

DEFENCE FORCE REMUNERATION TRIBUNAL

DETERMINATION NO. 19 OF 2002

SPECIALIST OPERATIONS ALLOWANCE

The Defence Force Remuneration Tribunal, having inquired into specialist operations allowance, makes the following determination under section 58H of the *Defence Act 1903*:

PART 1 - Preliminary

Commencement

1. This Determination commences on the date of signature.

Definitions

2. In this Determination:

“2nd TAG” means the 2nd Tactical Assault Group (counter-terrorist company) of 4RAR;

“4RAR” means the 4th Battalion, Royal Australian Regiment;

“CBR substance” means a dangerous chemical, biological or radioactive substance;

“CDF” means the Chief of the Defence Force, and includes a reference to another person that the CDF authorises for the purpose of the provision in which the reference occurs;

“clearance diving position” means a position that is capable of being occupied only by a qualified clearance diver;

“decompression illness” means the illness caused by gases, which have been dissolved under pressure in the bloodstream, returning to their natural state;

“deep dive” means a dive to a depth greater than 54 metres, whether in seawater or in a recompression chamber;

“designated Special Forces position” means:

- (a) a position in the SASR designated by the CDF as a Special Forces position;
or
- (b) another position outside the SASR designated by the CDF as a Special Forces position;

“designated specialist operations position” means:

- (a) a position in 4RAR designated by the CDF as a Special Forces position or another position outside 4RAR designated by the CDF as a Special Forces position;
- (b) a clearance diving position; or
- (c) a position in the Incident Response Regiment;

“live agent training” means training with an active CBR substance;

“member of 126 Signals Squadron” means a member who:

- (a) is posted to 4RAR;
- (b) is not a qualified Special Forces member or a qualified commando; and
- (c) has successfully completed the Special Forces signals course;

“member on designated special duty” means a member who is posted or assigned for duty for a period on a special operation designated by the CDF, if the CDF is satisfied that the threat level and hazards of the operation are not comprehended in any other allowance, including special action forces allowance (disability), to which the member is or would be entitled for that period;

“qualified 2nd TAG member” means a member who:

- (a) has successfully completed the 2nd TAG counter-terrorist training and any additional Special Forces training designated by the CDF; and
- (b) is performing continuous full-time service and occupies a position in the 2nd TAG with the rank of:
 - (i) for an officer — Major or lower; or
 - (ii) for a member other than an officer — Warrant Officer Class 1 or lower;

“qualified clearance diver” means a member who holds the qualifications required to be held by a clearance diver in the Navy;

“qualified commando” means a member who is performing duty in a designated specialist operations position and who:

- (a) for an officer — holds the qualifications required to be held by a qualified commando in the Defence Force; or
- (b) for any other member — has successfully completed the training required to occupy the employment category of Commando Grade 2 in 4RAR, and any additional Special Forces training designated by the CDF;

“qualified Special Forces member” means a member who:

- (a) has successfully completed the SASR Selection Course and any additional Special Forces training designated by the CDF; and
- (b) has 1 year’s service in an operational SASR Sabre Squadron or 2 years’ service in the SASR since the member completed the SASR Selection Course (whichever occurs first);

“recompression chamber” means a hyperbaric chamber constructed specifically for the purpose of replicating the pressure found at a given depth of water;

“support member” means a member who is on continuous short notice to move and is required to perform duty as on-line support for:

- (a) for Part 2 — the 2nd TAG;
- (b) for Part 3 — a clearance diving team, while not being a qualified clearance diver; and
- (c) for Part 4 — the Incident Response Regiment;

“therapeutic treatment” means treatment provided to prevent or alleviate the symptoms of decompression illness;

“trainee 2nd TAG member” means a qualified commando or qualified clearance diver who has begun the 2nd TAG counter-terrorist training and subsequently ceases the training as a result of either:

- (a) successfully completing the training; or
- (b) being reassigned to other duties on failing to complete the training;

“trainee clearance diver” means a member who:

- (a) is engaged in diving training to become a qualified clearance diver; and
- (b) has begun the Clearance Diver Basic Course;

“trainee commando” means a member who is undertaking training to become a qualified commando;

“unpredictable explosive” means a bomb or other explosive or incendiary device or CBR substance which is known to be or reasonably suspected of being in a condition, owing to:

- (a) deterioration or damage;
- (b) malfunction in its operation;
- (c) the manner in which or the purpose for which it was made; or

- (d) its state following its activation, dropping, firing, projection, preparation for action or other deployment,

in which the risk of its detonating or discharging without warning is higher than the risk of such detonation or discharge of an explosive, incendiary or CBR substance routinely dealt with in accordance with ordinary safety procedures.

Specialist operations allowance – general provisions

3.1 If more than one status applies to a member for a period under column 2 of the Schedule, the member's status is the one that produces the greatest entitlement to specialist operations allowance for the period.

3.2 In spite of any other provision of this Determination, a member is not entitled to specialist operations allowance (qualification and skill) if the member:

- (a) does not have a continuing liability for service in a designated specialist operations position; or
- (b) is classified as permanently medically unfit for service in a designated specialist operations position.

3.3 A member to whom this Determination applies is not entitled to any allowance under Determination No. 11 of 2002, Special Action Forces Allowance.

Allowance payable after completion of certain service

4.1 This clause applies to a member who ceases on a day to occupy a position for which the member is entitled to specialist operations allowance (qualification and skill) under:

- (a) item 2, 3 or 4 of Part 1 of the Schedule;
- (b) item 6 or 7 of Part 2 of the Schedule; or
- (c) item 14 or 15 of Part 3 of the Schedule.

4.2 The member is entitled, for the period of 3 years beginning on that day, to the higher of:

- (a) specialist operations allowance (qualification and skill) at the rate for the member's status on that day under the Schedule as in force from time to time; or
- (b) the rate (if any) of specialist operations allowance (qualification and skill) to which the member is or becomes entitled during the period.

4.3 A member is not entitled under this clause during the period if the member:

- (a) is entitled to special action forces allowance;
- (b) is not eligible to undertake further service in the designated specialist operations position for which the entitlement arises under this clause; or

- (c) is excluded from service which would qualify for payment of the allowance by reason of incapacity or otherwise.

4.4 If at the end of the period a member is unable to return to the designated specialist operations position for which the entitlement arises under this clause, because of:

- (a) the requirements of the Service;
- (b) an illness or injury to the member; or
- (c) the family obligations of the member,

the CDF may extend the period by a further period that is reasonable in the circumstances.

Specialist operations allowance – effect on entitlement to other allowances

5.1 The effect of entitlement to specialist operations allowance (disability) on entitlement to other disability allowances determined under section 58H of the *Defence Act 1903* is as provided in column 5 of the Schedule.

5.2 For subclause 5.1, the disability allowances are:

- (a) adventurous training instructor allowance;
- (b) arduous conditions allowance;
- (c) diving allowance;
- (d) experimental diving allowance;
- (e) field allowance;
- (f) flight duties allowance;
- (g) flying allowance (disability);
- (h) hard lying allowance;
- (i) paratrooper allowance;
- (j) seagoing allowance;
- (k) special action forces allowance (disability);
- (l) submarine escape allowance;
- (m) submarine service allowance (disability).

PART 2 – Members serving in 2nd TAG or as qualified commandos or in related positions

Specialist operations allowance – member in 4RAR

6.1 This clause applies to a member who performs continuous full-time service in a designated specialist operations position in 4RAR.

6.2 The member is entitled to specialist operations allowance at the sum of the rates mentioned in columns 3 and 4 of Part 1 of the Schedule for the member's status.

6.3 A trainee 2nd TAG member is not entitled to the rate of specialist operations allowance (qualification and skill) mentioned in item 1, column 3 of Part 1 of the Schedule until the member has successfully completed close-quarter battle training.

6.4 If a qualified 2nd TAG member or a qualified commando is deployed, detached or posted from 4RAR to another designated specialist operations position for a period on exercise, operations or other operational activities, either within Australia or overseas, specialist operations allowance continues to be payable for the period as if the member had not been deployed, detached or posted.

6.5 If a trainee 2nd TAG member or a trainee commando is deployed, detached or posted from 4RAR to another designated specialist operations position for a period on operations or other operational activities, either within Australia or overseas, the member is entitled to specialist operations allowance for the period as if the member were a qualified 2nd TAG member or a qualified commando (as the case requires).

Qualified member in designated specialist operations position not in 4RAR

7. A qualified commando who performs continuous full-time service in a designated specialist operations position not in 4RAR is entitled to:

- (a) specialist operations allowance (qualification and skill) at the rate mentioned in item 3, column 3 of Part 1 of the Schedule; and
- (b) if the member is assigned for duty for a period with 4RAR for operations, exercises or training that are designated by the CDF — specialist operations allowance (disability) for the period at the rate mentioned in item 3, column 4 of Part 1 of the Schedule for each day or part of a day on which the member performs such duty.

Specialist operations allowance – support member

8. A support member (including a member rendering Reserve service) is entitled to:

- (a) specialist operations allowance (qualification and skill) at the rate (if any) that would otherwise apply to the member under column 3 of the Schedule; and
- (b) specialist operations allowance (disability):
 - (i) for a member rendering continuous full-time service — at the rate mentioned in item 5, column 4 of Part 1 of the Schedule; and

- (ii) for a member rendering Reserve service — at the rate mentioned in item 5, column 4 of Part 1 of the Schedule for each day or part of a day on which the member renders such service.

Specialist operations allowance – member of the Reserve Forces

9.1 This clause applies to a qualified commando performing reserve service in a designated specialist operations position in the Reserve Forces.

9.2 The member is entitled to specialist operations allowance (qualification and skill) at the rate mentioned in item 3, column 3 of Part 1 of the Schedule for each day or part of a day on which the member performs such duty.

9.3 If the member:

- (a) while a member of the Permanent Forces, occupied a designated Special Forces position or a designated specialist operations position; and
- (b) is engaged in training of other Special Forces personnel (other than in a classroom environment),

the member is entitled to a disability allowance for each day or part of a day of such duty at the daily rate worked out from the relevant item in column 2 of the following table:

Type of duty	Disability allowance for each day or part of a day
Training of members of the 2nd TAG	Specialist operations allowance (disability) worked out from item 2, column 4 of Part 1 of the Schedule
Training of 4RAR commandos	Specialist operations allowance (disability) worked out from item 3, column 4 of Part 1 of the Schedule

PART 3 – Clearance divers

Specialist operations allowance – clearance divers

10.1 This clause applies to a clearance diver, including:

- (a) a member of the Reserve Forces, for each day or part of a day on which the member performs clearance diving duty; and
- (b) a trainee clearance diver.

10.2 The member is entitled to specialist operations allowance at the sum of the rates mentioned in columns 3 and 4 of Part 2 of the Schedule for the member's status.

10.3 For Part 2 of the Schedule, a reference to a posting to a position, unit or function includes a temporary attachment to, or posting additional to, the position, unit or function.

10.4 However, a member who is posted additional to a position, unit or function is not entitled to specialist operations allowance (disability) under Part 2 of the Schedule, except at the daily rate for each day or part of a day on which the member is engaged in operations or

other operational activities, exercises, or training of other clearance divers (other than in a classroom environment).

Higher rate of specialist operations allowance (disability) in certain circumstances

11.1 This clause applies to a qualified clearance diver who:

- (a) is entitled to specialist operations allowance (disability) at a rate mentioned in column 4 of item 9, 10, 11 or 12 of Part 2 of the Schedule; and
- (b) for a period, performs duty to which a rate mentioned in column 4 of another of those items applies.

11.2 The member is entitled to the higher of the two rates for each day or part of a day on which the member performs such duty during the period.

Additional disability allowance for deep diving

12.1 A qualified clearance diver whose status is mentioned in item 9, 10, 11 or 12 of Part 2 of the Schedule and who performs a deep dive (other than an experimental dive under a Defence Force Trial Directive) is entitled to an additional amount of specialist operations allowance (disability) equal to the sum of:

- (a) \$199.26 for each dive; and
- (b) \$20.47 for each hour or part hour of the dive, up to a maximum of 5 hours.

12.2 Payment of the hourly rate under paragraph 12.1 (b) includes any period the member is required to undergo therapeutic treatment for decompression illness in a recompression chamber after performing a deep dive.

12.3 The CDF may extend a time limit for payment mentioned in this clause for a period that the CDF considers reasonable, having regard to:

- (a) the nature of the dive;
- (b) the severity of any decompression illness;
- (c) the circumstances of any therapeutic treatment; and
- (d) any other factor relevant to the dive.

Specialist operations allowance – support member

13. A support member (including a member rendering Reserve service) is entitled to:

- (a) specialist operations allowance (qualification and skill) at the rate (if any) that would otherwise apply to the member under column 3 of the Schedule; and

- (b) specialist operations allowance (disability):
 - (i) for a member rendering continuous full-time service — at the rate mentioned in item 13, column 4 of Part 2 of the Schedule; and
 - (ii) for a member rendering Reserve service — at the rate mentioned in item 13, column 4 of Part 2 of the Schedule for each day or part of a day on which the member renders such service.

PART 4 – Members serving in the Incident Response Regiment

Specialist operations allowance – Incident Response Regiment

14.1 This clause applies to:

- (a) a member rendering continuous full-time service, who is posted to the Incident Response Regiment; and
- (b) a member rendering Reserve service at the Incident Response Regiment.

14.2 The member is entitled to specialist operations allowance:

- (a) if paragraph 14.1 (a) applies — at the sum of the rates mentioned in columns 3 and 4 of Part 3 of the Schedule for the member's status; and
- (b) if paragraph 14.1 (b) applies — at the sum of the rates mentioned in columns 3 and 4 of Part 3 of the Schedule for the member's status, for each day or part of a day on which the member renders such service.

PART 5 – Members rostered to deal with unpredictable explosives

Specialist operations allowance – unpredictable explosives

15.1 This clause applies to a member who is on a roster to search for or render safe unpredictable explosives.

15.2 The member is entitled to specialist operations allowance at the sum of the rates mentioned in columns 3 and 4 of Part 4 of the Schedule for the member's status.

15.3 For a member of the Reserve Forces, this clause applies for each day or part of a day on which the member is rostered to perform such duty.

Member not on a roster – daily rate

16.1 This clause applies to a member, other than a member referred to in clause 15, who is required on a day to search for or render safe unpredictable explosives.

16.2 The member is entitled to specialist operations allowance at the rate of:

- (a) for a member who is required to render safe or dispose of or directly assist in the rendering safe or disposal of an unpredictable explosive, if the member is placed in high risk of the unpredictable explosive — \$79.94 for each day on which the member is required; and
- (b) for a member, other than a member referred to in paragraph (a), who is required to engage in searches where an unpredictable explosive is known to be or reasonably suspected of being present, if the member is placed in high risk of the unpredictable explosive — \$39.98 for each day on which the member is required.

16.3 The member is not entitled to an allowance under this clause for more than 40 days a year.

PART 6 – Members on designated special duty

Specialist operations allowance – designated special duty

17.1 This Part applies to a member on designated special duty, unless the member is or becomes entitled to any allowance or other entitlement authorised under Part 2, 3, 4 or 5 of Chapter 9 of Defence Determination 2000/1, Conditions of Service.

17.2 The member is entitled to specialist operations allowance at the daily rate mentioned in item 23, column 4 of the Schedule.

17.3 While the member is entitled to specialist operations allowance under this Part, the member is not entitled to:

- (a) specialist operations allowance (disability) under any other Part of this Determination; or
- (b) any other disability allowance mentioned in subclause 5.2.

PART 7 – Transitional

Entitlement to additional specialist operations allowance

18.1 In this clause, “relevant allowance” means:

- (a) clearance diving allowance;
- (b) specialist operations allowance;
- (c) unpredictable explosives allowance.

18.2 If this Determination had applied for the period between 20 June 2002 and the day on which it is signed, and would have resulted in:

- (a) a new entitlement of a member to specialist operations allowance for the period;
or
- (b) a member's entitlement to specialist operations allowance exceeding the amount of a relevant allowance previously paid for that period,

the member is entitled to specialist operations allowance, or additional specialist operations allowance, equal to the amount of the entitlement or the excess (as the case requires).

18.3 For all other members, the amount of entitlement for the period is not affected by this clause.

Dated this First day of November two thousand and two.

His Hon Judge F K Cawthorne
President

Air Vice Marshal F D Cox AO (Retd)
Member

Commissioner A J Dangerfield
Member

Ref108

SCHEDULE

SPECIALIST OPERATIONS ALLOWANCE – RATES AND CONDITIONS

Column 1 Item	Column 2 Member's status [NB See clause 2 for the meaning of certain terms used in this column]	Column 3 Qualification & skill rate \$ a year	Column 4 Disability rate \$ a year	Column 5 Effect of disability rate on other s.58H disability allowances
Part 1 - Members serving in 2nd TAG or as qualified commandos or in related positions				
1.	Trainee 2nd TAG member	6,000	15,000	Other disability allowances are not payable
2.	Qualified 2nd TAG member	8,500	20,000	Other disability allowances are not payable
3.	Qualified commando	3,000	8,000	Other disability allowances are not payable
4.	Member of 126 Signals Squadron	1,500	5,000	Other disability allowances may apply if member is eligible
5.	Support member [NB See the definition in clause 2]	As applicable under other items of the Schedule	5,000	Other disability allowances may apply if member is eligible
Part 2 – Clearance divers				
6.	Clearance diving qualification (other than advanced)	3,500	As applicable under other items of the Schedule	As applicable under other items of the Schedule
7.	Clearance diving qualification (advanced)	5,600	As applicable under other items of the Schedule	As applicable under other items of the Schedule
8.	Trainee clearance diver		7,500	Other disability allowances may apply if member is eligible
9.	Qualified clearance diver posted to Clearance Diving Team in Australia	As applicable under other items of the Schedule	13,000	Other disability allowances may apply if member is eligible
10.	Qualified clearance diver posted to Mine Hunter Coastal or Diving School or to the Explosive Ordnance Disposal/ Improvised Explosive Device Disposal Response Team Cairns, or on an overseas exchange in the United Kingdom	As applicable under other items of the Schedule	9,500	Other disability allowances may apply if member is eligible

SCHEDULE – continued
Part 2 - continued

Column 1 Item	Column 2 Member's status [NB See clause 2 for the meaning of certain terms used in this column]	Column 3 Qualification & skill rate \$ a year	Column 4 Disability rate \$ a year	Column 5 Effect of disability rate on other s.58H disability allowances
11.	Qualified clearance diver posted to an Explosive Ordnance Disposal/ Improvised Explosive Device Disposal Response Team (other than Cairns), or to the Sea Training Group or on an overseas exchange with the United States Navy	As applicable under other items of the Schedule	8,500	Other disability allowances may apply if member is eligible
12.	Qualified clearance diver posted to a clearance diving developmental or tactical developmental position or to a clearance diving billet on a major fleet unit	As applicable under other items of the Schedule	7,500	Other disability allowances may apply if member is eligible
13.	Support member [NB See the definition in clause 2]	As applicable under other items of the Schedule	5,000	Other disability allowances may apply if member is eligible

Part 3 – Members serving in the Incident Response Regiment

14.	Member who has completed Incident Response Regiment training, including live agent training	1,500	As applicable under other items of the Schedule	As applicable under other items of the Schedule
15.	Member who has completed Incident Response Regiment training and additional specialist training	2,500	As applicable under other items of the Schedule	As applicable under other items of the Schedule
16.	Member rendering safe or directly assisting in rendering safe an unpredictable explosive	As applicable under other items of the Schedule	9,500	Other disability allowances may apply if member is eligible
17.	Member undertaking medical, decontamination or search roles	As applicable under other items of the Schedule	8,500	Other disability allowances may apply if member is eligible
18.	Member undertaking role on incident site (eg command and control)	As applicable under other items of the Schedule	7,500	Other disability allowances may apply if member is eligible
19.	Support member [NB See the definition in clause 2]	As applicable under other items of the Schedule	5,000	Other disability allowances may apply if member is eligible

SCHEDULE – continued

Column 1 Item	Column 2 Member's status [NB See clause 2 for the meaning of certain terms used in this column]	Column 3 Qualification & skill rate \$ a year	Column 4 Disability rate \$ a year	Column 5 Effect of disability rate on other s.58H disability allowances
Part 4 - Members rostered to deal with unpredictable explosives				
20.	Member on a continuous roster to render safe or directly assist in rendering safe unpredictable explosives	As applicable under other items of the Schedule	9,500	Other disability allowances may apply if member is eligible
21.	Member on a cyclic roster to render safe or directly assist in rendering safe unpredictable explosives	As applicable under other items of the Schedule	5,000	Other disability allowances may apply if member is eligible
22.	Member on a roster to search for unpredictable explosives	As applicable under other items of the Schedule	2,500	Other disability allowances may apply if member is eligible
Part 5 - Members on designated special duty				
23.	Member on designated special duty	As applicable under other items of the Schedule	150 a day	Other disability allowances are not payable under this Determination or any other s.58H Determination. Entitlement ceases if certain allowances authorised under s.58B are payable (see subclause 17.1).