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DEFENCE FORCE REMUNERATION TRIBUNAL

Defence Act 1903

ARDUOUS CONDITIONS ALLOWANCE

Canberra
25 May 1990

REASONS FOR DECISION AND
DETERMINATION NO 3 OF 1990

THE HON MR JUSTICE A.J. BOULTON
REAR ADMIRAL N.E. McDONALD AO RAN (RTD)
MR J.T.C. BRASSIL AM

DEFENCE FORCE REMUNERATION TRIBUNAL

DETERMINATION NO 3 OF 1990

ARDUOUS CONDITIONS ALLOWANCE

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

Citation

1. This Determination may be cited as Determination No 3 of 1990, Arduous Conditions Allowance.

Purpose

2. Arduous Conditions Allowance is an on-occurrence allowance which compensates members for particular disabilities incurred in the performance of their duty.

Definitions

3. In this Determination unless the contrary intention appears -

"confined spaces" means working conditions which -

- (a) are not normally encountered by the member in his or her employment;
- (b) are unusually wet, dirty, cold or otherwise offensive;
- (c) require the member to work in a stooped or cramped position; and
- (d) require the member to work without proper ventilation;

"hazardous chemicals" means those substances that have been deemed by the Surgeon General of the Australian Defence Force to be hazardous chemicals for this purpose and the handling of which requires the use of personal protective equipment;

"hot conditions" means those conditions where temperature exceeds 46.0 degrees Celsius due to artificial means;

Arduous Conditions Allowance

4. Subject to Clause 5, an allowance called Arduous Conditions Allowance is payable to a member where on a day, that member is required to perform duty for a period of three or more hours, or for periods amounting in the aggregate to three or more hours, and that duty involves:

- (a) hot conditions;
- (b) confined spaces; and/or
- (c) hazardous chemicals.

5. Arduous Conditions Allowance is payable in accordance with paragraph 4(c) in respect of hazardous chemicals when the Assistant Chief of Staff - Personnel of the relevant service has certified that the hazardous chemicals and the conditions under which they are used, expose the member to working conditions which are not normally encountered by the member whilst carrying out duties in his or her employment category.

Rates of Allowance

6. Subject to Clauses 7 and 8 Arduous Conditions Allowance is payable -

- (a) in respect of a member to whom paragraph 4(a) applies - at the rate of \$1.80 per day;
- (b) in respect of a member to whom paragraph 4(b) applies - at the rate of \$2.74 per day; and
- (c) in respect of a member to whom paragraph 4(c) applies - at the rate of \$5.77 per day.

7. Subject to Clause 8, where on a day a member fulfils two or more of the conditions required by paragraphs 4(a), (b) or (c) and Clause 5, then that member shall be entitled to the cumulative payment of the elements of Arduous Conditions Allowance appropriate to the circumstances.

8. Where on a day a member fulfils the conditions required by paragraphs 4 (a), (b) or (c) and Clause 5 on two or more occasions, then that member may only be paid the appropriate element of Arduous Conditions Allowance once in respect of that day.

Allowance Not Payable

9. Arduous Conditions Allowance is not payable during a period to a member who is entitled in respect of that period to an allowance under Determination 0118, Special Action Forces Allowance, made under section 58B of the Defence Act 1903, as varied from time to time by determinations made by the Defence Force Remuneration Tribunal under section 58H of that Act.

Transitional

10. Where, in respect of a period, during the period from and including 10 May 1990 to and including 24 May 1990, a member had an entitlement under Determination 0213, RAAF Deseal-Reseal Allowance and, in respect of that same period, accrues a lesser entitlement under this Determination, the member shall be entitled to an amount equal to the amount payable under Determination 0213, RAAF Deseal-Reseal Allowance.

Application

11. This Determination shall take effect on and from 10 May 1990.

Dated this twenty fifth day of May one thousand nine hundred and ninety.

Mr Justice A.J. Boulton
Chairman

A.J. Boulton
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Rear Admiral N.E. McDonald AO RAN (Rtd)
Member

N.E. McDonald
.....

Mr J.T.C. Brassil AM
Member

J.T.C. Brassil
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