider it appropriate to transition the allowance into the SRAS at the current daily rate of \$36.62 (post-8 November 2012 rate). We also note the revised submission for the rates applied to Open Water Ascents, which are to be quarantined and be considered under the broader review in Phase 2.

### **Language Proficiency Allowance**

[74] On 26 September 2012, the ADF filed a paper submission regarding the Language Proficiency Allowance. No witnesses were called to give evidence in relation to this allowance. In summary, the ADF proposed to:

- Disaggregate the allowance from the SRAS.
- Include Spanish and Tetum as Group One languages.
- Retain the current structure and quanta.

[75] The ADF submitted that disability is not a factor which warrants remuneration for this allowance and that in essence the allowance is an incentive payment to gain and retain capability that can be broadly employed across the ADF. As such the ADF submitted that this allowance should remain outside the SRAS.

[76] As justification for the proposals, the ADF submitted:

- The languages and value ranges currently used are similar in comparison with that of APS employees in Defence and Department of Foreign Affairs and Trade and thus remain appropriate.
- The costs associated with maintaining language proficiency is decreasing.
- The only disability associated with the allowance is the requirement for additional hours to maintain proficiency.
- When assessing the hours disability against the DEM, the placement is within the margins of additional hours contained within Service Allowance.
- The extra hours required to maintain proficiency is typically conducted in a member's own time and is subjective as some members will require less than others to maintain proficiency, and as such cannot be accurately measured.

[77] The Commonwealth supported the ADF Language Proficiency Allowance proposals<sup>54</sup>. We accept the ADF submission and have decided to adopt the proposal concerning this allowance.

### **Considerations for future phases**

[78] The 14 February 2013 submission by the ADF represents a fundamental shift in the manner of development of the proposed SRAS. It represents a strategic approach to the consideration of s.58H allowances in a comprehensive manner, rather than the traditional consideration of allowances in isolation.

[79] We consider it is desirable for the review of allowances to be undertaken in the manner proposed by the ADF acknowledging that even with such an approach the allowance groupings will need to be considered in a phased manner. We endorse the substantive review of the allowances proceeding in the manner proposed by the ADF.

[80] Any application seeking a significant adjustment of an allowance as part of the SRAS will be subject to a detailed review. Such an approach will assist in addressing Tribunal concerns that arose with the initially proposed SRAS. For example, we would have needed further submissions regarding the extensive use of the proposed daily rate of \$61.72 as an appropriate benchmark for a variety of allowances noting the rate appeared to only exist within the Special Forces Disability Allowance schedule. In this respect it is of significance that this rate and the allowance in its entirety will itself be subject to review under Phase 2.

[81] The Tribunal supports the simplification of the allowance structure and a reduction in the number of pay points. Any administrative savings that will or are likely to be achieved through simplification should be identified.

[82] We understand that where a 'simple transition' is referenced in the submissions, the intent is that there is an exact or very close dollar for dollar match between the previous allowance structure and the proposed rates in the new SRAS.

[83] We are concerned regarding the delayed scheduling of Phase 2 of the SRAS. We note that the review of Maritime Allowances has commenced. However, the initially forecast timelines for the review of these allowances which was to be completed no later than April 2013, has already slipped, with closing submissions now having a revised forecast of July 2013.

[84] Further, we are also concerned with the delayed commencement of the review of Special Action Forces allowances, noting that opening submissions are not scheduled until December 2013, with the bulk of the review to now be conducted in 2014. We encourage the parties to progress the Special Action Forces allowances as soon as possible.

### **Allowances not subject to determination in this decision**

[85] We have earlier noted that although submissions were made by the parties regarding the following allowances, they are not subject to a determination in this matter. However we have decided to make some brief reference to the evidence and submissions led about them noting that it is possible, if not likely, this material will be relied upon at a later stage when these allowances are reviewed. We acknowledge they may then be subject to some revisiting and modification.

## Field Allowance

[86] On 19 July 2012, the ADF made submissions in respect of Tier 1 and Tier 2 Field Allowance. During the proceedings, the ADF called Major Mark Wilkinson as a witness. Major Wilkinson also provided a sworn affidavit dated 18 July 2012. In summary, the ADF proposed to:

- Maintain the current structure and qualifying requirements for Field Allowance and increase the quanta for both tiers; and
- Tier 1 would have a 12.2% increase, while Tier 2 would have a smaller increase of 2.3%

[87] The ADF submitted that the current structure and qualifying requirements for Field Allowance remain valid and should not be altered<sup>55</sup>, with analysis demonstrating that the current structure motivated the appropriate workforce behaviours essential to generating military capability within field environments<sup>56</sup>.

[88] The ADF submitted that the increase in quanta for Tier 1 corrects a disparity between the disability and quanta relationship compared with other allowances of like disability and circumstance. The ADF argued that Tier 1 has been assessed as having the highest ratings for all five categories of the DEM and thus in comparison to the other allowances warrants an increase<sup>57</sup>.

[89] The ADF also submitted that the fulsome assessment of Tier 1 and Tier 2 against other allowances was not conducted until after the SME's analysis had been successfully completed<sup>58</sup>, during which comparisons were made with the Special Forces allowances and the working group determined that on this basis an increase was justified for Tier 1<sup>59</sup>. The ADF submitted that its propositions had been informed through a structured methodology based on the SRAS principles, which included:

- a. the capability requirements of individual Services,*
- b. reviewing industrial history,*
- c. the collection of evidence from members who consistently work in the field environment and represent the various workforce segments which have intrinsically different roles. (for example: supervisors, subordinates, combat elements and non-combat elements.)*
- d. assessment of associated disabilities using the DEM calibrated at the Tri-Service level against other allowances. This was achieved by comparing both net disability and the disability endured against individual components of the DEM.”*<sup>60</sup>

[90] The ADF submitted that the proposed increase in the quanta for Tier 2 is a necessary structural<sup>61</sup> adjustment to achieve the SRAS outcomes of simplification and a reduction in the number of pay points.

[91] The ADF noted that in making comparisons with other allowances, Field Allowance has consistently been compared against Seagoing and Hard Lying Allowances<sup>62</sup>.

[92] The Commonwealth did not support an increase to either Tier of Field Allowance. It did not consider that the material put forward by the ADF demonstrates that the rate was incorrectly set in the past or that there is an issue of inequity which

needs remedying. The Commonwealth also opposed any increase in quanta based upon structural alignment in the case of Tier 2<sup>63</sup>. Additionally, we note that the Commonwealth is critical of the nature of the comparisons conducted by the working group between Tier 1 and Submarine Service Allowance<sup>64</sup>.

### **Special Forces Disability Allowance**

[93] On 19 July 2012 the ADF made submissions regarding Special Forces Disability Allowance (SFDA). In summary, the ADF proposed to:

- Conduct a detailed review of Special Forces in 2013, which will include both salary and allowances.
- A simple transition of 17 of the 21 SFDA items into the SRAS. The five remaining items will be placed within the SRAS on a structural alignment basis.

[94] The ADF noted that the proposals in relation to SFDA have an additional cost, which is estimated to be \$433K per annum.

[95] The ADF submitted that the disability elements and relativities previously established remain valid and should be transitioned with the qualifying criteria for the allowance remaining unchanged<sup>65</sup>. The ADF also submitted that simple transitioning the rates will not cause any damage and should be undertaken<sup>66</sup>.

[96] The Commonwealth did not support the ADF proposal. The Commonwealth submitted that it is inappropriate to have an increase in allowances based upon the need for structural alignments to achieve simplification. It argued that it is premature to adjust the allowances prior to the fulsome review scheduled for 2013. Further, the Commonwealth does not see that amending the allowances as proposed will achieve any administrative efficiencies<sup>67</sup>.

[97] The Commonwealth also submitted that the ADF has not put forward or identified any change to the disabilities for the five SFDA items that supports an argument for any increases<sup>68</sup>.

### **Maritime Allowances - Seagoing Allowance, Submarine Service Allowance and Hard Lying Allowance**

[98] As a comprehensive review of this allowance is now well underway as at the time we publish this decision it is not necessary to do other than make very brief comments about the initial approach taken to the adjustment of this allowance. On 6 August 2012, the ADF made submissions covering Seagoing Allowance, Submarine Service Allowance and Hard Lying Allowance. The hearings in relation to the review of these allowances were also informed through inspections conducted onboard HMAS ANZAC while at sea and at the inspections conducted at HMAS Stirling. In summary, the ADF proposed:

- Subsume Hard Lying Allowance by making it a daily rate of the relevant Maritime Allowance.
- Simple transitioning of the existing maritime allowance rates into the allowance structure.

[99] The ADF noted that the simple transitioning of the maritime allowances into the newly proposed SRA structure would carry no additional costs<sup>69</sup>. The RSL & DFWA supported the proposals<sup>70</sup>.

[100] The Commonwealth had no objections to subsuming Hard Lying Allowance into Sea Going Allowance and Submarine Service Allowance and setting a new daily rate for each allowance respectively<sup>71</sup>. However, the Commonwealth did not consider that a fundamental review of the maritime allowances had occurred, as previously promised by the ADF, which had undertaken to conduct a full review of the allowances in 2013.<sup>72</sup> The ADF recognised the force of the Commonwealth submissions and undertook to bring that matter before the Tribunal in the next 6-8 months<sup>73</sup>. The ADF proposed the substantial review of the maritime allowances should be completed “*no later than April 2013*”<sup>74</sup>.

### **Sea Going Allowance – Boarding Party Element**

[101] On 6 August 2012, the ADF made submissions with regard to the Boarding Party Element of Seagoing Allowance, calling Chief Petty Officer Phillip John Durnan as a witness. Chief Petty Officer Durnan provided a sworn affidavit dated 6 August 2012. The ADF also provided two short videos in support of their submissions, for which Chief Petty Officer Durnan also provided oral testimony. In summary, the ADF made the following proposals (based on pre-8 November 2012 rates):

- Increase the allowance from \$55.23 to \$60.22 per day.
- Extend the allowance to include Rigid Hull Inflatable Boat (RHIB) crew members.

[102] The ADF argued, and the Commonwealth agrees that the disabilities endured by boarding parties clearly fall outside the normal disabilities of Sea Going Allowance<sup>75</sup>. The ADF submitted that circumstances for Boarding Parties has changed since the introduction of the allowance in 2003<sup>76</sup>, with disabilities now including (but not limited to) prolonged exposure to the elements and disease; difficulties with boarding equipment; risk of harm and associated human factors including physical violence; biological hazards and unsanitary conditions; and psychological impacts<sup>77</sup>.

[103] The ADF submitted that boarding operations are conducted day and night in all weather conditions in any sea state, with RHIB crews having to endure durations of up to 26 hours, to safely conduct the evolution<sup>78</sup>. The ADF further submitted that RHIB crews are exposed to the elements for extended periods and like the boarding teams, have no immediate access to rations or ablutions and are responsible for the safety of passengers during transfer and hence are exposed to any disease (e.g. conjunctivitis) carried by persons-of-interest<sup>79</sup>. The ADF also reported that the number of boarding operations is increasing significantly year on year<sup>80</sup>. The RSL and DFWA supported the ADF proposals<sup>81</sup>.

[104] The Commonwealth supported the proposed increase to the Boarding Party Element of Sea Going Allowance<sup>82</sup>. However, the Commonwealth submitted that it was not satisfied that the evidence presented by the ADF demonstrated that the RHIB crews are exposed to the same level of risk and hazards as the boarding team and therefore the increase should not be applied to these members<sup>83</sup>.

## Paratrooper Allowance

[105] On 7 August 2012, the ADF presented its submissions regarding Paratrooper Allowance. In summary, the ADF proposed to leave the allowance in its current format until such time as the review of Special Operations command has been completed<sup>84</sup>. The ADF submitted that following the relocation of parachute operations from the 3<sup>rd</sup> Battalion Royal Australian Regiment (3RAR) to Special Operations Command (SOCOMD), the demand for the allowance has been significantly reduced as entitled members are remunerated under SFDA, which prohibits recipients from receiving Paratrooper Allowance concurrently<sup>85</sup>.

[106] The ADF submitted that it is inappropriate to conduct a comprehensive review of Paratrooper Allowance, as the review of Special Forces is yet to take place and to make amendments to the allowance before the review is completed may be “*potentially distorting*”<sup>86</sup>. The ADF also identified that there are no additional costs associated with this proposal<sup>87</sup>.

[107] The Commonwealth<sup>88</sup> and DFWA supported there being no change in the allowance until the review of Special Forces has been completed<sup>89</sup>.

## Conclusion

[108] We approve the ADF submission as to the principles and objectives which should inform this review of allowances, specifically:

- The reduction of the number of pay points within the s.58H allowance schedule, and renaming the schedule as the SRAS;
- Paying equal allowances for similar disabilities, on a like for like basis across all environments;
- Where appropriate, the simple transition of current allowances into the SRAS at no detriment to members;
- Further removing Q&S elements from the disability allowance schedule;
- Determining a disability relativity across all s.58H allowances;
- Reducing administrative burdens and improve allowance efficiencies through increased use of annual rates and automated payments;
- Address the placement of non-disability related allowances;
- Rationalising allowances of diminishing relevance; and
- Removing allowances with duplicated elements of overarching allowances.

[109] We accept the methodologies applied in this review regarding the use of the DEM as a decision support tool for the comparison of the s.58H disability allowances.

[110] We have decided to approve the revised SRAS as sought by the ADF. The revised SRAS shall be initially populated by the following allowances:

- Service Allowance;
- Separation Allowance;
- Arduous Conditions Allowance – Navy SSSS;
- Flying Disability Allowance;
- Adventurous Training Allowance;

- Diving Allowance ; and
- Submarine Escape Disability Allowance.

[111] We have decided to approve the amendments to Items 3 and 6 of the UEA, moving from daily to on-occurrence rates with a maximum of three payments per day.

[112] We have decided to quarantine all other allowances from the SRAS until such time as there has been a substantive review of the allowances. These include:

- Seagoing Allowance including the Boarding Party Element;
- Submarine Service Allowance;
- Hard Lying Allowance;
- Allowance for Specialist Operations including:
  - Deep and Experimental Diving;
  - Clearance Diving;
  - Unpredictable Explosives Allowance ;
  - Special Designated Duty,
- Submarine Escape Open Water Ascent rates;
- Special Forces Disability Allowance;
- Paratrooper Allowance;
- Reserve Allowance; and
- Field Allowance

[113] The SRAS shall be implemented on and from 1 August 2013. The amendments necessary to be made to the relevant determinations should be filed by the ADF (following consultation with the Commonwealth) as soon as possible.

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

*Appearances:*

*R. Kenzie, AM, QC for the Australian Defence Force*

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

*Commodore S. Lemon, AO, RAN (Ret'd) for the Returned and Service League of Australia*

*Group Captain P. Morrall, CSM (Ret'd) and Mr G. Nelson for the Defence Force Welfare Association.*

**Annexure A****MATTER 3 OF 2012****SALARY RELATED ALLOWANCE REVIEW****INDEX OF EXHIBITS**

<b>Exhibit</b>	<b>Title</b>	<b>Hearing</b>
ADF1	Salary Related Allowance Review Court Book Volume 1	02-May-2012
ADF2	Email from Shonna Robertson Dated 1 May 2012, 2:31pm	02-May-2012
ADF3	Number not used	
ADF4	Salary Related Allowance Review Court Book Volume 2, Chapter 1	14-June-2012
ADF5	Affidavit of Major Mark Phillip Wilkinson Dated 14 June 2012	14-June-2012
ADF6	Affidavit of Timothy John McKerrow Dated 5 June 2012	14-June-2012
ADF7	Salary Related Allowance Review Court Book Volume 2, Chapter 2	14-June-2012
ADF8	Extract from Pay and Conditions Manual	14-June-2012
ADF9	Salary Related Allowance Review Court Book Volume 2, Chapter 3	19-July-2012
CWLTH1	Commonwealth Submission to the DFRT	19-July-2012
DFWA1	Email from Mr Philip Morrall Dated 19 July 2012, 08:05am	19-July-2012
ADF10	Salary Related Allowance Review Court Book Volume 2, Chapter 6	19-July-2012
ADF11	Salary Related Allowance Review Court Book Volume 2, Chapter 4	19-July-2012
ADF12	Affidavit of Major Mark Phillip Wilkinson Dated 18 July 2012	19-July-2012
ADF13	Minute to the DFRT Secretary Dated 18 July 2012	19-July-2012

<b>Exhibit</b>	<b>Title</b>	<b>Hearing</b>
ADF14	Affidavit of Lieutenant Commander Joel Hissink Dated 18 July 2012	19-July-2012
ADF15	Amendment to Salary Related Allowance Review Court Book Volume 1, Annex E	20-July-2012
ADF16	Salary Related Allowance Review Court Book Volume 2, Chapter 7	20-July-2012
ADF17	Affidavit of Sergeant Stretton Lyle Kimber Dated 20 July 2012	20-July-2012
ADF18	Affidavit of Leading Seaman Eaian Edward MacLean-Russell Dated 20 July 2012	20-July-2012
ADF19	Salary Related Allowance Review Court Book Volume 2, Chapter 5	20-July-2012
ADF20	Salary Related Allowance Review Court Book Volume 2, Chapter 8	06-August-2012
ADF21	Proposed Salary Related Allowance Schedule as at 30 July 2012	06-August-2012
ADF22	Brief for DFRT Navy Workforce Synopsis	06-August-2012
CWLTH2	Commonwealth Submission to the DFRT	06-August-2012
ADF23	Salary Related Allowance Review Court Book Volume 2, Chapter 9	06-August-2012
ADF24	Affidavit of Chief Petty Officer Phillip John Durnan Dated 6 August 2012	06-August-2012
ADF25	Boarding Party Video	06-August-2012
ADF26	Salary Related Allowance Review Court Book Volume 2, Chapter 9	06-August-2012
ADF27	Chief of Defence Force Directive	07-August-2012
ADF28	Chief of Defence Force Directive	07-August-2012
ADF29	Proposed Salary Related Allowance Schedule as at 7 August 2012	07-August-2012
ADF30	Comparison 10 November 2011 - Allowance Review proposal (Amendment 2, as at 07 August 2012)	07-August-2012

<b>Exhibit</b>	<b>Title</b>	<b>Hearing</b>
ADF31	Customs Officers Duties and Allowances	07-August-2012
ADF32	Salary Related Allowance Review Court Book Volume 2, Chapter 12	07-August-2012
ADF33	Salary Related Allowance Review Court Book Volume 2, Chapter 14	07-August-2012
ADF34	Volume 3 Closing Submission Salary Related Allowance Review	26-September-2012
ADF35	Proposed Salary related Allowance Schedule as at 29 August 2012 - Annex A to Salary related Allowance Review Closing Submissions	26-September-2012
ADF36	Comparison of SRAR Proposal from Opening to Closing Submission	26-September-2012
ADF37	Annex B to Closing Submission Salary Related Allowance Review	26-September-2012
ADF38	Disability Elements- Consolidated Allowance Placement	26-September-2012
ADF39	ADF and Commonwealth Exhibit Salary Related Allowance Review Proposals	26-September-2012
ADF40	ADF response to Commonwealth Submissions on Productivity	26-September-2012
ADF41	Chapter 11 - Adventurous Training Instructor Allowance	26-September-2012
ADF42	Chapter 13 - Language Proficiency Allowance	26-September-2012
ADF43	ADF Response to Commonwealth Presentation of Option 1 and Option 2	26-September-2012
CWLTH3	Commonwealth Submission to the DFRT on Salary Related Allowance Review Phase 1	26-September-2012
CWLTH4	Graded Officer Pay Structure Placement (RRP Phase 3) matter 3 of 2007 Volume 3 Navy Placement Proposal	26-September-2012
CWLTH5	Workplace Remuneration Arrangement 2011 - 2014 Matter 9 of 2011 Joint Submission	26-September-2012
RSL1	RSL Submission to the defence Force remuneration Tribunal on Salary Related Allowance Review Matter 3 of 2012	26-September-2012

**MATTER 3 OF 2012**  
**SALARY RELATED ALLOWANCE REVIEW**  
**INDEX OF WITNESSES**

<b>Witness</b>	<b>Hearing</b>
Major Mark Phillip Wilkinson	14 June 2012 19 July 2012
Lieutenant Commander Joel Hissink, RAN	19 July 2012
Sergeant Stretton Lyle Kimber	20 July 2012
Leading Seaman Eaian Edward MacLean-Russell	20 July 2012
Chief Petty Officer Phillip John Durnan	6 August 2012

## Annexure B

**Allowance rates proposed in ADF and Commonwealth submissions for the Salary Related Allowance Structure – pre- and post-ADF Workplace Remuneration Arrangement 2011-2014 (WRA) adjustment effective 8 November 2012**

ADF proposed rates <sup>90</sup>		Commonwealth proposed rates <sup>91</sup>		ADF proposed rates <sup>92</sup>		Commonwealth proposed rates <sup>93</sup>	
<i>Based on WRA rates effective 10 Nov 2011</i>				<i>Based on WRA rates effective 8 Nov 2012</i>			
<b>Service Allowance Group</b>				<b>Service Allowance Group</b>			
Service Allowance	\$12,301 pa	Service Allowance	\$12,267 pa	Service Allowance	\$12,609 pa	Service Allowance	\$12,574 pa
Trainee Allowance	\$9,226 pa	Trainee Allowance	\$9,200 pa	Trainee Allowance	\$9,457 pa	Trainee Allowance	\$9,431 pa
<b>Separation Allowance</b>				<b>Separation Allowance</b>			
MWD (Unaccomp.)	\$2,448 pa	MWD (Unaccomp.)	\$2,448 pa	MWD (Unaccomp.)	\$2,509 pa	MWD (Unaccomp.)	\$2,509 pa
MWD (Cont.)	\$651 pa	MWD (Cont.)	\$660 pa	MWD (Cont.)	\$667 pa	MWD (Cont.)	\$677 pa
<b>Arduous Conditions – Navy SSSS</b>				<b>Arduous Conditions – Navy SSSS</b>			
Safety Officer/Conducting Staff	\$651 pa	Safety Officer/Conducting Staff	\$660 pa	Safety Officer/Conducting Staff	\$667 pa	Safety Officer/Conducting Staff	\$677 pa
<b>Flying/Flight Duties</b>				<b>Flying/Flight Duties</b>			
Flying Disability	\$7,749 pa \$21.23 pd	Flying Disability	\$7,749 pa \$21.23 pd	Flying Disability	\$7,943 pa \$21.76 pd	Flying/Flight Duties	\$7,943 pa \$21.76 pd
<b>Adventurous Training</b>				<b>Adventurous Training</b>			
Instructor	\$5,990 pa	Instructor	\$5,990 pa	Instructor	\$6,140 pa	Instructor	\$6,140 pa
Unit Leader	\$43.99 pd	Unit Leader	\$43.99 pd	Leader	\$45.09 pd	Leader	\$45.09 pd
<b>Diving</b>				<b>Diving</b>			
Diving Instructor	\$5,990 pa	Diving Instructor	\$5,990 pa	Diving Instructor	\$6,140 pa	Diving Instructor	\$6,140 pa
Qualified Diver	\$60.22 pd	Qualified Diver	\$58.93 pd	Qualified Diver	\$60.40 pd	Qualified Diver	\$60.40 pd
Diving Disability (combining RCC & Trainee Diver)	\$43.99 pd	Treatment in RCC	\$43.99 pd	Diving Disability (combining RCC & Trainee Diver)	\$45.09 pd	Treatment in RCC	\$45.09 pd
		Trainee Diver	\$35.73 pd			Trainee Diver	\$36.62 pd
<b>Submarine Escape</b>				<b>Submarine Escape</b>			
Submarine Escape Disability	\$5,990 pa \$38.14 pd	Submarine Escape Disability	\$5,990 pa \$35.73 pd	Submarine Escape Disability	\$6,140 pa \$36.62 pd	Submarine Escape Disability	\$6,140 pa \$36.62 pd

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- <sup>1</sup> Matter 11 of 2008 Annual Review of Allowances, 22 July 2008
- <sup>2</sup> Exhibit ADF 1, Pages 12 Paragraph 1.13
- <sup>3</sup> Matter 3 of 2012, Exhibit ADF 1, Page 39
- <sup>4</sup> Exhibit ADF 1, Page 11, Para 1.7
- <sup>5</sup> Exhibit ADF1, Page 7
- <sup>6</sup> Exhibit ADF1, Page 46, Paragraph 4.2
- <sup>7</sup> Exhibit ADF1 Page 46 Paragraph 4.3
- <sup>8</sup> Exhibit ADF1 Page 46 Paragraph 4.4
- <sup>9</sup> Ibid
- <sup>10</sup> Exhibit ADF1 Page 47 Paragraph 4.6
- <sup>11</sup> Exhibit ADF1 Part 4 Annexure F
- <sup>12</sup> Exhibit ADF1 Part 4 Annexure F
- <sup>13</sup> Transcript 2 May 2012 Page 22 Lines 36 – 39
- <sup>14</sup> Exhibit ADF 1 Page 43 Paragraph 3.27
- <sup>15</sup> ADF Written Submission Filed 13 Feb 2013, Page 7, Para 17.
- <sup>16</sup> ADF Written Submission Filed 13 Feb 2013, Page 1, Para 1
- <sup>17</sup> Ibid
- <sup>18</sup> ADF Written Submission Filed 13 Feb 2013, Page 1, Para 2
- <sup>19</sup> Ibid
- <sup>20</sup> ADF Written Submission Filed 13 Feb 2013, Page 1, Para 3
- <sup>21</sup> Ibid
- <sup>22</sup> ADF Written Submission Filed 13 Feb 2013, Page 2, Para 8
- <sup>23</sup> ADF Written Submission Filed 13 Feb 2013, Page 5, Para 13
- <sup>24</sup> Commonwealth Written Submission Filed 19 February 2013, Page 1, Para 7 and 10
- <sup>25</sup> ADF Written Submission Filed 13 Feb 2013, Page 4, Para 10
- <sup>26</sup> Commonwealth Written Submission Filed 19 February 2013, Page 1, Para 6
- <sup>27</sup> Exhibit ADF39 Page 7 Para 8
- <sup>28</sup> Exhibit ADF 32, Page 17, Para 47
- <sup>29</sup> Exhibit ADF 32 Page 17 Para 48.a – 48.b; Transcript 7 Aug 2012 Page 10, Lines 38 – 41
- <sup>30</sup> Exhibit ADF 32, Page 24-25, Para 76
- <sup>31</sup> Exhibit ADF 32, Page 19 Para 51 c-d
- <sup>32</sup> Transcript 26 September 2012 Page 74 Lines 45 – 47
- <sup>33</sup> Exhibit ADF39, Page 34, Para 69.A and 69.B; Transcript 26 September 2012, page 74 Line 45 – Page 75 Line 7
- <sup>34</sup> Exhibit ADF39 Page 35 Para 65.
- <sup>35</sup> Exhibit ADF39, Page 34, Para 69.B
- <sup>36</sup> Exhibit ADF32, Page 20, Para 53
- <sup>37</sup> Exhibit ADF9, Page 29, Para 84; Page 30, Para 89; Page 31, Para 91. c
- <sup>38</sup> Exhibit ADF9, Page 35, Para 94; Page 36, Para 98
- <sup>39</sup> Exhibit ADF9, Page 41, Para 108
- <sup>40</sup> Transcript 19 Jul 2012, Page 121, Lines 38 – 39, Page 122, Lines 1 – 5; DFWA1
- <sup>41</sup> Transcript 19 Jul 2012 Page 116, Lines 46 – 47 - Page 117 Lines
- <sup>42</sup> Transcript 19 Jul 2012 Page 117, Lines 1 – 30
- <sup>43</sup> Exhibit ADF41 Page 4 Para 3
- <sup>44</sup> Transcript 26 August 2012, Page 11, Lines 29 – 40
- <sup>45</sup> Exhibit ADF16 Page 16 Para 53.A; Transcript 20 July 2012 Page 177 Line 32 – Page 178 Line 47
- <sup>46</sup> Transcript 20 July 2012 Page 172 Lines 13 – 19; Page 173 Lines 31 – 32

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- <sup>47</sup> Transcript 20 July 2012 Page 173 Line 40
- <sup>48</sup> Exhibit ADF16 Page 18 Para 59
- <sup>49</sup> Exhibit ADF14 Page 7 Para 21; Transcript 19 July 2012 Page 157 Lines 20 – 24; 20 July 2012 Page 175 Line 16 – Page 177; Line 30; Page 179 Lines 1 – 43; Page 182 Lines 20 – 27; Page 189 Line 1 – Page 190 Line 26
- <sup>50</sup> Exhibit ADF14 Page 5 Para 15 and Page 6 Para 16; ADF16 Page 22 Para 66
- <sup>51</sup> Transcript 20 July 2012 Page 171 Line 35 – Page 172 Line 3
- <sup>52</sup> Exhibit ADF 26 Page 10 Para 26
- <sup>53</sup> Exhibit CWLTH 2 Page 11 Para 46 - 47 ; Transcript 6 August 2012 Page 41 Line 34 – 36, Page 42 Lines 36 - 41
- <sup>54</sup> Transcript 26 September 2012 Page 12 Line 33; Email from Roger Tarlinton, Sent Monday, 24 September 2012 12:36 PM
- <sup>55</sup> Exhibit ADF11 Page 4 Para 1.1.a; Transcript 19 July 2012 Page 131 Line 36
- <sup>56</sup> Exhibit ADF11 Page 17 Para 5.3
- <sup>57</sup> Transcript 19 Jul 2012 Page 132 Lines 29 - 35
- <sup>58</sup> Exhibit ADF11 Page 2 Para 6
- <sup>59</sup> Exhibit ADF12 Page 7 Para 24 – 26 Transcript 19 July 2012 Page 136 Lines 32 – 41
- <sup>60</sup> Exhibit ADF11 Page 17 Para 5.1
- <sup>61</sup> Transcript 19 July 2012 Page 131 Line 38
- <sup>62</sup> Exhibit ADF11 Page 28 Para 5.18A
- <sup>63</sup> Exhibit CWLTH 1 Page 6 Para 3 – 5
- <sup>64</sup> Transcript 19 Jul 2012 Page 143 Line 3 – Page 144 Line 25
- <sup>65</sup> Exhibit ADF 10 Page 16 Para 4.1 – 4.2
- <sup>66</sup> Transcript 19 July 2012 Page 126 Lines 29 – 31
- <sup>67</sup> Transcript 19 July 2012 Page 127 Lines 12 – 23; Exhibit Commonwealth 1 Page 10 Para 5
- <sup>68</sup> Exhibit Commonwealth 1 Page 10 Para 3
- <sup>69</sup> Exhibit ADF20, Page 5 Para 1.2 & CWLTH2, Page 5 Para 21, Transcript 6 Aug 2012, Page 5, Lines 8 – 11
- <sup>70</sup> Transcript 6 Aug 2012, Page 16, Lines 35 – 38 & Page 17 Lines 1-5
- <sup>71</sup> Transcript 6 Aug 2012, Page 14, Lines 11 – 15 & Page 16, Lines 23 – 24 & CWLTH2, Page 8 Para 32 – 33
- <sup>72</sup> Transcript 6 Aug 2012, Page 16, Lines 20 – 31 & CWLTH2, Page 8, Para 31
- <sup>73</sup> Transcript 6 Aug 2012 Page 12, Line 17 – Page 13 Line 8
- <sup>74</sup> Exhibit ADF39, Page 21 Para 38
- <sup>75</sup> Transcript 6 August 2012 Page 21 lines 41 – 46
- <sup>76</sup> Transcript 6 Aug 2012, Page 20 Lines 20 -21
- <sup>77</sup> Exhibit ADF 23 Page 5 Para 3.2; Transcript 6 August 2012 Page 20 Line 43 – Page 21 Line 4
- <sup>78</sup> Restricted Transcript 6 August 2012 Page 3 Lines 1 – 40
- <sup>79</sup> Transcript 6 August 2012 Page 25 Line 15 – Page 26 Line 36
- <sup>80</sup> Restricted Transcript 6 August 2011 Page 7 Line 44 – Page 8 Line 35
- <sup>81</sup> Transcript 6 August 2012 Page 32 Line 37 – Page 33 Line 2
- <sup>82</sup> Exhibit CWLTH2 Page 9, Para 37.a ; Transcript 6 August 2012 Page 32 Lines 3 – 10
- <sup>83</sup> Exhibit CWLTH2 Page 9, Para 37.b – Page 10 Para 43; Transcript 6 August 2012 Page 32 Lines 14 – 34
- <sup>84</sup> Exhibit ADF33 Page 2, Para 1.2; Transcript 7 August 2012, Page 15, Lines 40 – 43
- <sup>85</sup> Exhibit ADF 33 Page 2, Para 1.1 – 1.2
- <sup>86</sup> Transcript 7 August 2012 Page 15 Lines 33 - 38
- <sup>87</sup> Exhibit ADF 33 Page 2, Para 1.3
- <sup>88</sup> Exhibit CWLTH2 Page 14, Para 56

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<sup>89</sup> Transcript 7 August 2012 Page 16 Lines 1 – 9

<sup>90</sup> Exhibit ADF 39 Paras 1, 7, 17, 20, 42, 47, 61, 34, 36

<sup>91</sup> Exhibit ADF 39 Paras 7, 17, 20, 47-8, 49B, 64, 66, 69, 72

<sup>92</sup> ADF Written Submission Filed 13 February 2013, Page 4, Para 9

<sup>93</sup> Commonwealth Written Submission Filed 19 February 2013