



Defence Force Remuneration Tribunal

STATEMENT

Defence Act 1903
s.58H—Functions and powers of Tribunal

ANNUAL REVIEW OF DETERMINATIONS: SALARIES AND ALLOWANCES - 2019

(Matter 1 of 2019)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 20 DECEMBER 2019

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] Subsection 58H(6) of the *Defence Act 1903* (the Act) prescribes that: “*where a determination of the Tribunal in respect to the salaries and relevant allowances to be paid to members is in force, the Tribunal shall inquire into and make a further determination in respect of those salaries and allowances:*

- a. Within two years of the first-mentioned determination taking effect; or*
- b. If the Minister, by notice in writing given to the President, requires the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first mentioned determination taking place – within the shorter period”.*

[2] Pursuant to this obligation, the Australian Defence Force (ADF) submitted the determinations made by the Tribunal during 2017 for review.¹ An opening hearing in this matter was held on 4 April 2019 with Mr J Phillips SC appearing for the ADF and Ms A Sullivan for the Commonwealth.

BACKGROUND

[3] The task of this legislated review has come to be referred to as an “Annual Review” although we note that s.58H(6) of the Act refers to the obligation to ‘inquire into’ determinations; we continue to adopt the description.

[4] The Annual Review process incorporates analysis of each determination by providing:

- a. a background to the target employment category;
- b. the intended purpose;
- c. an evaluation of the implementation and effectiveness to date; and
- d. recommendations for further consideration where applicable.

[5] The Annual Review process does not preclude the ADF from filing an application in respect of any of the determinations for consideration by the Tribunal in the future.

[6] We intentionally do not consider the determinations made in respect to each ADF Workplace Remuneration Arrangement (WRA) within this Review as they are reviewed annually when each increment is determined.

SUBMISSIONS

ADF

[7] When undertaking this Review the ADF states that it gathered feedback from the following areas of Defence in order to ascertain the success (or otherwise) of the implementation and effectiveness of each determination made in 2017:

- a. the relevant leadership of the affected workforce;
- b. each of the Service industrial policy units;
- c. each of the Service career management agencies;
- d. payroll administration units; and
- e. any other relevant business units affected by the issue.²

[8] The ADF submission provided a review of the 14 determinations made in 2017 as detailed below:

Determination Number	Matter Number	Effect	Outcome
1 of 2017	N/A	Made editorial changes as a result of the First Principles Review	No further action required
2 of 2017	N/A	Replaced and repealed Determination 15 of 2008	No further action required.
3 of 2017	10 and 11 of 2016	Provided for restructure and re-naming of categories ³	No further action required
4 of 2017	4 of 2017	Amended eligibility criteria ⁴	No further action required
5 of 2017	3 of 2017	Inserted a new category ⁵	No further action required
6 of 2017	2 of 2017	Amended eligibility criteria ⁶	No further action required
7 of 2017	2 of 2017	Provided clarification for entitlement. ⁷	No further action required
8 of 2017	7 of 2017	Set in place transition arrangements for set appointments. ⁸	No further action required
9 of 2017	WRA - no review required		
10 of 2017	9 of 2017	Provided clarification for entitlement. ⁹	No further action required
11 of 2017	9 of 2016	Amended allowances rates. ¹⁰	To return to the Tribunal
12 of 2017	11 and 16 of 2017	Provided for restructure of a category. ¹¹	Took effect. Progress on non-reduction provisions due in 2020.
13 of 2017	Not issued		
14 of 2017	12 of 2017	Provided for restructure of a category ¹²	No further action required.

[9] The ADF submission also summarised the progress of any outstanding undertakings from previous Tribunal reviews and reports.

[10] Further to this, the ADF made a supplementary submission on 13 December 2019¹³ to advise the Tribunal, as a matter of courtesy, of those changes in internal workforce administration management, arising from the previous matters, which had occurred during the course of 2019.

COMMONWEALTH

[11] The Commonwealth submission supported the ADF proposal and the analysis of the determinations.¹⁴

CONSIDERATION

[12] We accept that of the 14 determinations made in 2017 only Determination 12 of 2017 requires consideration and is scheduled for review in 2020.

[13] We accept the evaluative approach taken by the ADF and agree that this was completed to meet the legislative requirements of the Act and with the intention of recommending any need for a further determination.

CONCLUSION

[14] Having inquired into each of the determinations made in 2017, and having regard to the submissions, we do not intend to issue any further determinations in respect to salaries and allowances reviewed in this matter.

[15] The consideration of these determinations, and this Statement, constitute review as required by the Act.

MS I. ASBURY, PRESIDENT
MR A. MORRIS, MEMBER
RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

Appearances:

Mr J Phillips assisted by Mr P Blady *for the ADF*

Ms A Sullivan assisted by Mr J O'Reilly *for the Commonwealth*

¹ ADF submission *Matter 1 of 2019 – 2019 Annual Review of Salary and Allowance Determinations* (ADF 1) undated.

² ADF 1 page 10 paragraph 3.1.2.

³ <https://www.dfrt.gov.au/sites/default/files/Decision-ML-S.pdf>

⁴ <https://www.dfrt.gov.au/sites/default/files/Decision-FDA-.pdf>

⁵ No decision was issued in this matter

⁶ <https://www.dfrt.gov.au/sites/default/files/Trainee-decision.pdf.PDF>

⁷ Ibid

⁸ <https://www.dfrt.gov.au/sites/default/files/O9-O10-Decision.pdf>

⁹ No decision was issued in this matter

¹⁰ No decision was issued in this matter

¹¹ <https://www.dfrt.gov.au/sites/default/files/Decision-Navy-MLP.pdf>

¹² <https://www.dfrt.gov.au/sites/default/files/Decision-Navy-Cryptologic.pdf>

¹³ DMR/OUT/2019/39 *Matter 1 of 2019 – Annual review of Determinations Part 4 (notification of changes to submissions)* dated 13 December 2019.

¹⁴ Commonwealth submission *Matter 1 of 2019 – Annual Review of Determinations* dated 28 March 2019.