

DEFENCE FORCE REMUNERATION TRIBUNAL

UNPREDICTABLE EXPLOSIVES ALLOWANCE

REASONS FOR DECISION

The ADF has sought the permanent extension of Unpredictable Explosives Allowance (UEA) to members of the Chemical Biological and Radiological Response Squadron.

Unpredictable Explosives Allowance is paid for the hazards and consequent stress associated with dealing with unpredictable explosives. The Tribunal heard the matter on 23 March 2001 and at the conclusion of the hearing approved eligibility for the allowance.

BACKGROUND

On 24 August 2000 the ADF sought the extension of UEA to members of the Joint Incident Response Unit (JIRU). At that time the extension was to be on an interim basis for the period of the Sydney Olympic Games, the Centenary of Federation Celebrations and the Commonwealth Heads of Government meeting.

The role of JIRU included decontamination and medical responsibilities associated with chemical, biological and radiological threats or incidents.

On the basis of the material presented to the Tribunal at that time it agreed to extend the lower rate of the allowance, currently \$967, to members of JIRU on an interim basis. At that time the Tribunal was advised that 46 ADF members would receive the entitlement.

The Tribunal approved the extension of the allowance until 31 March 2001 and directed that the ADF present further submissions prior to that date if the entitlement was to extend beyond that date.

In November 2000, Chief of Army Directive 5 of 2000 provided for the disbanding of the JIRU but, at the same time, provided for the creation of the Chemical Biological and Radiological Response Squadron pending “a long term solution” to the need for a chemical, biological and radiological response capability. The Chemical Biological and Radiological Response Squadron provides the same capability as the JIRU and consists of 88 Australian Regular Army members.

INSPECTION

On 23 March 2001 the Tribunal undertook an inspection of the work of the members of the Chemical Biological and Radiological Response Squadron at the Majura Range.

During the inspection the Tribunal was provided with briefings on the roles and responsibilities of members of the Squadron and the disabilities associated with the role. The Tribunal also witnessed a static display of protective clothing and equipment used by the Squadron.

SUBMISSIONS AND EVIDENCE

ADF

The ADF submitted that except for the extension applying until 31 March 2001, medical and decontamination operators who are members of the Chemical Biological and Radiological Response Squadron are not entitled to the current Unpredictable Explosives Allowance determination (Determination 3 of 1993). It was stated that the quality of the work and the nature of the disabilities, discomfort and stress to which decontamination and medical operators are exposed are commensurate with those experienced by members conducting search activities and that therefore a permanent extension of the lower rate of the allowance should be made to the medical and decontamination operators. Up to 28 members would benefit from the entitlement.

Disabilities for members employed in medical and decontamination roles were said to include the unique risks inherent in the training; the high level of activity involved; and the significant on-call requirements with the Squadron being on short notice to move.

The ADF submitted that members serving in a medical role may be employed as retrieval medics, as part of a resuscitation team or performing a mass casualty triage or treatment role. Members working as decontamination operators may set up and run decontamination stations; deploy forward and act as stretcher bearers; or perform disposal tasks after the completion of render safe procedures. Decontamination operators are also cross trained in the search role. It was said that all members of the Squadron wear individual protective equipment and that the various types of equipment impose physiological and psychological discomfort on the wearer.

The ADF submitted that the medical and decontamination roles are integral to the Chemical Biological and Radiological Response Squadron operations and that “effectively, the capability would not exist without the performance of these roles”.

The ADF called Major Craig Madden, the Officer Commanding the Chemical Biological and Radiological Response Squadron as a witness. He gave evidence regarding search responsibilities and the cross training of personnel within the Squadron on detection equipment. He also gave evidence regarding the role of these members as part of the overall Squadron and the shared responsibilities and disabilities.

In addition the Tribunal had before it statements from Major M Rowell, the Medical Officer of the Chemical Biological and Radiological Response Squadron; Warrant Officer Class 2 J Cochbain; Corporal E James; and Private P B Callahan.

Commonwealth

The Commonwealth supported the permanent extension of UEA to Squadron members undertaking decontamination and medical roles. It noted the continued requirement for a chemical, biological and radiological response capability and that decontamination operators and medical personnel are an integral part of such a capability.

The Commonwealth submitted that “payment by way of an allowance as opposed to a category rate adjustment is the most appropriate way to compensate personnel” for the disabilities involved.

Armed Forces Federation of Australia

The Armed Forces Federation supported the extension of the allowance. It submitted, however, that the allowance should only be extended until 31 December 2001 with a general review of UEA to be completed before that date. The Federation questioned the adequacy of the current rates of UEA and submitted that an overall review of the allowance was necessary to establish whether members with decontamination and medical roles were appropriately placed within the UEA structure.

CONSIDERATION

The ADF has sought the continued application of UEA to members of the Chemical Biological and Radiological Response Squadron employed in either decontamination or medical roles.

The Tribunal has inspected the work of relevant members and was provided with comprehensive demonstrations, briefings and statements.

This is an agreed matter with the Commonwealth supporting the extension of the allowance. The Armed Forces Federation of Australia supported the extension but has proposed that the extension be limited pending a full review of UEA.

On the basis of the evidence and submissions of the parties the Tribunal is satisfied that these members should have an entitlement to UEA. In reaching its decision the Tribunal has taken into account in particular the disabilities and hazards associated with the work, the work environment, the roles, responsibilities and on-call requirements of these members and the discomfort associated with the wearing of individual protective equipment.

As indicated earlier in these Reasons the Armed Forces Federation of Australia proposed the extension of the allowance for a limited period pending a full review of UEA. The Tribunal has noted the concerns of the Federation regarding the developments since the last review of UEA and the desirability of a review of that allowance. The Tribunal recently identified a need to review UEA in its Paratrooper Allowance Decision (Matter 19 of 2000) where it stated that UEA “has not been considered by the Tribunal since 1993 and accordingly we are of the view that a review is necessary to ensure that members in receipt of this allowance are being treated equitably”.

On the understanding that such a review is to take place within a reasonable period of time the Tribunal is not persuaded to again limit the extension of the allowance.

The determination giving effect to our decision applies on and from 23 March 2001.

APPEARANCES: R Kenzie QC, Defence Force Advocate, with Lieutenant Commander
A Bradshaw, for the Australian Defence Force

A O'Brien with L Cullen for the Commonwealth

G Howatt for the Armed Forces Federation of Australia

DATE AND PLACE OF HEARING:

23 March 2001 Canberra

INSPECTION:

23 March 2001 Majura Range