



## **Defence Force Remuneration Tribunal**

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### **STATEMENT**

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

#### **ANNUAL REVIEW OF DETERMINATIONS: SALARIES AND ALLOWANCES - 2022** (Matter 1 of 2022)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 27 FEBRUARY 2023

MAJGEN G. FOGARTY AO RETD, 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 all determinations made by the Tribunal during 2020 for its review.<sup>1</sup> An opening hearing in this matter was held on 25 February 2022 with the matter finalised during closing submissions on 8 February 2023.

## Background

[3] The task of this legislated review is consistently described by the parties and the Tribunal as an “*Annual Review*” although we note that s.58H(6) of the Act refers to the obligation to “*inquire into*” determinations. As with previous years, we continue to adopt that description.

[4] Each Annual Review process incorporates analysis of the effect of each determination by providing

- a. the determination and explanatory statement;
- b. the Tribunal decision, or any statement, published in the related matter;
- c. the transcript of the related hearing (if any);
- d. the related ADF submission;
- e. the Commonwealth submission; and
- f. witness statements in the matter (if any).

[5] We intentionally exclude any determinations made in respect to the ADF Workplace Remuneration Arrangement(s) (WRA) from the Annual Review, as we consider those determinations to be reviewed annually when each increment is determined.

[6] 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.

## Submissions

[7] In undertaking this Review, the ADF states that it gathered feedback from the following areas of Defence to “*get a complete picture of the success (or otherwise) of the implementation and effectiveness*” of the determination:

- a. the relevant leadership of the affected workforce;
- b. each of the Services’ industrial policy units;
- c. each of the Services’ career management agencies; and
- d. any other relevant business unit affected by the issue.<sup>2</sup>

[8] The Commonwealth acknowledged the determinations outlined by the ADF and, at the same time, submits it has “*adopted a grading system to indicate its evaluation*” of whether any of the key performance indicators (KPIs) proposed by the ADF in each related submission have been met, partially met, or not met. We acknowledge its intent to “*use this grading system when assessing KPIs for both the current and future ADF submissions*”.<sup>3</sup>

## Consideration

[9] In the conduct of this Review we gave consideration to 10 determinations made in 2020, detailed below:

Determination Number	Matter Number	Effect	Outcome
1 of 2020 <sup>4</sup>	7 of 2019	Established a pay placement at pay grade 8 for selected Air Force Command appointments	Took effect. No further action.
2 of 2020 <sup>5</sup>	4 of 2020	Provided Navy Retention Incentive Payment to eligible Chaplains.	Took effect. No further action.
3 of 2020 <sup>6</sup>	6 of 2020	Established the Maritime Spiritual Wellbeing Officer Category in Navy	A comprehensive report back was provided in February 2023 as sought our decision in the matter. <sup>7</sup>
4 of 2020 <sup>8</sup>	7 of 2020	Established a defined pay placement for Navy 'Shore Charge' appointments	Took effect. No further action
5 of 2020 <sup>9</sup>	5 of 2020	Restructure and changes to the Royal Australian Corps of Signals.	A comprehensive report back was provided in February 2023 as sought our decision in the matter. <sup>10</sup>
6 of 2020 <sup>11</sup>	9 of 2020	Made technical amendment To Determination 2 of 2017 – <i>Salaries</i>	Took effect. No further action.
7 of 2020 <sup>12</sup>	11 of 2020	Re-established the Army Surveyor employment category within the Corps of Australian Engineers.	Took effect. No further action.
8 of 2020 <sup>13</sup>	14 of 2020	Combined two categories into a single category of Distribution Operator	Report Back delayed to 2023 based on the date of effect.
9 of 2020 <sup>14</sup>	15 of 2020	Selected Air Force employment category name changes	Took effect. No further action.
10 of 2020 <sup>15</sup>	13 of 2020	Established the Navy Remote Pilot Warfare Officer stream.	A comprehensive report back was provided in February 2023 as sought our decision in the matter. <sup>16</sup>

## Conclusion

[10] We considered the analysis of each determination and agree that of the 10 determinations made in 2020, six require no further consideration and are considered complete. Of the remaining four, three have been, and one remains to be, reviewed in 2023 noting the proximity of the implementation date to this Annual review.

[11] We accept the evaluative approach taken by the ADF and the Commonwealth and agree these were completed to meet the legislative requirements of the Act, with the intention of recommending the need for any further determinations.

[12] Having inquired into each of the determinations made in 2020, we do not intend to issue any further determinations in regard to salaries and allowances determined in 2020.

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

MS I. ASBURY, PRESIDENT  
MR A. MORRIS, MEMBER  
MAJGEN G. FOGARTY AO RETD, MEMBER

*Appearances:*

*Mr J. Phillips SC for the ADF assisted by Mr P. Blady (February 2022)*

*Mr H. Miller for the Commonwealth assisted by Mr N Doukas (February 2022)*

*Mr J Phillips SC for the ADF assisted by Mr P Flintoft (February 2023)*

*Mr N. Doukas for the Commonwealth assisted by Mr C Johnson (February 2023)*

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<sup>1</sup> ADF Submission 2022 *Annual Review of Salary and Allowance Determinations – Matter 1 of 2022* (ADF1) undated.

<sup>2</sup> ADF1 page 6 paragraph 3.2.

<sup>3</sup> Commonwealth submission *2022 Annual Review of Salary and Allowance Determinations* (CWLTH1) dated February 2022 page 2 paragraphs 5 and 7.

<sup>4</sup> <https://www.dfrt.gov.au/matters/air-force-command-placement>

<sup>5</sup> <https://www.dfrt.gov.au/matters/navy-retention-incentive-payment-2020-report-backs>

<sup>6</sup> <https://www.dfrt.gov.au/matters/navy-maritime-spiritual-wellbeing-officer>

<sup>7</sup> Report Back – *Determination 3 of 2022 – Navy Maritime Spiritual Wellbeing Officer* dated 31 December 2022.

<sup>8</sup> <https://www.dfrt.gov.au/matters/navy-shore-charge-placement>

<sup>9</sup> <https://www.dfrt.gov.au/matters/royal-australian-corps-signals-modernisation>

<sup>10</sup> Report Back – *Royal Australian Corps of Signal Modernisation – Interim Report Back* undated.

<sup>11</sup> <https://www.dfrt.gov.au/matters/salaries-omnibus-technical-amendments>

<sup>12</sup> <https://www.dfrt.gov.au/matters/royal-australian-engineers-surveyor-employment-category>

<sup>13</sup> <https://www.dfrt.gov.au/matters/army-distribution-operator-employment-category>

<sup>14</sup> <https://www.dfrt.gov.au/matters/air-force-employment-category-name-changes>

<sup>15</sup> <https://www.dfrt.gov.au/matters/navy-remote-pilot-warfare-officer>

<sup>16</sup> Report Back – *Navy Remote Pilot Warfare Officers* dated 22 November 2022.