

AUSTRALIAN GOVERNMENT

Defence Force

Remuneration Tribunal



Period: 1 July 2015 – 30 June 2016

President's overview

The Defence Force Remuneration Tribunal gives consideration to, and determines, allowances and salaries in recognition of the conditions experienced by Permanent and Reserve members of the Australian Defence Force (ADF). Our determinations are made taking into account the special skills and capabilities required of ADF members and their unique employment conditions.

The work of the Tribunal is unique in being required to set the salaries and allowances by reference to the dynamic nature of ADF engagement and the necessity to respond to operational requirements and structural change. As a result, our decisions and determinations are relevant to the contemporary roles and the living and working environments of personnel serving in the ADF.

The Tribunal continues to be well assisted by the parties who appear before us namely, the ADF and Commonwealth. The ADF has been represented by the Defence Force Advocate, Mr Jeffrey Philips SC and the Commonwealth on various occasions this year by Mr James O'Reilly, Ms Stephanie Creagh, Mr Brandon King and Ms Julie Menaglio. The Tribunal appreciates their well-considered, relevant and useful submissions.

Inspections and visits hosted by the ADF this year have provided the Tribunal with an opportunity to observe members in their work, in the environment in which they undertake that work, as well as in exercises. The expertise and proficiency of the personnel we meet is consistently outstanding.

I wish to comment on my two fellow Tribunal members. I refer first to the late Brigadier Bill Rolfe AO (Ret'd). His term of appointment with the Tribunal ended on 29 September 2015. Sadly, he subsequently passed away on 4 March 2016. He was a man much admired and loved by a diverse range of both serving and retired defence personnel and by members of the numerous public service institutions on which he served with distinction.

I next refer to the Hon Arch Bevis whose term of appointment ended on 11 May 2016. It was a pleasure to work with him. He was the most well informed, engaged and enthusiastic of colleagues.

New appointments to the Tribunal have been made during the year of this report. I welcome the new members Rear Admiral James Goldrick AO CSC RAN Rtd who was appointed on 12 November 2015 and Mr Adrian Morris who was appointed on 12 May 2016. I also welcome my successor, Deputy President Ingrid Asbury whose term of appointment as President of the Tribunal commenced on 14 April 2016.

The Australian Public Service Commission provides our Secretariat staff and I thank them for their administrative and professional support and advice. The commitment of the Secretariat and, in particular, the assistance given by our Advisor, Ms Katrina Blazey, is acknowledged and much appreciated.

***The Hon Anne Harrison
President***

1. INTRODUCTION TO THE TRIBUNAL

The Defence Force Remuneration Tribunal was established in 1984 to determine the pay and allowances of members of the Australian Defence Force (ADF), considering the special nature of ADF service.

The Tribunal is an independent authority established under section 58G of the *Defence Act 1903* (the Act). The functions of the Tribunal, as set out in section 58H(2) of the Act, are to:

(a) inquire into and determine the salaries and relevant allowances to be paid to members; and

(b) inquire into and make determinations in respect of prescribed matters that have been referred to the Tribunal.

In addition, under section 58KD:

The Tribunal may, in making a determination, give effect to any agreement reached between the Minister, acting on behalf of the Commonwealth, and the Chief of the Defence Force, acting on behalf of the members of the Australian Defence Force, in relation to a matter to which the determination relates.

2. MEMBERSHIP OF THE TRIBUNAL

The Tribunal consists of three part-time members who are appointed by the Governor-General. In accordance with the relevant legislation, the President is a presidential member of the Fair Work Commission and members must include a person who is experienced in industrial relations matters and a person who has previously been a permanent member of the ADF.

During 2015/16 the appointments of the President and both Members expired. Ms Ingrid Asbury, Mr Adrian Morris and Rear Admiral James Goldrick AO CSC RANR were appointed to the Tribunal in 2015/2016.

Details on the current members of the Tribunal are:

President: Ingrid Asbury

Ms Ingrid Asbury was appointed as the President of the Tribunal for a five year period on 14 April 2016.

The President is also a Deputy President of the Fair Work Commission and is Chairperson of the Northern Territory Police Arbitral Tribunal. The President is a Member of the Annual Wage Review Expert Panel of the Fair Work Commission. She is admitted as a Legal Practitioner of the Supreme Court of Queensland and holds the degrees of Bachelor of Arts and Bachelor of Laws.

Prior to her appointments to the Tribunal and the Fair Work Commission, President Asbury was a commissioner of the Queensland Industrial Relations Commission and Fair Work Australia; National Industry Group Manager, Senior Industrial Officer and Industrial Officer of the Australian Industry Group; Metal Trades Industry Association and Australian Sugar Producer's Association.

Member: Mr Adrian Morris

Mr Adrian Morris was appointed as a Member of the Tribunal for a five year period commencing 12 May 2016.

Mr Morris is a Senior Consultant in the industrial relations and employment group of the law firm Ashurst. He was a partner in that firm (previously known as Blake Dawson) from 1979 to April 2016.

Mr Morris has advised on strategic planning, change management, industrial relations and employment issues across a wide spectrum of industries including mining, oil, maritime, stevedoring, transport, manufacturing and construction.

Mr Morris was National Practice Leader of the firm's industrial relations and employment practice from 1996 to 2003. From 2003 to 2006, he was an Executive Partner and a member of the firm's executive team with responsibilities including the industrial relations, employment, litigation and dispute resolution practice areas. He has also served as a NSW Legal Aid Commissioner; he is a graduate of Sydney University with Bachelor of Arts and Bachelor of Laws degrees

Member: Rear Admiral James Goldrick AO CSC RANR

Rear Admiral James Goldrick AO, CSC RAN (Retired) was appointed to the Tribunal for a five year period on 12 November 2015.

Rear Admiral Goldrick commanded HMA Ships *Cessnock* and *Sydney* (twice), the multinational maritime interception force in the Persian Gulf, the Australian Defence Force Academy (twice), Border Protection Command and the Australian Defence College. He is an Adjunct Professor at the University of New South Wales in Canberra (Australian Defence Force Academy - ADFA) and in Strategic Defence Studies Centre at the Australian National University. He was a visiting fellow at All Souls College, Oxford University in 2015. He is a member of the Defence Honours and Awards Appeals Tribunal and a member of the Expert Panel which supported the development of the latest Defence White Paper. He was awarded a Doctorate of Letters (honoris causa) by the University of NSW in 2006.

3. THE PERFORMANCE OF TRIBUNAL FUNCTIONS

The Act provides that the Tribunal may regulate the conduct of its proceedings and is not bound to act in a formal manner. The Tribunal may inform itself on any matter in such a manner as it thinks fit and is not bound by the rules of evidence.

4. THE OPERATIONS OF THE TRIBUNAL

In order to have the Tribunal consider matters, the ADF makes applications to have a specific matter heard. The ADF and Commonwealth present written submissions to the Tribunal and make recommendations on whether the matter should be heard formally, considered on papers or informed by conference. Some Tribunal decisions are informed by inspections.

On completion of hearings or conferences, the Tribunal adjourns to consider the evidence and the draft determination put to them by the parties. This results in a formal written

decision providing reasons for the Tribunal's conclusions. Both the decision and the determination are published on the Tribunal's website.

Determinations are subsequently tabled in Parliament by the Minister Assisting the Prime Minister for the Public Service.

5. PARTIES AND THEIR ADVOCATES

The major parties appearing before the Tribunal are the ADF, represented by the Defence Force Advocate, and the Commonwealth. These parties are entitled to be present and to make submissions during any proceedings.

The office of Defence Force Advocate is held by Mr Jeffrey Philips SC. The Commonwealth is represented by the Australian Public Service Commission (APSC). Over the period of this report the advocate role for the Commonwealth was performed by Mr James O'Reilly, Ms Stephanie Creagh, Mr Brandon King and Ms Julie Menaglio. Ms Menaglio was assigned to the position on an ongoing basis from 18 April 2016.

6. INTERVENERS

Under section 58K (10) of the Act, where the Tribunal thinks that a person or body should be heard in relation to a matter, the Tribunal may permit them to make a submission or to seek leave to appear before the Tribunal. No such applications or appearances were made during the period.

7. REVIEWS

The Tribunal has a statutory obligation under section 58H(6) of the Act to inquire into and make a further determination in respect of matters it has previously determined:

(a) within 2 years of the first-mentioned determination taking effect; or

(b) if the Minister, by notice in writing given to the President, requests the Tribunal to make a further determination in respect of those salaries and allowances within a shorter period of the first-mentioned determination taking effect – within that shorter period.

8. HEARINGS

Where the Tribunal determines that a formal hearing is required, it is usually held in Canberra and, unless security restrictions prevent it, conducted in public.

9. MATTERS CONSIDERED IN 2015–16

The complexity of matters means that they are often considered over a period of months and can involve a combination of hearings, inspections and conferences.

A list of all matters considered during the year and resultant determinations are in the appendix to this report. The appendix also lists matters that were still in progress at the end of the year.

The matters considered in 2015-16 are summarised in the following pages.

Matter 3 of 2015 – Review of Salaries¹

In this matter, the Secretariat and parties identified all salaries' determinations that had been issued by the Tribunal in the two years prior to this review. Each determination was then divided into one of three groupings for review:

- a. those that required no further action as they repealed or established a salary or category;
- b. those which provided a 'report back' on the progress or function of the category; and
- c. those which the parties identified required significant review.

Following the allocation of all determinations into one of the above groups the ADF tendered written submissions addressing each relevant salary structure and also made oral submission in respect to the following:

- Graded Officer Pay Structure and Graded Other Ranks Pay Structure
- Service Warrant Officers
- Stores Naval Submariners
- Maritime Warfare Officers and Maritime Combat Officers
- Combat Paramedic
- Air Force Security and Air Force Police
- Air Intelligence Analyst
- Senior Officer Specialist Medical Officer Structure
- Senior Officer Specialist Legal Officer Structure
- Salary for Chief Capability Development Group and Chief Joint Operations
- Dental Officer Specialist Officer Structure
- Navy Imagery Specialist
- Medical Procedural Specialist
- Army Medical employment categories
- Navy Training Systems Officer
- Army Operator Radar, and
- Air Force Flight Test Engineers.

The ADF sought advice from each of the Services in order to provide a synopsis of the status of each identified salary construct, the Service position on the short term future of the structure or category, and any key points requiring consideration.

The Tribunal considered the submissions and on the evidence provided, agreed that no further determination amending or varying any of the salary construct was necessary. All existing determinations remained in force. A statement to this effect was issued on 25 February 2016.

¹ Historically the approach taken by the Tribunal to its obligation under s.58H(6) of the Defence Act 1903 has been referred to by it, and the parties as a 'review'. In this matter, as in Matter 4 of 2015, the Tribunal noted that that section does not contain that term and instead refers to an obligation to 'inquire into' determinations. Nonetheless the term 'review' has been adopted noting that the task conducted is that set out in s.58H(6).

Matter 4 of 2015 – Review of Allowances

Reviews into determinations of allowances (and salaries) have been conducted either annually or bi-annually by the Tribunal since 1985. In Matter 3 of 2012 - *Salary Related Allowance Review (SRAR)* the Tribunal conducted a major review of the s.58H allowance structure. This resulted in a full review of every allowance determined by the Tribunal and the implementation of a tiered system that placed allowances into the Salary Related Allowance Structure (SRAS). This comprehensive review negated the need for regular annual reviews of allowances during its progress.

At the beginning of 2015 the Tribunal gave direction that, considering the implementation of SRAS, the review process would be re-instituted in accordance with s.58H(6) of the Act.

In this matter, as in Matter 3 of 2015 –*Review of Salaries* the Secretariat and parties identified all allowances determined since the inception of SRAR. Particular attention was given to those made two years prior to this review, with each determination being placed into one of three groupings as per Matter 3 of 2015.

Following the allocation of determinations to one of the groupings, the ADF tendered written submissions and made oral submission at the hearing into the following allowances:

- Service Allowance
- Trainee Allowance
- Diving Allowance
- Clearance Diving Allowance
- Submarine Escape Disability Allowance
- Officer Aviation Remuneration Scheme
- Separation Allowance
- Flying Disability Allowance
- Arduous Conditions Allowance
- Adventurous Training Allowance, and
- Language Proficiency Allowance

The ADF detailed the current utility of each allowance, whether changes were warranted and if the allowance was meeting the needs of the Service.

Having inquired into each of the allowances, and taking into account the written and oral submissions, the Tribunal decided that there was no need to make further determinations. The Tribunal made a statement to that effect. The existing determinations in respect of each of the allowances remain in operation.

Matter 12 of 2015 – Royal Australian Armoured Corps – Armoured Cavalry

This matter dealt with an application made by the ADF to merge three current Royal Australian Armoured Corps (RAAC) crewman categories into a single Armoured Cavalry employment category and to address changes in respect to the skill grade for members on completion of initial training.

An inspection in regard to this matter was conducted at the Combined Arms Training Centre, Puckapunyal, on 17 and 18 November 2015.

The Tribunal considered that the rationalisation of three categories into one would remove administrative barriers and increase flexibility for Commanders. Additionally, this allowed the RAAC to meet the construct required under *Plan Beersheba*² by transitioning from single platform, single role categories to a single consolidated category capable of operating all vehicles within the Armoured Cavalry Regiment.

The Tribunal accepted that there have been significant changes to the training continuum and associated initial employment graduate capability and that units now consistently receive a soldier who is fully employable and deployable on conclusion of training. A skill grade increase to pay grade 3 was determined as a result.

The Tribunal issued their decision on 24 February 2016 with Determination 4 of 2016 giving effect to that decision.

Matter 14 of 2015 – Submariner: deliberately differentiated package

In this matter, the ADF proposed a capability assurance payment as one of seven key components of a deliberately differentiated package aimed at the Submarine Arm. This package is designed to provide an enduring and strategically designed remuneration package for submariners.

Of the seven components only the capability assurance payment sits within the Tribunal's jurisdiction. The other components are related to career management, submarine support and leave measures. The capability assurance payment is designed to be:

- a. paid to qualified submariners who meet personnel proficiency levels 1, 2 or 3³;
- b. paid as a lump sum completion payment at the start of each calendar year based on the previous year of service (pro-rated from 01 January 2015);
- c. comprised of tiered rates of payment based on accumulated service posted to a submarine after achieving qualification.

The Tribunal noted that the submarine workforce has experienced significant attraction and retention issues over a substantial period. It was accepted that the capability assurance payment, as a financial measure, is just one component of the package and that all seven components are designed to work together to provide for growth and retention of sufficient experienced personnel to allow workforce expansion.

The Tribunal issued a decision in respect to this matter on 29 January 2016 and Determinations 1 and 2 of 2016 gave effect to that decision.

² *Plan Beersheba* is a phased program adjusting Army's force structure so that optimal capability is generated to meet strategic guidance and contemporary threats.

³ P1 – a qualified submariner who is posted to a submarine position, is medically fit for sea and available for sea postings immediately; P2 – a qualified submariner who is posted to a submarine position but is medically unfit or unavailable for a period of less than 12 months to go to sea in a submarine; P3 – a qualified submariner who is posted to a submarine position but is medically unfit or unavailable for a period of greater than 12 months to go to sea in a submarine. This includes personnel who have been in a non-submarine position for greater than 12 months but less than 36 months.

Administrative matters

The following matters were administrative in nature or were concerned with name or structural changes. The Tribunal considered them on papers or in conference with the parties.

Matter 9 of 2015 – Review of Schedule B.13 – Trainee rates of pay

Matter 11 of 2015 – Navy – Communication and Information Systems

Matter 13 of 2015 – Post Graduate Legal Officer Trainee – *considered in conjunction with Matter 3 of 2015.*

Matter 15 of 2015 – Amendment to Schedule B.16

Matter 16 of 2015 – Amendment to Schedule B.11- Army Operator Radar.

The following matters were ‘in progress’ at the time of the last annual report and have since been considered and finalised. The decisions, statements and determinations are available on the Tribunal’s website:

Matter 14 of 2013 – Senior Officer Specialist Dental Officer Structure

Matter 16 of 2013 – Review of Special Forces, Paratrooper and Specialist Operations Allowance.

Matter 7 of 2015 – Special Forces Officer Category Review -*considered in conjunction with Matter 16 of 2013.*

Matter 8 of 2015 – SAS Trooper – *considered in conjunction with Matter 16 of 2013.*

Matter 7 of 2014 – Review of Field Allowance

Matter 2 of 2015 – 1st Recruit Training Battalion Recruit Instructor

10. INSPECTIONS

Inspections may be initiated by the Tribunal or the parties when it is considered that a practical review of work performed by ADF members will be critical to the Tribunal’s understanding of a particular matter. Inspections are most beneficial in assisting the Tribunal to reach decisions because they allow Tribunal members to witness firsthand, albeit in a limited way, the working and living conditions of ADF members across a range of employment categories and localities. The ADF and Commonwealth parties, as well as the Secretariat Advisor, normally accompany the Tribunal on inspections.

One inspection was conducted during the year:

Inspection – Combined Arms Training Centre – Puckapunyal 17 -18 November 2015.

On 17 and 18 November 2015 the Tribunal conducted an inspection in support of Matter 12 of 2015 – *Royal Australian Armoured Corps (RAAC)*. The exhibits and discussions demonstrated how the restructured categories will provide a more flexible and responsive

structure to meet the emerging requirements of *Plan Beersheba*. In particular the Tribunal reviewed the improved capability of initial employment training graduates and alignment of the re-introduced Armoured Personnel Carrier crewman category.

The inspection activities demonstrated the evolution of the RAAC and the requirement for merging three current categories, recognition of new specialisations, and alignment of the pay rates within the new category structure. The first day concentrated on demonstrating the new capability provided, the drivers for change and tasks undertaken by RAAC personnel. The evening of the first day, and the second day, focussed on demonstrating the complexities of operating armoured vehicles in a live fire/combat environment.



Above: *The inspection party (L to R: RADM James Goldrick (Member); Mr Jeffrey Phillips SC (Defence Force Advocate); The Hon. Arch Bevis (Member); The Hon. Anne Harrison (President); and Ms Stephanie Creagh (Commonwealth Advocate)) being briefed on the employment of the Armoured Personnel Carrier Section Commander.*



Above: *The Tribunal and inspection party (L to R: The Hon Anne Harrison (President); Mr Jeffrey Philips (Defence Force Advocate; RADM James Goldrick (Member); The Hon Arch Bevis (Member); and Ms Stephanie Creagh (Commonwealth Advocate)) receive instructions at the mud model which set the scene for the activities subsequently viewed in the field.*

11. VISITS

The Tribunal undertakes visits to ADF units, establishments and vessels without specific reference to particular matters. These visits include open forums with ADF members of all ranks. The meetings are informal and often include a short explanation of the role and function of the Tribunal, followed by a discussion period during which personnel have the opportunity to raise issues or ask questions.

Two visits were conducted during the year:

Visit – Army Recruit Training Centre, Kapooka 23 June 2016

On the afternoon of 23 June 2016 the Tribunal visited the Army Recruit Training Centre (ARTC) at Kapooka to provide an introduction for new Tribunal members to an ADF training environment. At ARTC the Tribunal met the staff of 1st Recruit Training Battalion (1RTB) and a number of recruits at differing stages of their 12 week initial training course. The Tribunal had the opportunity to engage with recruits at different stages in their training during the visit and observed training activities including first aid training, live fire weapons training and field exercises. The Tribunal viewed drill training for the ‘March Out’ graduation parade to be held the next day.



Above: *The Tribunal President, Ingrid Asbury, meets with recruits taking a break during live fire range training at Kapooka.*

This visit also allowed the Tribunal to meet with the Recruit Instructors at 1RTB who had been the subject of allowances determined in Matter 2 of 2015 – *1st Recruit Training Battalion – Recruit Instructors*. The visit enabled the Tribunal to understand the impact of these allowances in the operating environment following their introduction in March 2016.

Visit - RAAF Base Wagga – School of Technical Training 24 June 2016

The Tribunal visited the School of Technical Training (STT) at RAAF Base Wagga as part of their induction to ADF training facilities.

The Tribunal were briefed on the roles and responsibilities of the STT by the Commanding Officer and gained an understanding of both the training conducted at the STT and the military training requirements in a tri-Service environment.

The Tribunal met with instructional staff from the Air Force and contractors as well as with trainees undertaking specialised training as aircraft technicians, avionics technicians, aircraft life support fitters and aircraft structural fitters. These discussions allowed the Tribunal to appreciate the elements and the intensity of training as well as the skills gained on graduation.



Above: The Tribunal President, Ingrid Asbury, and Member, Mr Adrian Morris, review workshop training facilities and assignments set for trainees. They are accompanied by STT instructional staff as well as employees from Army and Air Force Industrial Relations and Remuneration Directorates.

12. TRIBUNAL ADMINISTRATION

Secretariat support

The Tribunal is supported by a secretariat staffed by the Australian Public Service Commission (APSC) which operates from premises in Aviation House, Woden, ACT. The Tribunal sits at premises at 12 Moore Street, Canberra, ACT when conferences and hearings are held.

Financial matters

The Tribunal's financial requirements are met through the APSC. There are no separate accounts applicable to the Tribunal.

Website

The Tribunal's website (www.dfrt.gov.au) is hosted by the APSC and includes information about the role and operation of the Tribunal; current membership; statements, decisions, and determinations; and matters scheduled for hearing.

Freedom of information

The Tribunal is considered to be a separate agency for the purposes of freedom of information. Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme. The Tribunal publishes this information on the website.

Appendix: Matters considered, 1 July 2015 – 30 June 2016

Matter number	Determination	Title
14 of 2013	Not required	Senior Officer Dental Officer Structure*
16 of 2013	10, 11, 12 and 13 of 2015	Review of Special Forces, Paratrooper and Specialist Operations Allowance*
7 of 2014	16 of 2015	Field Allowance*
2 of 2015	3 of 2015	1 st Recruit Training Battalion – Recruit Instructor*
3 of 2015	Not required	Review of Salaries
4 of 2015	3 of 2016	Review of Allowances
7 of 2015	10 of 2015	Special Forces Officer Category Review*
8 of 2015	11 of 2015	SAS Trooper*
9 of 2015	8 of 2015	Review of Schedule B.13
11 of 2015	9 of 2015	Navy Communication and Information Systems
12 of 2015	4 of 2016	Royal Australian Armoured Corps – Armoured Cavalry
13 of 2015	Not required	Postgraduate Legal Officer Trainee
14 of 2015	1 and 2 of 2016	Submarine: capability assurance payment
15 of 2015	17 of 2015	Amendment to Schedule B.16
16 of 2015	18 of 2015	Amendment to Schedule B.11
Not required	5 of 2016	Amendment of references to determination made under section 58B of the <i>Defence Act 1903</i> - Amendment

** These matters were in progress at the time of the last annual report and have since been considered and finalised. The decisions and determinations are available on the Tribunal's website.*