



Australian Government
Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

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

REVIEW OF FIELD ALLOWANCE

(Matter No. 7 of 2014)

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

CANBERRA, 18 SEPTEMBER 2015

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

[1] This decision arises from an applicationⁱ made by the Australian Defence Force (ADF) under s.58H of the *Defence Act 1903*. The ADF seeks to place field allowance into the salary related allowance structure (SRAS) while maintaining a two-tiered structure, amending eligibility criteria and aligning field allowance rates with existing maritime allowance rates.

[2] A hearing in regard to this matter was conducted with Mr R. Kenzie AM QC appearing for the ADF and Mr J. O'Reilly for the Commonwealth. Colonel (COL) A. Hocking, Director of Future Land Warfare in Army Headquarters, appeared as the witness for the ADF.

Background

[3] Field allowance is an on-occurrence allowance that compensates for the disabilities endured when living and working in the 'field'; it is structured into two tiers dependant on the nature of the activities, and the disabilities, experienced.

[4] It should be noted that all monetary values in this decision are reproduced as submitted in the application and do not provide for any subsequent Workplace Remuneration Arrangement (WRA) adjustments.

ADF submission

[5] In their submission the ADF proposes to:

- a. maintain the on-occurrence payments of field allowance and the current two-tiered structure;
- b. place field allowance into the SRAS;
- c. assign new daily rates;
- d. align field allowance with maritime disability allowance; and
- e. make administrative changes to definitions and eligibility criteria.

[6] **Definition.** Members must be serving ‘in the field’ before they can be eligible for field allowance. In order to effect this, a dictionary meaning of ‘field’ⁱⁱ has previously been applied to determine eligibility.

[7] The ADF submit that “*military activities now take place with complex urbanised terrain amongst the population*” and that “*the modern day ‘field environment’ includes a variety of locations, terrain and environments where service people are required to work and live, experiencing disabilities beyond those in a barracks environment*”.ⁱⁱⁱ As a result a revised definition of ‘field’ has been proposed by the ADF to be described as “*a land-based scene or area where activities are conducted and access to facilities ordinarily available in barracks, garrison or domestic dwellings is limited or non-existent*”.^{iv}

[8] In determining appropriate levels of field allowance in a two-tiered structure the ADF have applied six factors:^v

- a. living conditions;
- b. working conditions;
- c. eating arrangements;
- d. leisure;
- e. facilities/services; and
- f. hours of work.

The extent of each factor has then been measured by the ADF as extreme, intermediate or low dependent on the disability.

[9] The *current* two tiered structure for field allowance is:

Tier	Qualifying conditions ^{vi}	Current Quanta ^{vii}
1	Payable to a member who undertakes tactical field exercises or similar activities where at least <i>four</i> of the disabilities, including living and working conditions, are classified as extreme. CDF has the discretion to pay this level of field allowance where only three disabilities, including living conditions and working conditions, are considered extreme.	\$56.36
2	Payable to a member who undertakes field activities where at least <i>four</i> of the disabilities are classified as a combination of extreme or intermediate. CDF has the discretion to pay this level of field allowance where only three disabilities, including living conditions and working conditions, are considered extreme or intermediate.	\$33.08

[10] **Eligibility criteria.** The ADF propose that the six factors at paragraph 8 remain unchanged. They do, however, seek to now pay Tier 1 allowance when five (rather than four) of the disabilities, (including living and working conditions) are classified as extreme. The payment of Tier 2 is proposed when five (rather than four) of the disabilities are classified as a combination of either extreme or intermediate and include living and working conditions.

[11] The CDF currently has discretion to award eligibility where living conditions and working conditions and only one other element are rated as extreme. The ADF submission increases eligibility requirements so that living and working conditions and three other elements must be rated as extreme or adverse while retaining the CDF's existing level of discretion.

[12] In all other circumstances the persons who can make a decision on behalf of the CDF are the Commanding Officer or Officer Commanding, not below the rank of Major, in the members' direct chain of command, or for personnel on overseas operations the Director General Support Headquarters, Joint Operations Command.

[13] **Rates.** The ADF submit that the daily payment rates for tiers 1 and 2 be increased to \$61.91 and \$36.51 respectively. This aligns the rates in the SRAS with boarding party allowance and the minor war vessel rate of maritime disability allowance respectively.

[14] In summary, the *proposed* two tier structure for field allowance is:

Tier	Qualifying conditions	Proposed Quanta ^{viii}
1	Payable to a member who undertakes tactical field exercises or similar activities where at least <i>five</i> of the disabilities, including living and working conditions, are classified as extreme. CDF has the discretion to pay this level of field allowance where only three disabilities, including living conditions and working conditions, are considered extreme.	\$61.91
2	Payable to a member who undertakes field activities where at least <i>five</i> of the disabilities are classified as a combination of	\$36.51

	extreme or adverse. CDF has the discretion to pay this level of field allowance where only three disabilities, including living conditions and working conditions, are considered extreme or adverse.	
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[15] **Relation to maritime disability allowances.** Presently a member who has already qualified for field allowance, and then embarks on a ship, does not have to wait an additional qualifying period of 48 hours to receive the daily maritime disability allowance.^{ix} The ADF propose to have the inverse applied so that when a member is in receipt of maritime allowance and moves to the field then they are regarded to have qualified from the time they enter the field, thereby negating any further qualifying period. This supports the increase in amphibious operations where personnel are required to transfer between land and sea regularly.

[16] The ADF further submit that tier 1 field allowance should be aligned with boarding party allowance rates of maritime allowances. They have based this on the combined similarities in boarding party disability elements using application of the disability elements matrix (DEM).^x In regard to tier 2, they propose it be aligned with the minor war vessel rate of maritime disability allowances proposing comparable levels of disability as set against the DEM.

Commonwealth submission

[17] The Commonwealth^{xi} supports the ADF proposal and intent to place field allowance into SRAS however does not support the proposed increases to tier 1 and 2 rates stating:

- a. the cost of the increases is too high to meet the SRAR principles;
- b. increases to the disabilities do not amount to a change sufficient to warrant increases to the rates;
- c. risk assessments have not considered the balance between the likelihood of exposure and severity of consequences to warrant such ratings;
- d. insufficient basis for aligning and comparing tier 1 with boarding party allowance; and
- e. the likeness in field allowance tier 2 and maritime allowance is not harmed by maintaining a difference in the rates.

Evidence

[18] In his affidavit COL Hocking considered the ‘field’ environment to have moved beyond the traditional environment to an urban environment with “*differing planes of battle space [and] three dimensional factors...trending towards a concept of ‘operations amongst the people’*”.^{xii} He also raised the concept of “*relative amenity*” where soldiers now have an expectation of societal ‘norms’ such as access to internet connectivity and a higher standard of living accommodation. In evidence COL Hocking advanced this to reflect that a soldier now “*notices that difference*”^{xiii} in a more significant way.

[19] COL Hocking explained the “*tension*”^{xiv} where subjectivity in the application of field allowance can cause confusion and a lack of equity. He stated that “*the increase in criteria will assist commanders by providing a clearer distinction between the factors of tiers 1 and 2*”. In oral evidence he expanded on this by way of examples where the eligibility is required to be “*contextualised in the mind of the officers...making relative judgements. And depending what he sees in his mind of what field is, depends largely whether he sees things as extreme, intermediate or other*”.^{xv}

[20] During the hearing the Commonwealth questioned the relevance of tier 1 being ‘payable for a tactical field environment or for tactical field exercises’^{xvi}. In response, the ADF forwarded a written reply^{xvii} with nomenclature and definition options. Subsequent to this correspondence we note that the parties have agreed the terminology to be used in any determination issued to give effect to our decision.

Consideration

[21] We considered the previous and proposed definitions of ‘field’ in relation to the contemporary nature and complexity of ADF operations and associated disabilities.

[22] We note the Commonwealth position that the evidence demonstrates an incremental change in levels of disability that they “do not consider significant enough to warrant increases”.^{xviii}

[23] We accept that the allowances compensate for a discrete environment and different tasks and for the working conditions and elements of risk associated with that environment and tasks. In the absence of any specific proposal from the Commonwealth as to a more appropriate nexus and monetary amount for the allowances we are required to consider the claim as it is proposed by the ADF. In doing so we acknowledge the difficulty in identifying a clear nexus between the actual disability elements for which maritime and field allowances are paid. Application of our judgement in this matter persuades us that, on balance, the disability elements for which each is paid have apparent synergy and are of a sufficiently similar value to justify the quantum sought.

[24] We accept that by increasing the number of disabilities within the field scoring matrix the risk of a Commander making a subjective assessment is reduced. We considered the evidence of COL Hocking that he considers an increase in confidence for commanders in approving tier 1 or 2 by the application of the revised criteria. We take into account that no system can totally reduce the level of objectivity in operational environs.

[25] We considered that the increase in disabilities from four to five in each tier further justifies an increase in the allowance tiers as sought.

[26] We appreciate the increase in ADF amphibious operations and consider that the ease of movement between operational environments is simplified by negating a qualification period when transferring from sea to field or vice versa.

[27] We considered the SRAR principles^{xix} and are satisfied that field allowance aligns with these principles.

Conclusion

[28] We agree to retain the on-occurrence payments and two-tiered structure and agree an increase to \$61.91 for tier 1 and \$36.51 for tier 2 field allowance accordingly.

[29] We agree the placement of field allowance into the SRAS.

[30] We accept the revised definition of the term ‘field’ as applied. We accept that the revised eligibility criteria will assist in reducing subjectivity for commanders when approving field allowance.

[31] We accept that the qualifying period for maritime and field allowances should permit movement between operational environments without the need to requalify.

[32] A determination giving effect to our decision will be issued in due course.

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

Appearances:

Mr R. Kenzie AM QC with Ms S. Robertson for the ADF

Mr J. O’Reilly with Mr A. McKechnie for the Commonwealth

Witness:

Colonel A.J. Hocking – Director, Future Land Warfare, Army Headquarters.

ⁱ ADF 1 – Review of Field Allowance – Matter 7 of 2014 Proposition dated 2 October 2014.

ⁱⁱ “*the scene or area of active military operations; a battlefield; a battle; of, or relating to, campaign and active combat service as distinguished from service in rear areas, or at headquarters*” – Macquarie Dictionary.

ⁱⁱⁱ ADF1 page 9 paragraph 3.4.

^{iv} ADF1 page 9 paragraph 3.5.

^v Pay and Conditions Manual (PACMAN) Annex 4 3 B Eligibility for Field Allowance.

^{vi} DFRT Determination 14 of 1995 – Field Allowance.

^{vii} Monetary values in this decision are reproduced as submitted in the application and do not provide for any WRA adjustments which have occurred since.

^{viii} *Ibid*

^{ix} DFRT Determination 20 of 2013.

^x The disability elements matrix was developed as part of SRAR to allow s.58H allowances to be assessed and reviewed from a common standard and be placed objectively and relatively.

^{xi} Commonwealth 1 – Review of Field Allowance – Matter 7 of 2014 dated 30 September 2014.

^{xii} ADF2 - Affidavit Colonel A J Hocking dated 30 September 2014 page 3, paragraph 11.

^{xiii} Transcript – 2 October 2014. page 22, line 10.

^{xiv} ADF 2 page 4 paragraph 16.

^{xv} Transcript page 23, line 9.

^{xvi} Ibid page 34, line 5.

^{xvii} ADF letter DMR/OUT/2014/71 of 7 November 2014.

^{xviii} CWLTH 1 page 7 paragraph 37.

^{xix} DFRT Decision – Salary Related Allowance Review – Matter 3 of 2012 dated 16 July 2013.