

# Sessional Fee/Reserve Salary Matrix

1. This Matrix is a guide only. The Legal Officer Sessional Fee Determination is in PACMAN [Chapter 4 Part 8 Division 1](#) and is the authoritative reference concerning Sessional Fees.
  2. The Sessional Fee is a compensatory mechanism. It compensates RLOs for professional work they perform in the ADF and for all practice costs associated with those duties including telephone calls, facsimile transmissions, postage and photocopying.
  3. A RLO is entitled to a Sessional Fee for a maximum of six hours per day, if the RLO meets the following four conditions. Firstly, the RLO has received prior approval for Sessional Fee eligibility from DGADFLS. Secondly, the RLO performs legal duties in the ADF when they would otherwise be working in a private professional capacity as a barrister or solicitor. Thirdly, the RLO has received prior approval to perform a sessional fee duty from CDF or DGADFLS or authorised agent and a R1 has been completed. Fourthly, when the duty exceeds five days there is no sessional rate until a rate is approved by DGADFLS.
- 20<sup>1</sup>. **Military duty as counsel or assistant counsel at summary proceedings:**
- |    |   |                |
|----|---|----------------|
| a. | Appearing before a summary authority.   | Sessional      |
| b. | Providing related legal services including the drafting of applications, submissions and petitions. | Sessional      |
| c. | Preparation <sup>2</sup> .  | Sessional      |
| d. | Non legal tasks (including travel related to and from duty location <sup>3</sup> ).                 | Reserve salary |
| e. | Adjournments for periods that do not allow return to home location (such as weekends).              | Reserve salary |
- 21 **Duties performed in relation to the Australian Military Court:**  
This element was cancelled with effect 18 Sep 09. Please see element 28 for duties relating to Court Martial and DFM disciplinary proceedings.
22. **Military Duty as a legal officer assisting a Court of Inquiry<sup>4</sup>:**
- |    |  |                |
|----|--|----------------|
| a. | Assisting a Court or Board of Inquiry.   | Sessional      |
| b. | Preparation <sup>5</sup> .   | Sessional      |
| c. | Non-legal tasks (including travel to and from duty location <sup>6</sup> ).            | Reserve salary |
| d. | Adjournments for periods that do not allow return to home location (such as weekends). | Reserve salary |

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<sup>1</sup> Numbering 20 and upwards is used to make changes compatible with previously issued Matrix.

<sup>2</sup> Preparation includes such tasks as reading the brief, proofing witnesses, taking instructions, settling agreed facts, reading transcripts and preparing applications and submissions.

<sup>3</sup> Note travel to and return from a member's ordinary place of duty does not ordinarily attract travel allowance and Reserve salary. In those circumstances, attendance allowance is paid.

<sup>4</sup> "Court of Inquiry" as defined in Regulation 3 of the *Defence (Inquiry) Regulations* 1985 to include General Courts of Inquiry, CDF Commissions of Inquiry, Combined Boards of Inquiry and Boards of Inquiry.

<sup>5</sup> Preparation includes scoping, the taking of witness statements, consultation with the President and members before, during and after the hearing phase of a court or board, a view, consultation with counsel presenting a member, and the like.

<sup>6</sup> See footnote 3.

23. **Military duty representing or assisting the representation of a person before a Court of Inquiry<sup>7</sup>:**
- |   |                |
|---|----------------|
| a. Appearing before Court or Board of Inquiry.  | Sessional      |
| b. Preparation <sup>8</sup> .   | Sessional      |
| c. Non-legal tasks (including travel to and from duty location <sup>9</sup> )             | Reserve salary |
| d. Adjournments for periods that do not allow return to home location (such as weekends). | Reserve salary |
24. **Providing legal services to an ADF commander<sup>10</sup>:**
- |  |                          |
|--|--------------------------|
| a. The provision of legal advice <sup>11</sup> .                     | Sessional/Reserve salary |
| b. Dispute resolution services <sup>12</sup> .                       | Sessional/Reserve salary |
| c. Acting as an inquiry officer or inquiry assistant <sup>13</sup> . | Sessional/Reserve salary |
25. **Military duty giving legal advice to a member, former member or Defence Civilian on matters arising from their service in the ADF<sup>14</sup>**
- Sessional/Reserve salary
26. **Relief Posting**
- Reserve salary
27. **Reserve service including duty in respect to staff appointments, annual training commitments, evening parades, seminars, conferences, lectures and legal aid services**
- |   |                |
|---|----------------|
| a. Staff appointments, annual training commitments, evening parades, seminars, conferences, lecture & legal aid services. | Reserve salary |
| b. Attendance at LTM1.  | Reserve salary |
| c. Attendance at LTM2.  | Reserve salary |
| d. Attendance at LTM3.  | Reserve salary |
28. **Military duties performed in relation to a Court Martial or DFM disciplinary proceedings (effective 18 Sep 09):**
- |   |           |
|---|-----------|
| a. Appearing before a Court Martial, JA or DFM.         | Sessional |
| b. Appearing before a pre-trial directions hearing.     | Sessional |
| c. Participating in a case management conference.       | Sessional |
| d. Participating in a stay application in relation to a | Sessional |

<sup>7</sup> Person includes a person who has died. See Regulations 33 or 121 of the *Defence (Inquiry) Regulations 1985*

<sup>8</sup> See Footnote 2.

<sup>9</sup> See footnote 3.

<sup>10</sup> Where the services require legal skills and concern the performance of a duty by a member in that command.

<sup>11</sup> The Form R1 authorisation for Sessional Fee duty must include an explanation as to why the PLO authorising the duty could not provide these services or task these services to another PLO. Preparation time is not paid for this duty.

<sup>12</sup> Mediation, facilitation, negotiation, conflict coaching, conciliation and arbitration.

<sup>13</sup> An Inquiry Officer as appointed under Regulation 69 of the *Defence (Inquiry) Regulations 1985*. The R1 must identify why the inquiry officer needs to possess legal skills. RLOs will not be paid sessional fees for a Quick Assessment. Under exceptional circumstances and with the prior, written consent of DGADFLS or one of the DL Directors, RLOs can be authorised to undertake a Routine Inquiry at the sessional rate where there is an identifiable need for legal skills. Any sessional payment would be premised on that Routine Inquiry being undertaken pursuant to Item 5 of the Sessional Fee Determination Duties to provide "oral advice to a member".

<sup>14</sup> Examples include giving legal advice to a member concerning proceedings under the *Defence Force Discipline Act 1982*, on involuntary terminations under the *Defence Personnel Regulations 2002*, and concerning a Redress of Grievance pursuant Part 15 of the *Defence Force Regulations 1952*. The entitlement to legal advice for Defence Civilians and former members is confined to *Defence Force Discipline Act 1982* matters. Preparation time is not paid for any of these duties.

- punishment or order.
- |    |  |                |
|----|--|----------------|
| e. | Military duty as a JA or DFM in a disciplinary proceeding.                             | Sessional      |
| f. | Preparation <sup>15</sup> .  | Sessional      |
| g. | Non-legal tasks (including travel related to and from duty location <sup>16</sup> ).   | Reserve salary |
| h. | Adjournments for periods that do not allow return to home location (such as weekends). | Reserve salary |
29. **Military duties in relation to DFDA reviews:**
- |    |  |           |
|----|--|-----------|
| a. | Providing legal services relating to the preparation or provision of a report under section 154 of the <i>DFDA</i> .   | Sessional |
| b. | Providing legal services to a member in relation to a petition or request for review to a reviewing authority, <u>pursuant to</u> the review provisions of the <i>DFDA</i> <sup>17</sup> .                                       | Sessional |
| c. | Providing legal services to a member in relation to a petition or request for review to a reviewing authority, <u>pursuant to</u> the transitional provisions of the <i>Military Justice (Interim Measures) Act No. 2 2009</i> . | Sessional |

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<sup>15</sup> See Footnote 2.

<sup>16</sup> See Footnote 3.

<sup>17</sup> Examples: Drafting legal advice, applications, submissions and petitions.