

DEFENCE FORCE REMUNERATION TRIBUNAL

DETERMINATION NO 1 OF 1989

CLEARANCE DIVING ALLOWANCE

PART I - PRELIMINARY

Pursuant to section 58H of the Defence Act 1903, the Defence Force Remuneration Tribunal, having inquired into the rates and conditions relating to Clearance Diving Allowance, hereby determines as follows:

Definition

1. In this Determination -

"qualified clearance diver" means a diver who has the qualifications required to be held by a clearance diver in the Navy.

Interpretation

2. In this Determination a reference to a determination shall, where applicable, be read as a reference to a determination made under section 58B of the Defence Act 1903, as varied from time to time by determinations made by the Defence Force Remuneration Tribunal, or to a determination made by the Defence Force Remuneration Tribunal under section 58H of that Act.

PART II - MEMBERS RENDERING CONTINUOUS FULLTIME SERVICE

Clearance Diving Allowance (Qualification and Skill)

3. Subject to clauses 5 and 6 an allowance called Clearance Diving Allowance (Qualification and Skill) is payable to a member who is a qualified clearance diver and who:

- (a) is posted to a clearance diving position which requires a member to be a qualified clearance diver and the duties of which includes regular diving; or
- (b) is available for posting to a clearance diving position and is posted to a position, other than a position referred to in paragraph (a) hereof, which requires a member to be a qualified clearance diver.

4. The rate at which Clearance Diving Allowance (Qualification and Skill) is payable to a member referred to in paragraph 3(a) or 3(b) is \$1000 per year.

Continuation of Allowance upon Posting to Other Positions

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5. Where a member to whom Clearance Diving Allowance (Qualification and Skill) is payable under paragraphs 3(a) or 3(b) -
- (a) is subsequently posted, as a service requirement to a position or positions which do not require clearance diver qualifications;
 - (b) remains a qualified clearance diver for the duration of that posting or those postings; and
 - (c) is liable to return at the end of that posting or those postings to a position in respect of which Clearance Diving Allowance (Qualification and Skill) is payable under paragraphs 3(a) or 3(b),

Clearance Diving Allowance (Qualification and Skill) shall continue to be payable to him for the total period of that posting or those postings, or for a period of 3 years, whichever is the lesser.

6. Where Clearance Diving Allowance (Qualification and Skill) continues to be payable to a member under clause 5 for a period and at the conclusion of that period the allowance is not payable to him under paragraph 3(a) or 3(b) by reason of the fact that for reasons set out in 7(b) below he is prevented from returning to a position referred to in those paragraphs, Clearance Diving Allowance (Qualification and Skill) shall, if the appropriate approving authority appointed by the Minister so approves in writing, continue to be payable to that member for the period specified in the approval.

7. In giving an approval under clause 6, the approving authority shall have regard to -

- (a) the date on which the member was liable to return to a position referred to in paragraph 3(a) or 3(b);
- (b) the degree to which the member was prevented from being posted to that position by the exigencies of the service, an illness or injury of the member or the family obligations of the member; and
- (c) the period during which Clearance Diving Allowance (Qualification and Skill) would have been payable under clause 3 to the member if he had returned to that position

Clearance Diving Allowance (Disability)

8. Where a member -

- (a) is entitled to Clearance Diving Allowance (Qualification and Skill) in accordance with the provisions of paragraph 3(a); or
- (b) is undergoing diving training to become a qualified clearance diver,

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the member shall be paid -

- (c) in the case of a member referred to in paragraph (a) hereof, an additional allowance called Clearance Diving Allowance (Disability); or
- (d) in the case of a member referred to in paragraph (b) hereof, an allowance called Clearance Diving Allowance (Disability),

at the rate of \$2250 per annum.

Allowance to be Payable Fortnightly

9. Clearance Diving Allowance payable to a member under this Determination accrues due from day to day and is payable fortnightly.

Calculation of Fortnightly and Daily Amounts

10. Subject to clause 12, the amount of Clearance Diving Allowance payable to a member in respect of a fortnight, shall be calculated in accordance with the formula -

$$\frac{14 \times A}{365}$$

where A is the relevant annual rate of Clearance Diving Allowance.

11. Subject to clause 12, the amount of Clearance Diving Allowance payable to a member in respect of a period of less than a fortnight, shall be calculated in accordance with the formula -

$$\frac{F \times X}{14}$$

where -

F is the amount of Clearance Diving Allowance payable to a member in respect of a fortnight ascertained in accordance with the formula specified in clause 10; and

X is the number of days in the period.

12. Where an amount calculated in accordance with clause 10 or 11 includes a fraction of a cent, that fraction of a cent shall -

- (a) if the fraction is one-half of a cent or greater - be deemed to be a whole cent; or
- (b) if the fraction is less than one-half of a cent - be disregarded.

PART III - MEMBERS RENDERING SERVICE IN THE RESERVE FORCES

13. An allowance called Clearance Diving Allowance (Reserve Forces) is payable to a member of the Reserve Forces who is a qualified clearance diver and who is assigned to and engaged upon diving duties from time to time.

14. The rate of Clearance Diving Allowance (Reserve Forces) payable to a member referred to in clause 13 is \$8.90 per day for each day during which the member is engaged on diving duties.

PART IV - CONDITIONS OF PAYMENT

945.

Allowance Not Payable

15. Clearance Diving Allowance (Disability) is not payable during a period in respect of which a member is entitled to an allowance under Determination No 6 of 1987, Submarine Escape Training Facility Allowance.

16. Where, but for this clause, allowances under this Determination and Determination 0118, Special Action Forces Allowance, would be payable, an allowance under this Determination is payable to a member only where the rate of the allowance exceeds the rate of the allowance payable under Determination 0118, Special Action Forces Allowance.

Application

17. This Determination shall take effect on and from 2 February 1989.

Dated this *fourteenth* day of February 1989

Mr Justice L.H. Williams
Chairman

[Signature]
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Rear Admiral N.E. McDonald AO RAN (Rtd) *N.E. McDonald*

Mr J.T.C. Brassil AM

James T.C. Brassil
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