



**Australian Government**  
**Defence Force Remuneration Tribunal**

---

## DECISION

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

### **FLYING DISABILITY ALLOWANCE - AMENDMENT** (Matter 4 of 2017)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 30 MARCH 2017

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] This decision concerns an application<sup>1</sup> made by the Australian Defence Force (ADF) under s.58H of the *Defence Act 1903* to amend Flying Disability Allowance entitlements for members deployed to flying positions.

[2] There was no hearing in this matter and we dealt with the application on the papers and in conference with the ADF and Commonwealth on 9 March 2017.

#### **Background**

[3] Flying Disability Allowance (FDA) is paid at either an ‘annualised’ or ‘daily’ rate to compensate for the disabilities associated with military flying and flight duties.

#### **Submissions**

[4] The ADF seeks to allow payment of the annualised rate to members deployed to flying positions who were not entitled to the annualised rate prior to deployment because they were posted to a non-flying position. The ADF submit that this anomaly has occurred as the annualised rate is “*tied to a posted position, however members are not posted to deployed positions*”.<sup>2</sup>

[5] Specifically the ADF propose to amend *DFRT Determination 11 of 2013 – ADF Allowances, Division B.7* to ensure that a member is eligible for the annualised rate if they meet **both** of the following circumstances:

- a. they are posted to a designated flying position or *deployed to fly on operations*; and
- b. the member is qualified and reasonably expected to fly in that position for the duration of the posting or the member is qualified and *reasonably expected to fly for the duration of the deployment*.<sup>3</sup>

[6] The ADF seek a commencement date of 6 April 2017.

[7] The Commonwealth supported the ADF proposal “*on the understanding that the deployed members performed identical duties*”<sup>4</sup> as referred to in the ADF submission.<sup>5</sup>

[8] The Commonwealth also submitted that FDA cease when a member is transferred back to their non-flying position.

[9] The ADF made a subsequent submission stating that this wording “*does not cover the whole gamut of circumstances that would permit eligibility for, or cessation of, the annual rate.*”<sup>6</sup> In conference it was agreed that wording in the ADF submission (detailed at paragraph 5 of this decision) better encompassed the duties performed and the Commonwealth made a further written submission to reflect this.<sup>7</sup>

## **Consideration**

[10] We gave lengthy consideration to the inequity that has arisen because the annualised rate has been premised on being ‘posted’ to a designated flying position, and that a deployment does not constitute a ‘posting’. We accept that the entitlement has been predicated on the previous position.

[11] We accept that if a member presently deploys to a flying position from a non-flying posting they have been entitled to daily rates and paid FDA for the actual days they fly, as compared to a counterpart posted to a flying position entitled to an annualised rate.

## **Conclusion**

[12] We agree that the rates should be applied equitably and that the posted role has no impact on flying duties conducted while deployed.

[13] We accept that the *annualised* rate is intended to cease when a member is transferred back to the non-flying position; thereby giving clarity to the Commonwealth submission as subsequently agreed to by the parties in conference.

[14] We agree the date of effect sought and Determination 4 of 2017 will give effect to this decision.

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

---

<sup>1</sup> Listing application – Flying Disability Allowance – annualised rate while deployed from a non-flying position DMR/OUT/2017/AB30177923 dated 30 January 2017.

<sup>2</sup> ADF submission for amendment to the Flying Disability Allowance – Ability to access the annual rate while in a deployed flying position dated 16 February 2017.

<sup>3</sup> ADF submission Enclosure 1 paragraph 8.

<sup>4</sup> Commonwealth submission Flying Disability Allowance – Amendment dated 22 February 2017.

<sup>5</sup> ADF submission Enclosure 1 paragraph 7.

<sup>6</sup> ADF submission made in reply to Commonwealth letter to the DFRT matter 4 of 2017 – Flying Disability Allowance Amendment.

<sup>7</sup> Commonwealth submission – Matter 4 of 2017 – Flying Disability Allowance – Amendment dated 15 March 2017.