



Defence Force Remuneration Tribunal Determination No. 12 of 2019, Salaries – Officer Aviation Pay Structure – Rotary Wing Aviation Officers – Army Transition

The Defence Force Remuneration Tribunal, make this Determination under section 58H of the *Defence Act 1903*. It relates to Matter 6 of 2018 – Rotary Wing Aviation Officers.

Dated 16 December 2019

Ingrid Asbury
President

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Adrian Morris
Member

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Rear Admiral James Goldrick AO CSC RAN Rtd
Member

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1 Name

1. This Determination is Defence Force Remuneration Tribunal Determination No. 12 of 2019, Salaries – Officer Aviation Pay Structure – Rotary Wing Aviation Officers – Army Transition.
2. This Determination may also be cited as DFRT Determination No. 12 of 2019.

2 Commencement

Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information	
Column 1	Column 2
Provisions	Commencement
1. The whole of this instrument	1 July 2019.

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

3 Authority

This instrument is made under section 58H of the *Defence Act 1903*.

4 Officer Aviation increment

For the purpose of this Determination, an Officer Aviation increment means an increment under Part 3 or Part 4 of Schedule B.14 of DFRT Determination No. 2 of 2017, *Salaries*.

5 Transition – Army Specialist Pathway – without command appointment

Guide to this section

In general, this section deals with transitioning certain members into the Army Specialist Pathway of the Officer Aviation Pay Structure.

Section 1 identifies to whom this section applies.

Sections 2 to 7 provide the salary calculation for paragraph 1.f for a member.

Section 8 sets the pathway and competency stream for a member.

1. This section applies to an officer in the Army who meets all of the following on the day immediately before the commencement of this Determination.
 - a. The member meets one of the following.
 - i. The member is a Captain who has held the rank of Captain for five years or more.

- ii. The member is a Major who has held the rank of Major for less than eight years.
 - iii. The member is a Lieutenant Colonel who has held the rank of Lieutenant Colonel for less than four years.
 - b. The member meets either of the following.
 - i. The member is in the Pilot – Competency Progression employment category under Schedule B.3 Part 2 of DFRT Determination No. 2 of 2017, *Salaries*.
 - ii. The member is in the Pilot – Time Based Progression employment category under Schedule B.3 Part 2 of DFRT Determination No. 2 of 2017, *Salaries*, and agrees to transfer to the Officer Aviation Pay Structure.
 - c. The member is qualified as a test pilot or a flight instructor.
 - d. The member meets either of the following.
 - i. The member has not held an aviation troop command, sub-unit command or unit command appointment.
 - ii. The member held the rank of Captain for less than six years and held a troop command appointment in the generalist stream of the Army Aviation Officer Employment Specification.
 - e. The member is in the specialist stream of the Army Aviation Officer Employment Specification.
 - f. The member's rate of salary in the Specialist Pathway and the Rotary Wing Pilot competency stream for the relevant Officer Aviation increment, set out in subsections 2 to 7, is equal to or higher than the member's rate of salary for their rank, increment and pay grade on the day immediately before the commencement of this Determination.
- 2. A member who has held the rank of Captain for five years or more has the Officer Aviation increment specified in either of the following.
 - a. If the member has less than 12 months experience as a test pilot or flight instructor — the member's Officer Aviation increment is OA17.
 - b. If the member has 12 months or more experience as a test pilot or flight instructor — the member's Officer Aviation increment is increased by one increment from OA17 for each 12 months completed as a Captain after their sixth year at the rank, up to the maximum OA23.
- 3. A member who holds the rank of Major and qualified as a test pilot or flight instructor when they held the rank of Captain has the Officer Aviation increment calculated using all of the following.
 - a. The member's Officer Aviation increment calculated under paragraph 2.b.
 - b. For the member's promotion to the rank of Major, the relevant of the following applies.
 - i. If the member's Officer Aviation increment under paragraph a. is below OA21— the member's Officer Aviation increment is OA21.
 - ii. If the member's Officer Aviation increment under paragraph a. is OA21 or above — the member's Officer Aviation increment is increased by one increment.
 - c. The member's Officer Aviation increment under paragraph b. is increased by one increment, up to the maximum of OA28, for each 12 months completed at the rank of Major.

4. For a member who holds the rank of Major and qualified as a test pilot or flight instructor while holding the rank of Major, the member's Officer Aviation increment is calculated using the relevant of the following.
 - a. If the member qualified within their first three years at the rank of Major — the member's Officer Aviation increment is increased by one increment from OA21, up to the maximum of OA28, for each 12 months completed at the rank of Major.
 - b. If the member qualified in or after their fourth year at the rank of Major — the member's Officer Aviation increment is increased by one increment from OA23, up to the maximum of OA28, for each 12 months completed after they qualified.
5. A member who holds the rank of Lieutenant Colonel and qualified as a test pilot or flight instructor when they held the rank of Captain has the Officer Aviation increment calculated using all of the following.
 - a. The member's Officer Aviation increment calculated for a Major under subsection 3.
 - b. For the member's promotion to the rank of Lieutenant Colonel, the relevant of the following applies.
 - i. If the member's Officer Aviation increment under paragraph a. is below OA27 — the member's Officer Aviation increment is OA27.
 - ii. If the member's Officer Aviation increment under paragraph a. is OA27 or above — the member's Officer Aviation increment is increased by one increment.
 - c. The member's Officer Aviation increment under paragraph b. is increased by one increment, up to the maximum of OA30, for each 12 months completed at the rank of Lieutenant Colonel.
6. A member who holds the rank of Lieutenant Colonel and qualified as a test pilot or flight instructor when they held the rank of Major has the Officer Aviation increment calculated using all of the following.
 - a. The member's Officer Aviation increment for the rank of Major is the relevant of the following.
 - i. If the member qualified within the first three years at the rank of Major — the member's Officer Aviation increment is increased by one increment from OA21 for each 12 months completed at the rank of Major, up to the maximum of OA28.
 - ii. If the member qualified in or after their fourth year at the rank of Major — the member's Officer Aviation increment is increased by one increment from OA23 for each 12 months completed after they qualified, up to the maximum of OA28.
 - b. For the member's promotion to the rank of Lieutenant Colonel, the member's Officer Aviation increment under paragraph a. is increased by one increment.
 - c. The member's Officer Aviation increment under paragraph b. is increased by one increment, up to the maximum of OA30, for each 12 months completed at the rank of Lieutenant Colonel.
7. A member who holds the rank of Lieutenant Colonel and qualified as a test pilot or flight instructor when they held the rank of Lieutenant Colonel has the Officer Aviation increment of OA30.
8. A member to whom this section applies is placed in the Specialist Pathway and the Rotary Wing Pilot competency stream.

6 Transition – Army Specialist Pathway – member has held a command appointment

Guide to this section

In general, this section deals with transitioning certain members into the Army Specialist Pathway of the Officer Aviation Pay Structure.

Section 2 identifies to whom this section applies.

Sections 3 to 6 provide the salary calculation for paragraph 2.f for a member.

Section 7 sets the pathway and competency stream for a member.

1. For the purpose of this section, an anniversary occurs every 12 months after the member's most recent promotion date.
2. This section applies to an officer in the Army who meets all of the following on the day immediately before the commencement of this Determination.
 - a. The member holds a rank between Captain and Lieutenant Colonel, inclusive.
 - b. The member meets either of the following.
 - i. The member is in the Pilot – Competency Progression employment category under Schedule B.3 Part 2 of DFRT Determination No. 2 of 2017, *Salaries*.
 - ii. The member is in the Pilot – Time Based Progression employment category under Schedule B.3 Part 2 of DFRT Determination No. 2 of 2017, *Salaries*, and agrees to transfer to the Officer Aviation Pay Structure.
 - c. The member is qualified as a test pilot or a flight instructor.
 - d. The member has held one of the following appointments in the generalist stream of the Army Aviation Officer Employment Specification.
 - i. Aviation troop command for 12 months or more.
 - ii. Aviation sub-unit command.
 - iii. Aviation unit command.
 - e. The member is in the specialist stream of the Army Aviation Officer Employment Specification.
 - f. The member's rate of salary in the Specialist Pathway and the Rotary Wing Pilot competency stream for the relevant Officer Aviation increment, set out in subsections 3 to 6, is equal to or higher than the member's rate of salary for their rank, increment and pay grade on the day immediately before the commencement of this Determination.
3. Subsection 4 applies to a member at the rank of Captain who meets all of the following.
 - a. The member has held the rank of Captain for six years or more.
 - b. The member has held an aviation troop command appointment.
 - c. The member qualified as a test pilot or flight instructor after they met both of the condition at paragraphs a. and b.

4. The member has the Officer Aviation increment specified in the following.
 - a. If the member has less than 12 months experience as a test pilot or flight instructor — the member's Officer Aviation increment is OA19.
 - b. If the member has 12 months or more experience as a test pilot or flight instructor — the member's Officer Aviation increment is increased by one increment from OA19, up to the maximum OA23, for each anniversary after qualifying as a test pilot or flying instructor.
5. A member at the rank of Major who held an aviation sub-unit command appointment has the Officer Aviation increment specified in the following.
 - a. If the member has less than 12 months in an aviation sub-unit command appointment — the member's Officer Aviation increment is OA24.
 - b. If the member has 12 months or more in an aviation sub-unit command appointment — the member's Officer Aviation increment is increased by one increment from OA24, up to the maximum OA28, for each anniversary after qualifying as a test pilot or flying instructor.
6. A member at the rank of Lieutenant Colonel who held an aviation unit command appointment has the Officer Aviation increment specified in the following.
 - a. If the member has less than 12 months in an aviation unit command appointment — the member's Officer Aviation increment is OA29.
 - b. If the member has of 12 months or more in an aviation unit command appointment — the member's Officer Aviation increment is OA30.
7. A member to whom this section applies is placed in the Specialist Pathway and the Rotary Wing Pilot competency stream.

EXPLANATORY STATEMENT

Defence Force Remuneration Tribunal Determination No. 12 of 2019, Salaries – Officer Aviation Pay Structure – Rotary Wing Aviation Officers – Army Transition

This Determination is made under section 58H of the *Defence Act 1903* (the Act) and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (AIA Act).

The purpose of this Determination is to provide the remaining transition provisions for Army's rotary wing qualified test pilots or flight instructors holding the rank of Captain, Major and Lieutenant Colonel. This class of member were expressly excluded from the transition provisions provided in Schedule 6 of DFRT Determination No. 3 of 2019.

Section 1 of this Determination sets out the manner in which this Determination may be cited.

Section 2 of this Determination provides that the Determination commences on 1 July 2019. While the DFRT and ADF make every effort to avoid retrospective commencement dates, subsection 58H(8) of the Act, makes provision for retrospectivity as long as the instrument meets the criteria set out in that subsection. The ADF has confirmed that the instrument does meet those conditions.

Section 3 provides that this instrument has authority under section 58H of the *Defence Act 1903*.

Section 4 makes express that reference to 'Officer Aviation increment' means an increment under Part 3 or Part 4 of Schedule B.14 of DFRT Determination No. 2 of 2017, *Salaries*.

Sections 5 and 6 provide the transition provisions for Army aviation officers which will occur on the date of commencement of this Determination.

Section 5 provides the transition provisions for an Army officer in the specialist stream of the Army Aviation Officer Employment Specification without a command appointment.

Subsection 1 makes express that this section applies to an officer in the Army who meets all of the conditions set out in the paragraphs on the day immediately before the commencement of this Determination.

Paragraph a. requires the member to meet one of the rank conditions listed in the subparagraphs.

The rank condition of subparagraph i. refers to an officer holding the rank of Captain and who has held that rank for five years or more. One of the unique factors for Army specialist pilots holding the rank of Captain is that one is considered a 'generalist' until their sixth year at the Captain rank level, and only once that milestone is reached may one be considered and assessed for placement in the specialist stream of the Army Aviation Officer Employment Specification. This factor significantly underpins the placement methodologies for Army specialist rotary wing pilots. Navy and Air Force do not have such a condition imposed on their aviation officers.

The rank condition of subparagraph ii. refers to an officer holding the rank of Major and who has held that rank of less than eight years. Members who have eight years or more were covered by the transition provisions set out in section 5 of Schedule 6 of DFRT Determination No. 3 of 2019.

The rank condition of subparagraph iii. refers to an officer holding the rank of Lieutenant Colonel and who has held that rank for less than four years. Members who have four years or more were covered by the transition provisions set out in section 5 of Schedule 6 of DFRT Determination No. 3 of 2019.

Paragraph b. requires the member to be in a Graded Officer Pay Structure pilot employment category under Schedule B.3 of the Principal Determination, that being either Pilot – Competency Progression or Pilot – Time Based progression. There is an important point of difference between the two classes of members under this eligibility condition, that being, that those who are in the Pilot – Time Based employment category must also agree to transfer to the Officer Aviation Pay Structure.

Paragraph c. requires the member to be either a qualified test pilot or qualified flight instructor.

Paragraph d. makes clear that the member cannot have held an aviation troop, sub-unit or unit command appointment at any point in the past, nor can the member have been a Captain for less than six years and held an aviation troop command appointment in the generalist stream of the Army Aviation Employment Specification.

Paragraph e. requires the member to be in the 'specialist stream' of the Army Aviation Officer Employment Specification. The Army Aviation Officer Employment Specification governs Army's pilots from a career management perspective. Army's Aviation Personnel Capability Management Board decides whether an Army pilot will be career managed in the 'generalist stream' or the 'specialist stream'. This is an internal career/administrative decision point that is not reliant on the operation of the Officer Aviation Pay Structure; rather, the Officer Aviation Pay Structure supports Army's career management of pilots in a remunerative sense. The 'specialist stream' of the Army Aviation Officer Employment Specification is separate from the 'Specialist Pathway' of the Officer Aviation Pay Structure.

Paragraph f. requires that the member's rate of salary in the Specialist Pathway and the Rotary Wing Pilot competency stream for the relevant Officer Aviation increment as set out in subsections 2 to 7, is equal to or higher than the member's rate of salary for their rank, increment and pay grade in the GOPS.

Subsections 2 to 7 set out the methodology used to decide the relevant Officer Aviation increment that should apply to the member.

Subsection 2 applies to a member who holds the rank of Captain and has held that rank for five years or more. Paragraph a. prescribes the Officer Aviation increment of OA17 if the member has less than 12 months experience as a qualified test pilot or qualified flight instructor. OA17 is the maximum Officer Aviation increment a member may reach in the Generalist Pathway without an aviation troop command appointment. Paragraph b. applies to a member who has 12 months or more experience as a qualified test pilot or qualified flight instructor. This paragraph provides an additional Officer Aviation increment above OA17 for each 12 months completed as a Captain after their sixth year in the rank, up to a maximum Officer Aviation increment of OA23.

One of the unique factors for Army specialist pilots holding the rank of Captain is that one is considered a 'generalist' until their sixth year at the Captain rank level, and only once that milestone is reached may one be considered and assessed for placement in the specialist stream of the Army Aviation Officer Employment Specification. This factor significantly underpins the placement methodologies for Army specialist rotary wing pilots. Navy and Air Force do not have such a condition imposed on their aviation officers.

There is no provision for pro rata recognition of experience at rank.

Subsection 3 applies to a member who holds the rank of Major and who qualified as a test pilot or flight instructor when they held the rank of Captain. The member's Officer Aviation increment is calculated using the considerations specified in paragraphs a. to c.

The first consideration is set out in paragraph a. and refers to the methodology used in paragraph 5.2.b of this Determination. The second consideration, paragraph b., recognises the value of the member's *promotion* to the rank of Major. For the purposes of this paragraph, if the member's Officer Aviation increment calculated under paragraph a. is below OA21, then the member's Officer Aviation increment is OA21 [noting that OA21 is the minimum Officer Aviation increment for the rank of Major], but if the member's increment is OA21 or above, then the member's Officer Aviation increment is increased by one increment, so as to recognise the member's promotion to the next rank.

The third consideration, paragraph c., recognises the value of the member's *time* in rank. For the purposes of this paragraph, the member's Officer Aviation increment calculated under paragraph b. is increased by one increment for each 12 months completed at the rank of Major, up to a maximum of OA28. There is no provision for pro rata recognition of experience at rank.

Subsection 4 applies to a member who holds the rank of Major and who qualified as a test pilot or flight instructor while holding the rank of Major. The member's Officer Aviation increment is calculated using either of the considerations specified in paragraphs a. and b., as relevant to the member.

Paragraph a. applies to a member who gained their qualification within the first three years as a Major. In this circumstance, the member's Officer Aviation increment is increased by one increment from OA21, for each 12 months completed in the rank of Major. The maximum increment is OA28. This methodology

recognises the value of both the member's time in rank and their experience as a test pilot/flight instructor.

Paragraph b. applies to a member who gained their qualification in or after their fourth year as a Major. In this circumstance, the member's Officer Aviation increment is increased by one increment from OA23 for each 12 month period after they qualified. The maximum increment is OA28. This methodology recognises the value of both the member's time in rank and experience as a test pilot/flight instructor: the member's first four years or more (in which they were a generalist pilot) are valued by starting at Officer Aviation increment OA23; the additional increments above OA23 recognise and value the member's years of experience as a test pilot/flight instructor. There is no provision for pro rata recognition of experience at rank.

Subsection 5 applies to a member who holds the rank of Lieutenant Colonel and who qualified as a test pilot or flight instructor while they held the rank of Captain. The member's Officer Aviation increment is calculated using the considerations specified in paragraphs a to c.

The first consideration is set out in paragraph a. The same methodology set out in subsection 5.3 of this Determination is applied, providing an equitable consideration and valuation of a member's circumstances. The second consideration, paragraph b., recognises the value of the member's *promotion* to the rank of Lieutenant Colonel. For the purposes of this paragraph, if the member's Officer Aviation increment calculated under paragraph a. is below OA27, then the member's Officer Aviation increment is OA27, but if the member's increment is OA27 or above, then the member's Officer Aviation increment is increased by one increment.

The third consideration, paragraph c., recognises the value of the member's *time* in rank. For the purposes of this paragraph, the member's Officer Aviation increment calculated under paragraph b. is increased by one increment for each 12 months completed at the rank of Lieutenant Colonel, up to a maximum of OA30. There is no provision for pro rata recognition of experience at rank.

Subsection 6 applies to a member who holds the rank of Lieutenant Colonel and who qualified as a test pilot or flight instructor while they held the rank of Major. The member's Officer Aviation increment is calculated using the considerations specified in paragraphs a. to c.

The first consideration is set out in paragraph a. The same methodology set out in subsection 5.4 of this Determination is applied, providing an equitable consideration and valuation of a member's circumstances. The second consideration, paragraph b., recognises the value of the member's *promotion* to the rank of Lieutenant Colonel, for which the member's Officer Aviation increment is increased by one increment.

The third consideration, paragraph c., recognises the value of the member's *time* in rank. For the purposes of this paragraph, the member's Officer Aviation increment calculated under paragraph b. is increased by one increment, up to a maximum of OA30. There is no provision for pro rata recognition of experience at rank.

Subsection 7 applies to a member who holds the rank of Lieutenant Colonel and who qualified as a test pilot or flight instructor while holding that rank. Such a member has the Officer Aviation increment of OA30.

Subsection 8 places a member who has met the conditions set out in subsection 1 in the Officer Aviation Pay Structure. Such a member will be placed in the Specialist Pathway and the Rotary Wing Pilot competency stream of the Officer Aviation Pay Structure.

Section 6 provides the transition provisions for an Army officer in the specialist stream of the Army Aviation Officer Employment Specification with a command appointment.

Subsection 1 makes express that for the purpose of this section, an anniversary occurs every 12 months after the member's most recent promotion date. There is no provision for pro rata recognition of experience at rank.

Subsection 2 makes express that this section applies to an officer in the Army who meets all of the conditions set out in the paragraphs on the day immediately before the commencement of this Determination.

Paragraph a. requires the member to hold a rank between Captain and Lieutenant Colonel, inclusive.

Paragraph b. requires the member to be in a Graded Officer pay Structure pilot employment category under Schedule B.3 of the Principal Determination, that being either Pilot – Competency Progression or Pilot – Time Based progression. There is an important point of difference between the two classes of members under this eligibility condition, that being, that those who are in the Pilot – Time Based employment category must also agree to transfer to the Officer Aviation Pay Structure.

Paragraph c requires the member to be either a qualified test pilot or qualified flight instructor.

Paragraph d. requires the member to have held in the past, an aviation troop command, an aviation sub-unit command or an aviation unit command appointment.

Paragraph e. requires the member to be in the ‘specialist stream’ of the Army Aviation Officer Employment Specification. The ‘specialist stream’ of the Army Aviation Officer Employment Specification is separate from, and not to be confused with, the ‘Specialist Pathway’ of the Officer Aviation Pay Structure as previously stated.

Paragraph f. requires that the member’s rate of salary in the Specialist Pathway and the Rotary Wing Pilot competency stream for the relevant Officer Aviation increment as set out in subsections 3 to 6, is equal to or higher than the member’s rate of salary for their rank, increment and pay grade in the GOPS.

Subsections 3 to 6 set out the methodology used to decide the relevant Officer Aviation increment that should apply to this member.

Subsection 3 makes express that subsection 4 applies to a member at the rank of Captain and held that rank for six years or more, that the member has held an aviation troop command appointment in the past and the member qualified as a test pilot or flight instructor *after* the member had met both of the previous two conditions.

Subsection 4 calculates the Officer Aviation increment for a Captain who meets the conditions set out in subsection 3. If the Captain has less than 12 months experience as a test pilot or flight instructor, the member’s Officer Aviation increment is OA19. For Captains who have more than six years’ experience at rank and previously *held* an aviation troop command appointment (noting that there are no command appointments while in the specialist stream), OA19 is the Officer Aviation increment that recognises troop command appointment in Army’s Generalist Pathway of the Officer Aviation Pay Structure.

If the member has 12 months or more experience as a test pilot or flight instructor, the member’s Officer Aviation increment is increased by one increment from OA19 for each **anniversary** (as defined in subsection 6.1 of this Determination) after the member qualified as a test pilot or flight instructor, up to the maximum Officer Aviation increment OA23.

Subsection 5 applies to a member holding the rank of Major and has held an aviation sub-unit command appointment in the past. Paragraph a. prescribes that a member who has less than 12 months experience in an aviation sub-unit command appointment will have an Officer Aviation increment of OA24. OA24 is the Officer Aviation increment that recognises sub-unit command appointment in Army’s Generalist Pathway of the Officer Aviation Pay Structure. Paragraph b. prescribes that a member who has 12 months or more experience in an aviation sub-unit command has their Officer Aviation increment increased by one from OA24, for each **anniversary** (as defined in subsection 6.1 of this Determination) after the member qualified as a test pilot or flight instructor, up to the maximum Officer Aviation increment OA28.

Subsection 6 applies to a member holding the rank of Lieutenant Colonel and has held an aviation unit command appointment in the past. Paragraph a. prescribes that a member who has less than 12 months experience in an aviation unit command appointment will have an Officer Aviation increment of OA29. OA29 is the Officer Aviation increment that recognises unit command appointment in Army’s Generalist Pathway of the Officer Aviation Pay Structure. Paragraph b. prescribes that a member who has 12 months or more experience in an aviation unit command will have an Officer Aviation increment of OA30.

Subsection 6 places a member who has met the conditions set out in subsection 2 in the Officer Aviation Pay Structure. Such a member will be placed in the Specialist Pathway and the Rotary Wing Pilot competency stream of the Officer Aviation Pay Structure

Criteria are provided for the exercise of discretions under the Principal Determination, as amended by this Determination. Adverse decisions may be subject to inquiry under the ADF redress of grievance system. A person may make a complaint to the Defence Force Ombudsman.

The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

Authority: Section 58H of the
Defence Act 1903