EXPLANATORY STATEMENT

Defence Determination 2017/37

This Determination amends Defence Determination 2016/19, Conditions of service (the Principal Determination), made under section 58B of the Defence Act 1903 (the Defence Act) and in accordance with subsection 33(3) of the Acts Interpretation Act 1901 (AIA Act). Determinations made under section 58B of the Defence Act are disallowable legislative instruments subject to the Legislation Act 2003. These instruments are also subject to the interpretation principles in the AIA Act, as modified by section 58B of the Defence Act.

This Determination amends the following Chapters of the Principal Determination for members of the Australian Defence Force (ADF).

- Chapter 4 of the Principal Determination sets out provisions dealing with allowances and reimbursements.
- Chapter 17 of the Principal Determination sets out provisions dealing with warlike and non-warlike deployments.

This Determination has the following purposes:

- To increase the maximum amount a member may be reimbursed for additional risk life insurance.
- To increase the daily deployment allowance rates for members deployed on overseas operations.
- To remove Operation PALATE II from a list of operations for which deployment allowance is payable and to reorder the list alphabetically.

Section 1 of this Determination sets out the manner in which this Determination may be cited.

Section 2 is the commencement provision for the Determination and includes a table setting out the details of the commencement of sections of the Determination. Column 1 of the table sets out the provisions in numbered items, column 2 sets out the commencement and column 3 sets out date/details. Information in column 3 does not form part of the Act, so information can subsequently be inserted in the column (or edited) in a published version of the Determination. Item 1 in the table provides that the whole of this Determination commences on 2 November 2017.

Section 3 provides that this instrument has authority under section 58B of the Defence Act 1903.

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 section 1 amends subsection 4.10.4.1 of the Principal Determination, which sets the maximum amount that a member may be reimbursed for the additional costs of buying life insurance, due to the nature of ADF duties. The rate that may be reimbursed for life insurance is increased by 2%, and then rounded to the nearest dollar. This is in line with the adjustment to the salaries of ADF members under the ADF Workplace Remuneration Arrangement, published at www.dfrit.gov.au.
Schedule 1 section 2 substitutes the table in subsection 17.7.6.1 of the Principal Determination, which provides the daily rates of deployment allowance payable to members deployed on various warlike and non-warlike operations.

The following changes have been made to the table:

- The daily rates for deployment allowance are increased by 2%. The change to the rates of deployment allowance are in line with the adjustment to the salaries of ADF members under the ADF Workplace Remuneration Arrangement, published at www.dfrt.gov.au.

- Operation PALATE II has been removed from the table as this has not been an active operation since 11 March 2017. No personnel were assigned to this operation beyond this date.

- The table has been reordered alphabetically.

Consultation

Consultation is not considered necessary in the annual additional deployment allowance adjustment processes as it falls within the bounds of routine, house keeping of established benefits. The adjustments are made according to established policy.

Authority: Section 58B of the Defence Act 1903
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence Determination 2017/37, Additional risk insurance and deployment allowance – amendment

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Determination

This Determination has the following purposes:

- To increase the maximum amount a member may be reimbursed for additional risk life insurance.
- To increase the daily deployment allowance rates for members deployed on overseas operations.
- To remove Operation PALATE II from a list of operations for which deployment allowance is payable and to reorder the list alphabetically.

Human rights implications

Right to the enjoyment of just and favourable conditions of work

The protection of a person's right to leave and holidays engages Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 7 guarantees just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

Legitimate objective: Defence members may be required to perform duty in overseas locations which are areas of military conflict. Defence members who are deployed to some overseas locations will experience adverse conditions during service. These members are compensated for conditions that can include but are not limited to hazard, stress, climate, health care facilities, infrastructure and isolation.

Reasonable, necessary and proportionate: Defence requires its members to perform duty in these locations and therefore provides additional benefits, beyond the normal overseas conditions of service. Deployment allowance helps financially to compensate members for the conditions they encounter while on deployment.

This Determination increases deployment allowance rates by 2% in line with the increase to salary and other salary related allowances. It also makes an adjustment to the maximum annual amount Defence may contribute towards the cost of a member's life insurance. The assistance ensures the member is not financially disadvantaged because of the nature of their work.

Conclusion

This Determination is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Phillip John Hoglin, Acting Assistant Secretary People Policy and Employment Conditions