



Determination under subsection 24(3)— Non-SES employees in the Marine Unit to be moved to the Department of Immigration and Border Protection by determination under paragraph 72(1)(a) of the *Public Service Act 1999* on 1 July 2015
made under subsection 24(3) of the *Public Service Act 1999*

I, Christian Porter, Parliamentary Secretary to the Prime Minister, being of the opinion that it is desirable to do so because of exceptional circumstances, hereby determine pursuant to subsection 24(3) of the *Public Service Act 1999* the terms and conditions of employment of employees to whom this Determination applies.

1. APPLICATION OF DETERMINATION

- 1.1 This Determination applies to an APS employee (other than a Senior Executive Service employee) who:
- (a) will be moved from the Australian Customs and Border Protection Service (**Customs**) to the Department of Immigration and Border Protection (**Department**) by determination in writing under section 72(1)(a) of the *Public Service Act 1999* on 1 July 2015; and
 - (b) is a Marine Unit employee (**Moving Employee**).
- 1.2 This Determination also applies to an APS employee (other than a Senior Executive Service employee) who:
- (a) is not a Moving Employee; and
 - (b) after 1 July 2015, becomes a Marine Unit employee, (**New Employee**).
- 1.3 Moving Employees and New Employees are referred to collectively in this Determination as **Employees**.

2. PERIOD OF OPERATION

- 2.1 This Determination takes effect on and from 1 July 2015.
- 2.2 This Determination will continue to apply to Employees until:
- (a) it is replaced in its entirety by another determination made under subsection 24(3) of the *Public Service Act 1999* that applies to the Employees; or
 - (b) it is revoked.

3. **WHEN THE DETERMINATION CEASES TO APPLY TO AN EMPLOYEE**

3.1 This Determination ceases to apply to an Employee if:

- (a) an enterprise agreement that covers the Employees commences operation after the date on which this Determination takes effect; or
- (b) the Employee ceases to be a Marine Unit employee.

4. **OPERATION OF OTHER INSTRUMENTS**

4.1 If this Determination applies to employee they will not be covered by the following:

- (a) any enterprise agreement (except as provided in 5.1);
- (b) the *Australian Public Service Enterprise Award 2015*; or
- (c) any other fair work instrument or WR Act transitional instrument (as those terms are defined in the *Public Service Act 1999*) that would otherwise cover the Employee.

5. **TERMS AND CONDITIONS APPLYING TO EMPLOYEES**

5.1 The terms and conditions of employment (including remuneration) of:

- (a) a Moving Employee shall be the same as they would have been if the Moving Employee had not been moved from Customs to the Department with effect from 1 July 2015; and
- (b) a New Employee shall be the terms and conditions (including remuneration) contained in the *Australian Customs and Border Protection Service Enterprise Agreement 2011-2014* (Customs Agreement),

except that any reference in the terms and conditions to Customs is substituted with a reference to the Department.

5.2 It is not inconsistent with this Determination for an Agency Head to make a determination pursuant to section 24(1) of the *Public Service Act 1999* supplementing the terms and conditions of employment that apply to an employee by operation of this Determination.

6. **POLICIES, GUIDELINES AND PROCEDURES THAT APPLIED TO THE EMPLOYEE IN CUSTOMS**

6.1 This clause 6 applies where the terms and conditions of employment preserved by operation of clause 5 refer to various policies, guidelines and procedures (however described) which applied to the Employees' employment in Customs. Any such policies, guidelines and procedures:

- (a) will continue to apply to the Employees in their current form, except to the extent that a policy, guideline or procedure is not capable of meaningful operation because of the movement of the Employees to the Department; and
- (b) do not form part of this Determination and this Determination prevails over any policies, guidelines or procedures to the extent of any inconsistency.

7. **INTERPRETATION**

7.1 In this Determination:

Marine Unit employee means an employee in a sea-going position who is assigned to perform duties as a member of a crew on a Customs and Border Protection Sea-going Vessel and whose main role is to perform crewing, watch or enforcement functions on board that vessel.

7.2 In this Determination, the terms used in provisions incorporated from the Customs Agreement are substituted as follows:

Term in Customs Agreement	Substituted term
Agreement	Determination
Chief Executive Officer or delegates (CEO)	Secretary or delegates

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The Hon Christian Porter
Parliamentary Secretary to the Prime Minister

25 June 2015