



Defence Determination 2012/68, Reserve employer support payments

as amended

made under subsection 58B (1) of the

Defence Act 1903

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taking into account amendments up to Defence Determination 2014/55.

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Reserve employer support payments

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Part 1 Preliminary

Division 1: Operation of this Determination

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1 Citation

- 1.1 This Determination is Defence Determination 2012/68, Reserve employer support payments.
- 1.2 This Determination may also be cited as Defence Determination 2012/68.

2 Commencement

- 2.1 This Determination commences on 1 January 2013.

3 Repeal, saving and transitional

- 3.1 On the day this Determination commences, Defence (Employer Support Payments) Determination 2005, as amended, is repealed.
- 3.2 In this section:

commencement day means 1 January 2013.

former Determination means Defence (Employer Support) Determination 2005, as amended and in force immediately before the commencement day.

new Determination means Defence Determination 2012/68, Defence (Reserve employer support payments), which commences on 1 January 2013.

- 3.3 If, before the commencement day, a person complied with conditions for an entitlement under the former Determination:
 - a. the person is taken to comply with the eligibility conditions set out in the new Determination, as in force on or after the commencement day, in order to qualify for an entitlement under the new Determination; and
 - b. any related approval, authority, instruction or direction is taken to have been given, issued or granted under, and for the purposes of, the new Determination.

- 3.4 For the purpose of continuity of eligibility, if in a provision of the former Determination, a person was authorised to exercise a power or a function, a reference to a decision-maker in the new Determination as in force on or after the commencement day, in relation to a similar power or function, is taken to include a reference to the person previously authorised to exercise the power or function.
- 3.5 Nothing in this section:
- a. is taken to preserve or maintain after the commencement day the monetary amount or value of a person's entitlements or liabilities applicable to the person as the result of the person's eligibility under the former Determination before the commencement day, and, with effect from that day, the monetary amount or value of those entitlements or liabilities is provided for by the new Determination, as in force on or after that day, to the extent that it applies to the person; or
 - b. is taken to preserve or maintain after the commencement day a person's entitlements.

3A Application and transitional – amendments commencing 1 December 2014

- 3A.1. In relation to a person who provided defence service before 1 December 2014, the amendments made by Defence Determination 2014/55, *Reserve employer support payments – amendment*, apply only to claims to which both the following circumstances apply:
- a. The claim is made on or after 1 December 2014.
 - b. The claim relates to a period of defence service that starts on or after 1 December 2014.
- 3A.2. If a claim deals with multiple periods of defence service, any period of service which commenced prior to 1 December 2014 must be decided under the rules as they were in place prior to the commencement of Defence Determination 2014/55.
- 3A.3. Despite subsections 1 and 2:
- a. Administrative decisions currently in place relevant to a claim can continue to be relied upon until a fresh decision is required or made under the Determination as amended.
 - b. If a claim was made before 1 December 2014 and notice of the decision on the claim was not received by the claimant before that date, or notice of the decision on the claim was received by the claimant after 31 October 2014 and before 1 December 2014, sections 56, 57 and 58, as in force on or after 1 December 2014, apply in relation to the decision, and to later decisions made in relation to the claim.
 - c. If a claim is made on or after 1 December 2014 and the claim relates to a period, or periods, of defence service that started before that date (whether or not the claim also relates to a period, or periods, of service that started on or after that date), sections 56, 57 and 58, as amended by Defence Determination 2014/55, apply in relation to the claim.
4. To avoid doubt, the amendments made by Defence Determination 2014/55 apply to a person who first provides defence service on or after 1 December 2014.

Division 2: Definitions

[4 Definitions](#)

4 Definitions

The terms in the table are defined for the purpose of this Determination.

Term	Definition
absent on defence service	in relation to a member, means that the member is: a. travelling, by the most direct and efficient means, to or from his or her residence to or from the place at which he or she is required to report for defence service; or b. rendering defence service.
Act	means the <i>Defence Act 1903</i> .
AWOTE	means for the 12 months commencing on 1 July in any year — the amount equivalent to the average weekly full-time adult ordinary time earnings for Australia, using the Trend Estimates for November of the preceding year as published by the Australian Bureau of Statistics.
business	includes a sole trader business, a company, a partnership and a trust, as relevant to a claim.
claimant	includes an employer and a self-employed member, as relevant to a claim.
claim period	means a period: a. in which a member is absent on defence service; and b. in relation to which a claim for the employer support payment is made.
commission agent	has the same meaning as in section 7 of the DRSP Act.
Commonwealth authority	has the same meaning as in section 4 of the Commonwealth Authorities and Companies Act 1997.
Commonwealth company	has the same meaning as in section 4 of the Commonwealth Authorities and Companies Act 1997.
Commonwealth Department	means a Department within the meaning of section 7 of the Public Service Act 1999.
continuous defence service	means a period of defence service of 5 or more continuous days (whether or not those days include 1 or more public holidays in the place in which the defence service is being undertaken). This period also includes time spent travelling, by the most direct and efficient means, to and from the place of continuous defence service.
contractor	means a person who contracts to perform work for another person under a contract for services (other than as an employee). Note: This is the same meaning as in section 7 of the DRSP Act.
controlling interest	has the meaning given by section 10.

day	<p>in relation to defence service, means a whole day of defence service, and also includes:</p> <p>a. a part of the day at the beginning of a period of a member's defence service, if:</p> <p>i. the part is at least 6 hours and includes any period of travelling time to the place where the member is required to report for defence service; and</p> <p>ii. if the part of the day includes a period of travelling time — the period of travelling time is not less than 3 hours, and is a period during which the member is travelling, by the most direct and efficient means, from his or her residence to the place where he or she is required to report for defence service; and</p> <p>b. a part of the day at the end of a period of defence service, if:</p> <p>i. the part is at least 6 hours and includes any period of travelling time to the member's residence; and</p> <p>ii. if the part of the day includes a period of travelling time — the period of travelling time is not less than 3 hours, and is a period during which the member is travelling, by the most direct and efficient means, from the place where he or she is required to report for defence service to his or her residence; or</p> <p>c. a part of a day at the end of a period of defence service, if:</p> <p>i. the part of the day includes defence service for less than 6 hours; and</p> <p>ii. the part of the day includes a period used for rest purposes; and</p> <p>iii. the member has been authorised, in writing, to cease duty early in order to provide recovery time.</p>
decision-maker	means a Service Chief or other person in accordance with section 5.
de facto partner	has the meaning given by section 2D of the <i>Acts Interpretation Act 1901</i> .
defence service	<p>means service (including training) in a part of the Reserves; and includes voluntary unpaid service only if the attendance or service has been authorised in writing, before it is undertaken, by:</p> <p>a. the commanding officer of the member; or</p> <p>b. the branch head of the member.</p>
DRSP Act	means the <i>Defence Reserve Service (Protection) Act 2001</i> .
eligible service	has the meaning given by sections 33 and 34.
employer	includes the persons described as employers in Part 2, Divisions 2 and 3.
employer support payment	means a payment made under this Determination.
employment	includes the arrangements described as employment in Part 2, Divisions 2 and 3.

family member	<p>includes the following persons:</p> <p>a. the member's spouse or de facto partner;</p> <p>b. the spouse or de facto partner of a person who is a family member of the member;</p> <p>c. in relation to the member or member's spouse or de facto partner, any of the following persons:</p> <p>i. a child, or other lineal descendant;</p> <p>ii. a parent or grandparent;</p> <p>iii. a sibling;</p> <p>iv. an uncle or aunt;</p> <p>v. a nephew or niece;</p> <p>d. the spouse or de facto partner of a person mentioned under paragraph c.</p>
full-time work	has the meaning given by section 17.
government business enterprise	has the same meaning as in section 4 of the <i>Commonwealth Authorities and Companies Act 1997</i> .
income	means an amount described as income under Part 2 Division 5.
member	has the same meaning as in section 7 of the DRSP Act.
military leave	means leave (however described) that an employer may grant to a member to undertake defence service, other than leave that is taken not to be an absence for Defence service (see section 37).
normal working hours	for a member, means the working hours calculated using Part 2 Division 4.
part-time work	has the meaning given by section 17.
qualifying period	means the qualifying periods described in Part 3 Division 2.
rank	includes equivalent rank.
Reserves	has the same meaning as in the <i>Defence Act 1903</i> .
self-employed member	means a member who is a self-employed member in accordance with Division 2 of Part 2.
Service chief	means the Chief of Navy, the Chief of Army or the Chief of Air Force.
Sessional fee	means the compensation known as legal officer sessional fee to which a legal officer who is a member of the Reserves may be entitled.
Unit	means the defence authority responsible for an employee's or self-employed member's personal administration as a member.

Division 3: Decisions under this Determination

[5 Decision-makers](#)

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[6 Information to support a claim](#)

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5 Decision-makers

- 5.1 A decision that is required to be made for the purpose of this Determination may be made by a Service Chief in the Service to which a claim relates, or a delegate of the Service Chief.

Exception: The power to approve a class of claims under section 46 cannot be delegated.

See: Section 46, Approval of cost effectiveness for classes of claims.

- 5.2 A Service Chief may make any decision under subsections 56.5 or 56.6 and section 56A and may only delegate those powers to:

- a. An officer at or above the rank of Brigadier (or equivalent rank).
- b. An Australian Public Service employee at or above the classification of Senior Executive Service Band 1.

Notes:

1. A Service Chief or their delegate, exercising power vested in them under subsection 2 is sometimes called a **senior review officer** in this Determination.

2. The power to review a decision includes the power to make a decision on that subject in accordance with the review provision. An additional delegation of the power to the senior review officer under subsection 5.3 is not required.

Related Information: Part 5 Review

- 5.3 The Service Chief may delegate any of their other powers under this Determination, except the power to approve a class of claims, to:

- a. An officer at or above the rank of Lieutenant-Colonel (or equivalent rank).
- b. An Australian Public Service employee at or above the classification of Executive Level 1.

See: Section 47 provides that a claimant must be notified in writing of a decision to refuse a claim made under this Determination.

- 5.4 The Service Chief may give written directions about how a delegation made under this section is to be exercised.

5A Decision-making

- 5A.1 A decision-maker may refer a claim to the Director Employer Support Payment Scheme for advice on any matter relating to the claim.
- 5A.2 A decision-maker must not act to decide any matter relating to a claim if they have an interest in the employing body or related entity.

Related Information: Defence Instruction (General) 25-6, Conflicts of interest and declarations of interests.

- 5A.3 A claimant must be notified in writing of a decision made under this Determination. If a claim is not approved this must include any reasons for refusing the claim.

6 Information to support a claim

- 6.1 In addition to approving or refusing any matter for decision under this Determination, a decision-maker may make a written request to a claimant to provide further information.
- 6.2 The decision-maker may make a request for further information on any of these occasions.
- a. In the course of deciding a claim.
 - b. As a result of information received about a change in circumstances.
See: Section 40, Change in circumstances
 - c. For the purpose of audit or review of a claim.
- 6.3 If the further information is not provided within 30 days of their request, the decision-maker may make a decision to refuse or cease payment of the claim based on the absence of relevant information.
- 6.4 Giving false or misleading information is a serious offence.

Notes:

1. Sections 137.1 and 137.2 of the Criminal Code create offences for providing false or misleading information or documents. The Criminal Code is a Schedule to the *Criminal Code Act 1995*.
2. Section 56 of the *Defence Force Discipline Act 1982* creates a military disciplinary offence for a false or misleading statement made in relation to an application for a benefit.

7 Overpayments and recovery

- 7.1 This section applies if a self-employed member must repay to the Commonwealth any overpayment made under this Determination.
- 7.2 The Commonwealth may recover the overpaid amount from the salary and allowances that the member has been – or may be – paid. The Commonwealth still has the right to recover the overpaid amount by other means.

Part 2 How to identify employment

Division 1: Persons who are not employers or employees

[8 Hobbies and volunteers](#)

[9 Persons who fail to meet a test under this Part](#)

8 Hobbies and volunteers

- 8.1 A person described in the table is taken not to be an employer or an employee for any of the purposes of this Determination.

Item	A person who ...
1	conducts an activity or interest of a kind that is conducted primarily for pleasure or relaxation
2	conducts an activity or interest that is not primarily the person's regular occupation
3	conducts an activity or interest wholly or primarily in the person's spare time
4	voluntarily engages in an activity of a charitable kind and without the expectation of receiving significant remuneration or another significant reward
5	voluntarily engages in an activity that is not reasonably likely to create a financial profit for the person and without the expectation of receiving significant remuneration or another significant reward
6	voluntarily engages in an activity for a body that operates on a not-for-profit basis, and engages in the activity without the expectation of receiving significant remuneration or another significant reward

Note: Whether a person is conducting a hobby or volunteering may be determined by looking at the continuous period of at least 26 weeks that occurred immediately before the period of absence on Defence service to which a claim relates, or over another relevant period mentioned in section 16.

See: Section 16, Working hours each week in employment

- 8.2 Subsection 1 applies whether or not another provision of this Determination implies that the person may be undertaking employment.

Example: Conducting an activity or interest for pleasure or recreation could be argued to be 'part-time work', but the person who conducts the activity or interest is taken not to be an employer or an employee.

9 Persons who fail to meet a test under this Part

A person who does not meet the conditions for employment under Division 2 or 3 of this Part is not an employee for the purposes of this Determination.

Division 2: Members who are self-employed

10 Controlling interest in a company

- 10.1 This section applies in relation to any of the following people.
- a. The member.
 - b. A person in the member's family.
- 10.2 A member has a **controlling interest** in a company if a person described in subsection 1, or any combination of those persons is any of the following circumstances:
- a. they are able to control the exercise of more than 20% of the voting power of the company; or
 - b. they receive more than 20% of the dividends of the company; or
 - c. they have the right to receive more than 20% of any distribution of capital of the company.

11 Controlling interest that does not satisfy the self-employment test

A member's controlling interest in a company is taken not to satisfy the test for self-employment in section 12 if either of the following circumstances apply to the member.

- a. The member is a junior employee of the company who has never owned a significant shareholding or been a director in it.
- b. The member's spouse or de facto partner owns the whole company and the member:
 - i. has never had any ability to control of its direction, such as by being a director, holding a significant shareholding; and
 - ii. is one of a number of employees.

12 Conditions for self-employment

- 12.1 This section applies to a member who has any of the following roles or interests in the entity or natural person that they are employed by or working for.
- a. Director of the company.
 - b. A sole trader.
 - c. Employed by a family member who is a sole trader.
 - d. Partner in a partnership.
 - e. Trustee of a trust.
 - f. Has power under a trust deed to remove the trustee or trustees of a trust and appoint another trustee or trustees.
 - g. Director of, or has a controlling interest in, a company that is a trustee of a trust.
 - h. The member otherwise has a controlling interest in the company.

12.2 A member who has any of the roles or interests in an entity or natural person detailed in subsection 12.1 may only receive employer support payments in relation to employment by that entity or natural person as a **self-employed member**. If the member does not meet the requirements of Division 2 of Part 2 to be a self-employed member, the member is not eligible to receive employer support payments.

12.3 For a member to be self-employed, the member's business must meet both of the following conditions.

- a. It provides the member's principal source of income or the member's principal source of employment.
- b. For at least the previous 12 months, it also provided the member's principal source of income or principal source of employment.

See:

Division 5: Principal Source of Income

Division 6: Principal Source of Employment and Section 39, Limit on claims relating to self-employment

12A Payment to self-employed member

A payment to a self-employed member is made to the member in that member's capacity as an employer, for and on behalf of the business.

Division 3: Member who is employed

13 Examples of employment

Without limiting the kinds of arrangements that may be employment, the arrangements in the table are kinds of employment.

Item	Arrangement
1.	Full-time work
2.	Part-time work
3.	An apprenticeship
4.	A traineeship arrangement
5.	Employment by a body carrying on an activity or business for the Commonwealth, including any body that is established or incorporated under an Act or other instrument.
6.	Employment by: (a) a Department of a State or Territory; or (b) an authority of a State or Territory.
7.	An appointment to, or employment by, a local government body.
8.	Work as a commission agent.
9.	Any appointment made under legislation and for which a wage or salary is payable.

14 Work that is not employment for this Determination

- 14.1 Without limiting the kinds of arrangements that may not be employment, the arrangements in the table are not employment for the purposes of this Determination.

Note: Some of these arrangements may assist in establishing that a member is self-employed under Division 2.

See: Division 2 section 12, Conditions for self-employment

Item	Arrangement
1.	Work as an independent contractor
2.	Director of a company
3.	Partner in a partnership
4.	Another role or relationship that is a precondition for self-employment under Division 2

- 14.2 The following two arrangements can never be used as the basis for a claim under this Determination.

- a. Casual work, being employment on an irregular and unreliable basis.

Example: An employee has been employed by the employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 3 months. Although the employment is not described as permanent part-time, there is a pattern of regular shifts which is expected to continue. The employment is not treated as casual for the purpose of eligibility to make a claim.

- b. A relationship established wholly or substantially for the purpose of appearing eligible for employer support payments.

Example 1: An arrangement that is made between 2 or more persons, who are not at arm's length from each other, by which they present themselves as employer and employee but do not act as employer and employee.

Example 2: An arrangement that is a ***sham arrangement*** under the *Fair Work Act 2009* could not be eligible for employer support payments on the basis of self-employment.

15 Examples of employers

Without limiting the kinds of persons that may be employers, the persons in the table are kinds of employers.

Item	Person
1.	A partner in a partnership
2.	A member's business or professional associate (within the meaning of the <i>Corporations Act 2001</i>)
3.	A corporation
4.	An association
5.	A trust
6.	The trustee of a trust
7.	A sole trader
8.	A professional practice

Division 4: Hours of employment

16 Working hours each week in employment

- 16.1 This section sets out the methods that a decision-maker may decide to use to calculate a member's normal working hours for a week.
- 16.2 The general formula that is used to calculate normal working hours for a member who has been in the same employment for a continuous period of at least 26 weeks immediately before the period of absence on Defence service to which a claim relates is set out in the table.

Step	Action
1.	Calculate the number of hours that the member worked in the employment over the 26 week period.
2.	Work out the number of days of absence due to: a. a public holiday; b. use of personal leave entitlements, which may include: i. accrued annual leave, up to a maximum of 4 weeks. ii. sick leave, up to a maximum of 2 weeks. Note: If the member took more than the maximum of absence, that period of the absence is not excluded.
3.	Work out the number of days of absence when the member was on Defence leave, up to a maximum of 4 weeks. These are days when the member was granted leave (however described), whether paid or unpaid, in order to undertake Defence service. Note: If the member took more than the maximum of absence, that period of the absence is not excluded.
4.	The total of days from steps 2 and 3 are called excluded days . Take the total excluded days from steps 2 and 3 and mark them on a calendar. Then count each excluded day as 0.2 of a week, stopping when 1 is reached in any calendar week and continuing to count in the next calendar week. Stopping at 1 in any week means that a period of 6 or 7 consecutive days of absence cannot be counted as more than 1 week. This will give the number of weeks to exclude from the 26 weeks.
5.	Subtract the number of excluded weeks from the 26 week period. The result is the remainder period.
6.	Divide the number of hours that the member worked in the employment over the 26 week period by the remainder period. The result is the member's normal weekly working hours.

Note: It is up to a decision-maker to test and evaluate evidence relating to a member's working hours. A decision-maker may accept or reject evidence when it comes to making findings.

- 16.3 The decision maker may adapt the method set out in the table in subsection 1 to calculate normal working hours for a member, as set out in the table, for a period of employment described by an item of the following table.

Item	To calculate normal working hours for a period when the member has worked for...	use the weeks described in this column instead of the 26 weeks referred to in the table...
1.	a continuous period of at least 3 months but less than 26 weeks, immediately before the period of absence on Defence service to which a claim relates	the weeks worked in the period.
2.	a. a continuous period of at least 26 weeks immediately before a period of continuous full-time service; and b. immediately after that continuous full-time service, worked in their employment for a period of at least 3 months but less than 26 weeks immediately before the period of absence on Defence service to which a claim relates	the weeks worked under paragraph 2.b of this item.
3.	a. a continuous period of at least 26 weeks that ended up to 2 years before the start of a period of continuous full-time service; and b. immediately after that continuous full-time service, worked in their employment for a period of less than 3 months immediately before the period of absence on defence service to which a claim relates	if the claim does not relate to the period of continuous full-time service, the 26 weeks worked under paragraph 3.a of this item.
4.	a. a continuous period of at least 3 months but less than 26 weeks that ended up to 2 years before the start of a period of continuous full-time service; and b. immediately after that continuous full-time service, worked in their employment for a period of less than 3 months before the period of absence on defence service to which a claim relates	if the claim does not relate to the period of continuous full-time service, the number of weeks worked under paragraph 4.a of this item.
5.	a. a continuous period of at least 3 months that: i. ended no more than 2 years before the start of a period of absence on Defence service to which a claim relates; and ii. was between 2 periods of continuous full-time defence service; and b. the member finished their most recent period of continuous full-time service less than 3 months before the period of absence on defence service to which a claim relates	if the claim does not relate to period of continuous full-time Defence service before it, the most recent period of work that could be described by paragraph 5.a of this item.

- 16.5 A claimant may request in writing that a different method be used to work out the member's normal working hours for a claim, on the ground that using a method set out in subsections 1-4 would, in all the circumstances, be unfair.
- 16.6 If the decision-maker approves a request under subsection 5, they must notify the claimant of the alternative method that is to be used in calculating the member's normal working hours.
- 16.7 A decision-maker may decide that the member's normal working hours for the period of employment are zero, if it is not reasonably practicable to work out a member's normal working hours for a claim using a method under this section, including an alternative method notified under subsection 6.

17 Full-time or part-time work

- 17.1 The table in this section sets out whether a member's employment under either of the following instruments is taken to be full-time or part-time for the purposes of calculating an employer support payment.
- A workplace instrument (for example, an agreement or award) that is made or certified by a Commonwealth or State industrial tribunal.
 - Another employment agreement that a decision-maker is satisfied is an agreement to perform work.
- 17.2 The member's normal working hours in this section are the hours worked out using section 16.

Item	If the member is employed to work for...	and the number of hours the member is employed to work for is, in relation to the workplace instrument...	and the member's normal working hours for the period of defence service claimed are...	the member's employment is taken to be...
1.	at least 35 hours per week	not specified as the full-time hours each week for that work	at least 28 hours each week	full-time work.
2.	at least 35 hours per week	specified as the full-time hours each week for that work	at least 28 hours each week	
3.	less than 35 hours per week	specified as the full-time hours each week for that work	at least 80% of the number of hours specified as full-time work hours	
4.	less than 35 hours per week	not specified as full-time hours	at least 35 hours each week	
5.	at least 35 hours per week	specified as the full-time hours each week for that work	less than 28 hours each week	part-time work.
6.	less than 35 hours per week	specified as full-time hours	less than 80% of the number of hours specified as full-time work hours	
7.	less than 35 hours per week	not specified as full-time hours	less than 35 hours each week	

18 Change in working hours

To avoid doubt, a claimant must notify a change in the working hours of the employee (this may be a self-employed member), if it is significant enough to affect the calculation of a claim that has been made, in accordance with section 40.

Division 5: Principal Source of Income

19 What income includes

- 19.1 Income is the amount received by a member (in the form of earnings, moneys or profits) for the member's own use or benefit.
- 19.2 The table sets out examples of things that are, or are not, income.

Examples of...	
..things that are income	
1.	Salary paid in respect of defence service as a member
2.	A non-cash benefit that forms part of a package of remuneration, including: <ul style="list-style-type: none"> a. contributions to superannuation, made in accordance with a salary sacrifice or other arrangement, that exceed the amount that would be paid under the <i>Superannuation Guarantee (Administration) Act 1992</i>; and b. an amount deducted from a member's salary or wages in accordance with a salary sacrifice or other arrangement
3.	An amount related to, or derived from, the depreciation of a business asset
..things that are not income	
4.	An amount of pension
5.	Potential income or projected income
6.	For a claim relating to an income year—a profit made, or a loss incurred, in a previous income year
7.	A capital gain or loss, including a gain or loss relating to: <ul style="list-style-type: none"> a. the sale of plant, equipment or other property; or b. the sale of shares or an investment; or c. the sale of a business or company, or a significant part of the business or company; or d. a transaction relating to foreign currency that is treated as a capital gain for taxation purposes

20 When income is received

- 20.1 A member receives an amount of income from a business or a company if all of the following conditions are met in relation to an amount.
- a. The amount is not the income, profit, loss or turnover of the business or company itself (unless it is the profit or loss of a sole trader).
 - b. The amount relates to the activities of the business.

Exception: If the activities of the business are investment of accumulated wealth or investment in a superannuation fund, then the related amount is not income for the purpose of this Determination.
 - c. Any additional requirements in this section are met.
- 20.2 If the member receives the amount from the sale of stocks or assets, the amount is only income received from the business if the stocks or assets were owned by the business or company.
- Example:** If a member identifies income received from the sale of shares as part of the member's income from the business:
- a. the share trading must have been conducted by the business or company that provides the member's principal source of income; and
 - b. the shares must have been owned by the business or company; and

- c. the business or company must have provided the income from the share trading to the member.
- 20.3 If the member is a director of a company or is employed by a company in which the member has a controlling interest, the following conditions apply in relation to income.
- An amount is income from the business only if it is attributable as the member's income from the company.
 - Fees, emoluments and dividends are part of the member's income from the company.
 - An amount paid as a repayment of a loan is not part of the member's income from the company.
- 20.4 An amount of distribution of the net income of a trust is the member's income from the trust if both of the following circumstances apply in relation to the amount.
- It is the amount that would be declared by the member as personal income in the member's tax return.
 - The member is employed by a trust or the trustee of a trust and holds any of the following powers or positions.
 - They are a trustee of the trust.
 - They have power under the trust deed to remove the trustee or trustees of the trust and appoint another trustee or trustees.
 - If the trustee is a company— they are a director of the company or has a controlling interest in the company.
- 20.5 If the member is a partner in a business that is a partnership, an amount is only the member's income from the partnership if it is the member's share of the net income of the partnership that would be required to be shown in the partner's personal tax return as a partner's share:
- whether the income is a profit or a loss; and
 - whether or not the partnership has distributed the income.
- 20.6 If the member is a sole trader, an amount is only the member's income from the business if it is the net income or loss from the business that would be required to be shown in the member's personal tax return.

21 Evidence of principal source of income

- 21.1 A business, company or member (a claimant) that wishes to assert that the business or company provides the member's principal source of income, as part of a claim for employer support payment, must give the documents and information relevant to the reasons specified in the table, in writing, to a decision-maker.

Step	Action
Reason 1	Documents and information about whether the business or company is legitimate
	At least one of the following: 1.1 evidence of the allocation of an Australian Business Number that has not been withdrawn; 1.2 a copy of a certificate of incorporation; 1.3 a copy of a business registration certificate

Reason 2	Documents and information about whether the business or company is trading or otherwise operating
	<p>At least one of the following:</p> <p>2.1 a copy of the current Business Activity Statement for the business or company;</p> <p>2.2 a copy of a current financial statement for the business or company, certified by the accountant or financial adviser for the business or company to be accurate;</p> <p>2.3 if the member is a sole trader:</p> <p>2.3.1 the member's current tax return, including business and professional items in the Supplementary section; and</p> <p>2.3.2 the notice of assessment in relation to the member's current tax return (which must be given as soon as practicable after it has been issued by the Commissioner of Taxation);</p> <p>2.4 if the member is not a sole trader—the current tax return of the business or company;</p> <p>2.5 other relevant evidence from an accountant or financial adviser for the business or company, certified by the accountant or financial adviser to be accurate</p>
Reason 3	Documents and information about whether the business or company provides the member's principal source of income
	<p>At least one of the following:</p> <p>3.1 a copy of a current financial statement for the member, certified by the member's accountant or financial adviser to be accurate;</p> <p>3.2 a copy of:</p> <p>3.2.1 the member's current personal tax return; and</p> <p>3.2.2 the notice of assessment in relation to the member's current personal tax return (which must be given as soon as practicable after it has been issued by the Commissioner of Taxation);</p> <p>3.3 other relevant documents and information provided by the member's accountant or financial adviser, certified by the accountant or financial adviser to be accurate, that the decision-maker is satisfied:</p> <p>3.3.1 is current; and</p> <p>3.3.2 relates to a period of at least the previous 12 months; and</p> <p>3.3.3 contains details of all of the member's income during the period; and</p> <p>3.3.4 for information requested by the decision-maker—is of a kind mentioned in paragraph 3.1 or 3.2 that is sufficient to substantiate the information</p>

21.2 The decision maker must reduce the income from a business or company for a self-employed member over any period by any amount of employer support payment that was paid to the member over the period, unless satisfied of any of the following matters.

- a. There is documentary evidence that the amount was used to address a loss or shortcoming directly caused by the absence of the member on defence service.
- b. Ownership or control of the business or company is shared by the member with another person or persons and there is documentary evidence that the share of the employer support payment was received by that person or persons and not, either directly or indirectly, by the member.
- c. It is reasonable to count the income, having regard to the outcome under this Determination.

Note: Any decision made under this subsection must be notified to the claimant in the reasons for decision on the claim.

Example: The member has receipts to show that the amount of the employer support payment was used to pay a locum who filled the member's place in the business for the period of the absence.

- 21.3 A document or information mentioned under item 3.1, 3.2 or 3.3 of the table in subsection 1 may be used for a part of a year, with the following effects on calculations.
- a. Calculations made in support of a claim using the document or information must be made on a proportional basis, by reference to a financial statement or income tax return mentioned in items 3.1 or 3.2.
 - b. If no financial statement or income tax return mentioned in items 3.1 or 3.2 of the table is available, calculations that are made using the document or information must be made on a proportional basis using the same methods and principles that are intended to be used in preparing the member's income tax return for the income year in which the defence service was undertaken.
 - c. The decision-maker may approve or reject a submission from the member to use, in support of a claim, a statement that is not calculated on a proportional basis or that was prepared using methods or principles other than those mentioned in paragraph b.
- 21.4 If a self-employed member wishes to continue to rely on evidence of principal source of income, the member must provide updated evidence, as detailed in subsection 1, 2 years after the period covered by the previous evidence.
- Example:** The member has provided principal source of income evidence covering the period 1 July 2013 to 30 June 2014. This can be relied upon for service between 30 June 2014 and 30 June 2016. For service after 30 June 2016 to be eligible for an employer support payment, updated principal source of income evidence would be required.
- 21.5 A decision-maker may treat evidence of principal source of income provided by a self-employed member as not being current, if the information contained in it was last up-to-date more than 3 months before the service to which the claim relates, and may require the member provide up to date information.
- Example:** The member has submitted a claim, with supporting principal source of income evidence, for service in November 2014. The principal source of income evidence covers the period 1 July 2013 to 30 June 2014. As this period finishes more than 3 months before the service, the decision-maker may accept the evidence or may require more up to date information be provided.
- 21.6 If a self-employed member relies on a document or information mentioned under item 3.3 of the table in subsection 1, the member must provide both of the following documents as substantiation, in the timeframes described.
- a. The member's tax return must be provided as soon as practicable.
 - b. The notice of assessment in relation to the member's tax return must be provided as soon as practicable after it has been issued by the Commissioner of Taxation.
- 21.7 If the member fails to respond to a requirement to substantiate evidence within a specified period or provides a response that does not, in the opinion of the decision maker, wholly substantiate the evidence; then the decision maker may:
- a. if the claim has not already been paid:
 - i. pay so much of the claim as he or she considers reasonable; or
 - ii. reject the claim.
 - b. if the claim has been paid:
 - i. require repayment of so much of the claim as he or she considers reasonable; or

- ii. require full repayment of the claim amount as a debt owing to the Commonwealth.

See: Rule 11, *Public Governance, Performance and Accountability Rule 2014*.

Division 6: Principal Source of Employment

21A Evidence of principal source of employment

- 21A.1 A self-employed member must provide the information described in the table with their first claim seeking approval under the principal source of employment provisions:

Item	Member must provide evidence...
1.	that the business is bona fide.
2.	that the business is operating, including documentary evidence of quotes, invoices or similar business records over the previous 12 months.
3.	that the business provides the member's principal source of employment.
4.	that the business has provided the member's principal source of employment for at least the previous 12 months.
5.	of the member's normal weekly hours of work in the business.

- 21A.2 A self-employed member's evidence that they meet the principal source of employment provisions may only be relied upon to approve claims for up to a maximum total period of 2 years, unless exceptional circumstances apply.

Example: A self-employed member may be approved as meeting the principal source of employment provisions over a two year period from 1 July 2014 to 30 June 2016. The member may only receive a further approval for ESPS payments under the principal source of employment provisions if exceptional circumstances apply. This is because the principal source of employment test is meant to help a claimant provide evidence to support their claim at the start of their time in the business. For longer term claims, the member would reasonably be expected to show that they meet the principal source of income test, as they would have had time for the business to become their principal source of income.

Note: Approval that a self-employed member meets the principal source of employment provisions over a specified period does not guarantee approval of the member's claims over that period. For approval of a claim, the member will also need to satisfy the cost-effectiveness requirement and other provisions of this Determination.

See: Section 36, Cost effectiveness

- 21A.3 A decision-maker may determine that exceptional circumstances apply and approve ESPS payments beyond the 2 year limit.

Example: The member's business is affected by a major external disaster (such as flood, bushfire or drought) that prevents the business providing the member's principal source of income over an extended period.

- 21A.4 If a decision-maker determines that exceptional circumstances apply, the self-employed member must provide updated evidence, as detailed in subsection 1, 2 years after the period covered by the previous evidence.

- 21A.5 An approval under the principal source of employment provisions made before 1 December 2014 is not taken to be an approval for the purposes of subsection 21A.2.

Part 3 Eligibility to claim employer support payment

Division 1: Overview

22 Overview

The following overview sets out some actions that could be used to assist in working out eligibility for employer support payment.

Step	For a self-employed member
1.	Consider cost-effectiveness (must be determined before the service is undertaken).
2.	Check whether the member meets the conditions for self-employment, including either the principal source of income test or the principal source of employment test.
3.	Work out the member's normal hours of work and assess whether the employment is full-time or part-time.
4.	Check whether the member has met the qualifying period for a Defence absence.
5.	Work out the period of eligible service the member performs.
6.	Work out the amount of employer support payment payable to the member.

Step	For any other kind of employment
1.	Consider cost-effectiveness (must be determined before the service is undertaken).
2.	Check whether the member is employed by the employer.
3.	Work out the employee's normal hours of work and assess whether their employment is full-time or part-time.
4.	Check whether the member has met the qualifying period for a Defence absence.
5.	Work out the period of eligible service the member performs.
6.	Work out the amount of employer support payment payable to the employer.

Division 2: Rules about time

23 Qualifying period

- 23.1 The qualifying period starts for a self-employed member only after they have satisfied the conditions for self-employment.

Note: This means the member cannot perform the qualification until after they have 12 months of service with either their principal source of income or principal source of employment from self-employment.

- 23.2 For a claimant to become eligible for an employer support payment, a member must perform a qualifying period which meets the following conditions.
- a. The member is absent from his or her employment on defence service.
 - b. The member is on military leave or leave without pay.
 - c. The member's service meets the cost-effectiveness requirements detailed in section 36
 - d. Paragraphs a, b and c are met for a total of 2 weeks of eligible defence service in a financial year.

Note: This applies whether the member is a self-employed member or a member who is employed by an employer claimant.

24 Qualifying period – new employer or ownership

If a member gets a new employer in a financial year, the new employer must satisfy the qualifying period in relation to the member. The new employer cannot count any period of absence in the service that the member provided to another employer.

Exception: If ownership of the member's employer changes during a financial year, then the employer under new ownership is able to count any qualifying service that could have been counted in that financial year by the member's employer before the change in ownership.

Example: Part-way through the qualifying period, the member's employer is sold to another company. The sale is a transfer of business and the member's employment continues with the new owner of the business on substantially the same terms as before.

25 Qualifying period – continuous Defence service across financial years

- 25.1 This section applies to a period of continuous Defence service that starts in one financial year (the first year) and ends in the next financial year (the second year).
- 25.2 If the qualifying period is not completed in the first year, then the whole of the period of continuous Defence service is taken to be service provided in the second year.
- 25.3 If the qualifying period is completed in the first year, then the portion of the period of continuous Defence service that is provided in the second year is taken to be service in the second year. After the completion of this service, the member must complete a new qualifying period for the second year before a claimant is entitled to any employer support payment for any further service in the second year.

26 Qualifying period if illness or injury results from Defence service

The qualifying period may include a period of injury or illness that occurs as a result of the member's defence service and is accepted as a service injury or service disease in accordance with the definitions of those terms set out in the *Military Rehabilitation and Compensation Act 2004*, calculated between the following dates:

- a. Starting on the day after the period of Defence service the member rendered.
- b. Ending on the day before the member returned to work.

27 Calculating absence on Defence service

- 27.1 For the purpose of calculating an absence on Defence service, a period of continuous service is taken to include public holidays, authorised stand-downs and days on which the member is unable to work due to illness or injury.

Note: Separate provisions cover public holidays, authorised stand-downs and sick days. Inclusion of these days in calculating an absence on Defence service does not mean that these days are counted towards the qualifying period requirement or eligible for an employer support payment.

- 27.2 In order to count only the time for which the member would have been absent from their employment due to their Defence service, the following periods are not counted towards a period of absence on Defence service.

- a. Any period of leave that is not military leave or leave without pay granted for the purpose of the Reserve duty.
- b. Any day on which the member performed work for their employer or for their business, unless it was done in any of the following circumstances.
 - i. Performed in an emergency.
 - ii. Performed with a written permission from the member's Commanding Officer or Branch Head, which specifies what work the member is authorised to perform and that the days on which the member performs such work may be counted towards a period of absence on Defence service for the purpose of eligibility for employer support payments.

Note: Attempts by members to continue to run businesses in off-duty hours, while meeting their Defence obligations, and to also be entitled to employer support payments should not be approved under this section.

- c. Any day on which sessional fee was payable to the member.

- 27.3 The table in this section sets out the number of weeks that a member is taken to have been away from their employment as a period of **continuous absence on Defence service**, taking into account public holidays, stand-down and sick leave.

Counting weeks toward qualifying period

Item	Period of continuous service (days)	No public holiday, authorised stand-down day or sick day in period (see note 1)	1 public holiday, authorised stand-down day or sick day in period (see note 1)	Total of 2 public holidays, authorised stand-down days or sick days in period (see note 1)	Total of 3 public holidays, authorised stand-down days or sick days in period (see note 1)	Total of 4 public holidays, authorised stand-down days or sick days in period (see note 1)
1	1	0	0	0	0	0
2	2	0	0	0	0	0
3	3	0	0	0	0	0
4	4	0	0	0	0	0
5	5	1	0.8	0.6	0.4	0.2
6	6	1	1	0.8	0.6	0.4
7	7	1	1	1	0.8	0.6
8	8	1.2	1	1	1	0.8
9	9	1.4	1.2	1	1	1
10	10	1.6	1.4	1.2	1	1
11	11	1.8	1.6	1.4	1.2	1
12	12	2	1.8	1.6	1.4	1.2
13	13	2	2	1.8	1.6	1.4
14	14	2	2	2	1.8	1.6
Counting weeks of absence after qualifying period						
15	15	0 (see note)	2	2	2	1.8
16	16	0 (see note)	0 (see note)	2	2	2
17	17	0 (see note)	0 (see note)	0 (see note)	2	2
18	18	0 (see note)	0 (see note)	0 (see note)	0 (see note)	2

Note : The number of weeks served for the qualifying period is zero because in this case the member has already served the full qualifying period for the year.

Division 3: Rules about the member's employment

27A Australian Business Number

A claimant is not eligible to make a claim for employer support payment in relation to defence service undertaken by a member unless the claimant's business had been allocated an Australian Business Number that was active at the time that the service was undertaken.

28 Minimum wage or benefits

An employer is not eligible to make a claim for employer support payment in relation to defence service undertaken by a member if the employer pays the member a wage that is less than the national minimum wage as set in a national wage order under the *Fair Work Act 2009*.

Exception: If the employer pays the employee wages in accordance with a salary sacrifice or other arrangement which provides an outcome that is equal to or more favourable than the national minimum wage, then the employer may be eligible to make a claim for payment.

29 Minimum period of employment

- 29.1 In relation to employment other than self-employment, an employer cannot claim an employer support payment for a period of absence on Defence service that begins before the member has been employed by that employer for 3 months.
- 29.2 The qualifying period cannot be served within the first 3 months of the employment.

Related Information: Part 2 Division 2 sets a 12 month period that must be met by a member before they can claim as a self-employed member.

30 Continuous full-time service and employment

- 30.1 This section applies in relation to a member who has undertaken continuous full-time service that would be eligible service under Division 4 for a total period of at least 2 years.
- 30.2 A claimant is only eligible to make a claim for employer support payment in relation to any further defence service undertaken by the member if the member has spent a period of 26 continuous weeks in the employment, since the start of the continuous full-time service periods making up the 2 year total period, during which the member did not undertake continuous full-time service.

Example: The member undertakes 12 months continuous full-time service followed, after a one week break, by a further 12 months continuous full-time service. The claimant is not eligible to make a claim for employer support payment in relation to any further defence service until the member has spent a period of 26 continuous weeks back in their employment. If the member had a nine month gap between the periods of continuous full-time service and had returned to their employment during this period, section 30 would not apply.

31 Trading or operation of claimant – before or during Defence service

A claimant is not eligible to claim an employer support payment for a period when either of the following circumstances apply in relation to a member's period of absence on Defence service.

- a. The employing entity has not traded or operated for a continuous period of 26 weeks or longer, starting before or during the member's Defence service.

Exception: Paragraph a. does not apply if the 26 week period was only broken because a self-employed member was on continuous full-time Defence service for a period.

- b. It is reasonable in all the circumstances to believe that the employing entity has ceased to operate or trade permanently.

Note: If the company, trust, partnership or business resumes operation or trading, the employer or self-employed member could make a new claim for eligibility in accordance with this Determination.

32 Trading or operation of self-employed member – after continuous full-time service

A self-employed member is not eligible to claim an employer support payment if their employing entity does not operate for a period of 3 months or longer following a period of continuous full-time service by the member and, during this period, the member undertakes no further continuous full-time service.

Note: If the member's business resumes trading or operation after this time, the member may become eligible to make a claim again.

Example: The member undertakes 12 months continuous full-time service. After the service is completed, the member does not resume business activities. 4 months after the end of the continuous full-time service, the member undertakes some Reserve service (the business is still not operating). The member is not eligible to claim an employer support payment.

Division 4: Rules about Defence service

33 Eligible service

- 33.1 Service that meets any of the following descriptions can be counted as eligible service for the purpose of calculating a qualifying period or an employer support payment.
- a. Ordinary reserve service undertaken as part of normal peace time training or service.
 - b. Voluntary continuous full-time service to which protections set apply for either of the following reasons.
 - i. A special undertaking has been made in accordance with subsection 12 (1) of the *Defence Reserve Service Protection Act 2001*.
Related Information: This undertaking would apply the employment, partnership and education protections contained in the Act.
 - ii. The employer has undertaken that employment and partnership protection is to be provided to the employee at or above the standard of protections set out in Parts 5 and 6 of the *Defence Reserve Service Protection Act 2001*.
See: *Defence Reserve Service Protection Act 2001*
 - c. Continuous full-time service rendered as a result of an order under section 51A, 51B or 51C of the *Defence Act 1903* (whether or not the member is also subject to an order under section 50D of that Act).
 - d. Continuous full-time service rendered as a result of an order under section 50D of the *Defence Act 1903* in relation to:
 - i. a member of the Reserve Response Force; or
 - ii. a civil emergency.
- Note:** To avoid doubt, only service rendered as a result of an order under section 50D of the *Defence Act 1903* that is also described under subsection 1 counts as eligible service.
- 33.2 Service by a participant in the Australian Defence Force Gap Year program is never eligible service for the purpose of calculating a qualifying period or an employer support payment.

34 Eligible service during Unit stand-down

- 34.1 If a member intends to render eligible service on a day when their Unit is stood down in any of the following circumstances, that day is taken to be a day of eligible service.
- a. A stand down is provided in writing, for Unit management reasons.
 - b. A Defence requirement prevents the member from completing 6 hours of defence duty on the day.
 - c. There is an equipment failure or other similar circumstance that causes the stand-down.
- 34.2 The stand-down does not count as eligible service in relation to that member if either of the following circumstances apply to it:
- a. The stand-down is the result of the member's wilful or negligent actions.
 - b. The stand-down is a day when the Unit would not normally be on duty.
- Example:** A weekend or rostered day off.

Division 5: Eligibility for payment

35 Eligibility – basic conditions

- 35.1 An employer or self-employed member is eligible for a payment because of the member's absence on defence service if the following conditions are met.
- a. The absence occurs after the qualifying period is met in a financial year.
 - b. The absence is for a period of at least 5 continuous days, which may include, at the place in which the defence service is being undertaken:
 - i. one or more public holidays.
 - ii. one or more days on which the member is stood-down.
 - iii. one or more days on which the decision-maker is satisfied that the member was unable to perform required or scheduled work for Defence because of an illness or injury.
 - c. The defence service is eligible service.
See: Division 4, Rules about service
 - d. The employer has released the member to undertake the defence service on military leave or leave without pay.
- 35.2 If the period of absence is immediately after the qualifying period for a financial year but is less than 5 continuous days, it is taken to meet the basic condition in paragraph 1.b.

36 Cost-effectiveness

- 36.1 In determining a claim for employer support payment, a decision-maker may reject a claim if not satisfied that the employer support payment is a cost-effective means of delivering the capability required by the Chief's Service.
- 36.2 A decision to reject a claim under subsection 1 must be based on evidence that the cost effectiveness of the service was determined before the start of the service to which it relates.
- Example:** A member is offered a period of duty to complete a project. The decision to engage the member and determination of cost-effectiveness may be delegated to unit command level within a Service. The member is informed that the service has been determined to not be cost effective for the purpose of an employer support payment. Later, after they have completed the project, the member makes a claim. The decision-maker refuses it based on the evidence that the service had been determined not to be cost effective before it was commenced.
- 36.3 This section does not apply in relation to Defence service if the service is compulsory under a call out.
- Note:** This section may apply to service by either a self-employed member or a Reservist who is an employee.
- See:** Section 46, Approval of cost-effectiveness for classes of claims

37 Absence not due to Defence service

A day of absence on Defence service cannot be counted for the purpose of eligibility for payment of an employer support payment or for counting towards the annual qualifying period requirement if any of the following circumstances apply to the member on that day.

- a. The member is on leave on the same day from the employer, for a reason other than the Defence service, whether paid or unpaid.

Examples: annual leave, personal or carer's leave, leave for an illness or injury that is not also counted under the basic conditions or the extended payment rules, family leave, bereavement leave, compassionate leave, cultural leave, parental leave, maternity or adoption leave or long service leave.

- b. The absence is on a public holiday, unless the member undertook a whole day of Defence service on the day.
- c. The absence is on a day on which the member is stood down from their employment for the whole day.
- d. The absence is on a day on which:
 - i. The member had an illness or injury.
 - ii. The member did not work for the whole of the day.
 - iii. The basic conditions or the extended payment rules would not apply to count it for the purposes of a payment.

See: Section 41, Extended eligibility - if illness or injury results from Defence service
Section 42, Extended eligibility – member dies on Defence service

38 Member with 2 or more employment relationships

The table in this section sets out which claimant is eligible for employer support payment when a member has more than one employment.

Item	If the member has this kind of employment...	and also this kind of employment...	then an amount of employer support may be paid to...
1.	full-time	any part-time or self-employment (whether full-time or part-time)	the full-time employer only, worked out under section 48.
2.	full-time self-employment	part-time	the member only See: Part 2 Divisions 2 and 3, and section 17
3.	part-time	part-time	each employer of the member See: Part 2 Divisions 2 and 3, and section 17
4.	part-time self-employment	part-time	the member and each employer of the member, worked out under section 50. See: Part 2 Divisions 2 and 3, and section 17

39 Limit on claims relating to self-employment

- 39.2 A self-employed member is only eligible to claim employer support payment as the employer, in relation to that self-employment.

Note: A self-employed member must seek employer support payment in the capacity of being his or her own employer, and cannot also seek employer support payment in the capacity of being his or her own employee.

- 39.3 A member may have more than one relationship in which they are employer or employee but employer support payment may only be paid once for each employment relationship.

Example: The member may be both:

1. A self-employed member to provide his or her principal source of income or employment; and
2. An employee who doing other work as an employee for a different person.

Both activities can qualify for employer support payment if the requirements of this Determination are met. The member would be able to claim in relation to the self-employment. In relation to the member's work for another person, that other person would be able to claim as the member's employer. The member could not claim for that second employment relationship.

40 Change in circumstances

- 40.1 A claimant for employer support payments must notify any relevant Service Chief in writing as soon as practicable, of any change in circumstances, including relevant items listed in for the claimant type in the table.

For all claimants:	
1.	The member does not complete any period of defence service that is mentioned in the claim for employer support payment.
2.	The relevant business ceases to trade or operate on any basis, whether temporary or permanent.
3.	The member ceases to be an employee of the employer.
4.	The member ceases to be employed by a trust or the trustee of a trust.
5.	The relevant business is disposed of.
For a self-employed member claimant, the following are also notifiable changes:	
6.	The member ceases to have a controlling interest in the relevant company or business.
7.	The member ceases to be a sole trader, or to be employed by a family member who is a sole trader. Example: A member who is a sole trader, but then sets up a company to operate the business, must advise that he or she has ceased to be a sole trader.
8.	The member ceases to be a partner.
For an employer claimant, the following are also notifiable changes:	
9.	The member becomes a director or partner in the relevant business.
10.	The member gains a controlling interest in the relevant company or business.

- 40.2 The notice of change may be used by a decision-maker for the following purposes.
- a. To determine eligibility for any unpaid, ongoing or new claim.
 - b. To verify facts for the purpose of assessing eligibility under any related claims, including any audit of claims.
- 40.3 If, as a result of information provided under this section, a decision-maker decides that the eligibility for payment is different to that applied for or notified to a claimant previously, then the decision-maker must notify the claimant of the new eligibility status as soon as reasonably practicable.

41 Extended eligibility if illness or injury results from Defence service

- 41.1 This section applies if a decision-maker is satisfied that the following conditions apply to the member.
- a. The member suffers an injury or illness as a result of the member's defence service;
 - b. The illness or injury could reasonably be expected to be accepted as a service injury or service disease in accordance with the definitions of those terms set out in the *Military Rehabilitation and Compensation Act 2004*;
 - c. The illness or injury prevents the member from:
 - i. performing the full duties of their work for at least 5 days; or
 - ii. returning to work for at least 5 days.
- 41.2 The employer or self-employed member may make a claim, in writing, for an amount of employer support payment in relation to the period of the illness or injury.
- 41.3 For an employer claimant, the decision-maker may approve the claimant to continue to be eligible for an employer support payment until the day any of the following circumstances apply.
- a. The member is reasonably able to return to full duties.
 - b. The member ceases to receive medical treatment for the injury or illness from the Joint Health Command and ceases to receive compensation payments from the Department of Veterans' Affairs in relation to the injury or illness.
 - c. The member's claim is rejected (after any appeals are finalised) by the Department of Veterans' Affairs.
- 41.3A For a self-employed member claimant, the decision-maker may approve the claimant to continue to be eligible for an employer support payment until the day any of the following circumstances apply:
- a. The member is reasonably able to return to full duties.
 - b. The member commences to receive compensation payments from the Department of Veterans' Affairs in relation to the injury or illness.
 - c. The member's claim is rejected (after any appeals are finalised) by the Department of Veterans' Affairs.
- 41.3B If either of the following circumstances apply, then subsection 41.3 applies and subsection 41.3A does not apply to a self-employed member claimant.
- a. The member is a partner in a partnership that is not a family partnership.

- b. The member is a director of a company and does not have a controlling interest in that company as detailed in Division 2 of Part 2.

Note: Section 12A notes that a payment to a self-employed member is made to the member in his or her capacity as an employer, for and on behalf of the business.

- 41.4 The amount of employer support that may be paid is to be calculated as if the period of absence from employment due to the illness or injury was absence on defence service, limited to the 52-week maximum.
- 41.5 If the member is able to perform duties related to their employment but the illness or injury prevents the member from performing the full duties of their work, the decision-maker may determine a weekly rate of employer support payment to be paid which is less than the AWOTE.

42 Extended eligibility – member dies on Defence service

If a member dies while on defence service, the death has the following effect on eligibility for employer support payments.

- a. Any prospective entitlement to employer support payment for the period after the date of death ceases, except for the payment mentioned in paragraph b.
- b. An amount equal to the employer support payment that would have been payable for defence service undertaken by the member for a period of 4 weeks is payable for the period immediately following the death.

Note: It is assumed that the period of 4 weeks would not be subject to any interruptions or limits that would affect the amount of employer support payment to be worked out.

Part 4 Making a claim

Division 1: Time and evidence

43 Making a claim

- 43.1 A claimant who claims to be entitled to an employer support payment must take the following actions.
- Complete the claim form required by the decision-maker, in accordance with any directions on it.
 - Apply to a decision-maker for the claimant using the claim form.
- 43.3 One claim form may be used to deal with any number of claim periods.

44 Time for claiming

- 44.1 A claim must be made within 6 months of the start of the period for which payment is sought.
- Note:** The claim can be made before the member's period of continuous Defence service has been completed.
- 44.2 A late claim may be refused by a decision-maker on the basis of lateness alone.
- 44.3 Despite subsection 1, a decision-maker may accept a claim that is made between 6 and 12 months after the start of the period for which that claim seeks payment, if satisfied that it is reasonable to do so for reasons beyond the claimant's control, such as illness or injury.
- 44.4 Despite subsection 1, a claim may be accepted more than 12 months after the first day of defence service for which the claim seeks payment. If a claim is accepted after that 12 month period, employer support payment is not payable for any day that occurred more than 12 months before the claim was made.

45 Evidence that must be provided

- 45.1 A claimant must provide information described in the table with their first claim for a financial year.

Item	With...	this kind of claimant...	must provide evidence...
1.	the first claim for a financial year	a self-employed member	of the member's normal weekly hours of work.
2.	the first claim for a financial year	an employer who is not a self-employed member	that the member is employed by the employer. of the member's normal weekly hours of work.

- 45.2 A claimant must provide information to support their claim.
- 45.3 The following are examples of information that might be requested to support a claim.
- Evidence that the employer's business is operating or trading.
 - Evidence that the member is an employee of the employer.

- c. Evidence of the member's normal or actual weekly hours of work.
- d. Evidence relating to the period of 26 weeks, another relevant period mentioned in section 16, or another methodology decided under that section, to determine the member's normal working hours.

46 Approval of cost effectiveness for classes of claims

- 46.1 A Service Chief may, in writing, make a decision to determine that a class of claims provides a cost effective means to get the capability. The class may relate to:
 - a. A particular part of the Reserves.
 - b. A particular class of members in the Reserves.
- 46.2 The cost effectiveness of a claim to which a class decision relates is determined on that basis. However, for the purposes of review, the cost effectiveness of each claim is taken to have been determined separately by the Service Chief who made the class decision.

See: Section 36, Cost-effectiveness

47 Reasons for refusing a claim

A decision-maker must notify the claimant in writing of a decision to refuse their claim, within 7 days of making the decision. The notice must provide reasons for the refusal.

Division 2: Calculating the amount that is payable

48 Amount of employer support payment — full-time work

- 48.1 The amount of employer support payment payable for a claim period, in respect of a member in full-time work, is set out in the table.

Item	If the week in the claim period relates to...	and if the number of days the member has been absent on continuous Defence service at the end of the claim period is...	then the payment for that week of the claim period is...
1.	1 to 4 days in the first week of the claim	5 or more	For each day of the claim period, an amount equal to the weekly amount of AWOTE divided by 5.
2.	5 to 7 days in the first week of the claim	5 or more	1 week of AWOTE.
3.	1 to 4 days in the second or later week of the claim period	a. 1 to 4 days in that week of the claim period; and b. 7 days in the previous week	For each day of the claim period, an amount equal to the weekly amount of AWOTE divided by 5.
4.	the second or later week of the claim period	a. 5 to 7 days in that week of the claim period; and b. 7 days in the previous week	1 week of AWOTE.

Example 1: If, in a financial year, an employee in full-time work is absent on defence service for 3 periods of 5 continuous days, his or her employer will not be entitled to an employer support payment for the first 2 weeks (the qualifying period). The claim period will start on the 11th day of absence (the beginning of the 3rd week), and the employer will be entitled to an amount of employer support payment that is equivalent to the weekly rate of the employer support payment.

Example 2: This example shows how to calculate a payment for a claim period of 18 continuous full days of service.

Step	Action
1.	Confirm that the member's claimed period of Defence service meets the time condition - it must comprise a period of at least 5 continuous days of service.
2.	Calculate the number of full weeks of service. In this case, the first 14 days = 2 weeks.
3.	Calculate how much of a week the remaining service amounts to. In this case, the 4 remaining days = 0.8 week.
4.	Add the full and part weeks. In this case = 2.8 weeks.
5.	Multiply AWOTE by the length of the claim period. In this case, AWOTE x 2.8.
6.	The answer is the amount of employer support payable to the claimant for that period of service.

- 48.2 To avoid doubt, a part week payment is not payable for any week in which the full week payment is payable.
- 48.3 The maximum amount that can be paid for a single period of absence on continuous

Defence service is 52 weeks AWOTE.

Note: Even though the absence may cross two years, payments stop once 52 weeks' AWOTE has been paid.

See: Section 37, Absence not due to Defence service

49 Amount of employer support payment — part-time work with 1 employment relationship

- 49.1 For the purpose of this section, the amount of employer support payment for a part-week of part-time work when a member has one employment relationship is calculated using the following formula:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee each week}}{35} \times \frac{\text{Number of days worked by employee in the week the claim relates}}{5}$$

- 49.2 For the purpose of this section, the amount of employer support payment for a full week of part-time work when a member has one employment relationship is calculated using the following formula:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee each week}}{35}$$

- 49.3 The formulae to use in calculating employer support payment payable for a claim period, in respect of a member in part-time work with one employment relationship, are to be applied as set out in the table.

Item	Week in claim period	number of days the member's has been absent on continuous Defence service at the end of the claim period	the payment for that week of the claim period is worked out using the...
1.	1 to 4 days in the first week of the claim	5 or more	Part week formula
2.	5 to 7 days in the first week of the claim	5 or more	Full week formula
3.	1 to 4 days in the second or later week of the claim period	a. 1 to 4 days in that week of the claim period; and b. 7 days in the previous week and	Part week formula
4.	the second or later week of the claim period	a. 5 to 7 days in that week of the claim period; and b. 7 days in the previous week and	Full week formula

Example: This example shows how to calculate a payment for a claim period of 18 continuous full days of service, using the part week formula.

Step	Action
1.	Confirm that the member's claimed period of Defence service meets the time condition – it must comprise a period of at least 5 continuous days of service.

2.	Find out how many hours the member works in a week in their employment. Divide that number of hours by 35
3.	Multiply the result of step 2 by the weekly amount of AWOTE. This provides a weekly payment figure.
4.	Calculate the number of full weeks of service. In this case, the first 14 days = 2 weeks.
5.	Calculate how much of a week the remaining service amounts to. In this case, the 4 remaining days = 0.8 week.
6.	Add the full and part weeks. In this case = 2.8 weeks.
7.	Multiply the weekly payment figure from Step 3 by the length of the claim period. In this case, weekly payment figure x 2.8.
8.	The answer is the amount of employer support payable to the claimant for that period of service.

- 49.4 The maximum amount that can be paid for a single period of absence on continuous Defence service under this section is the full week formula applied to 52 weeks of service.

Note: Even though the absence may cross two years, payments stop once 52-weeks' AWOTE has been paid.

See: Section 37, Absence not due to Defence service

50 Amount of employer support payment — part-time work with 2 or more employment relationships

- 50.1 For the purpose of this section, the amount of employer support payment for a part week of part-time work when a member has two or more employment relationships is calculated using the relevant of the following formulae.

- a. If the member worked 35 hours or less in the week, this formula:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee each week}}{35} \times \frac{\text{Number of days worked by employee in the week the claim relates}}{5}$$

- b. If the member worked more than 35 hours in the week:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee for the claiming employer each week}}{\text{Total number of hours the member works each week}} \times \frac{\text{Number of days worked by employee in the week the claim relates}}{5}$$

- 50.2 For the purpose of this section, the amount of employer support payment for a full week of part-time work when a member has two or more employment relationships is calculated using the relevant of the following formulae.

- a. If the member worked 35 hours or less in the week, this formula:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee each week}}{35}$$

- b. If the member worked more than 35 hours in the week:

$$\text{Weekly amount of AWOTE (\$)} \times \frac{\text{Number of hours worked by employee for the claiming employer each week}}{\text{Total number of hours the member works each week}}$$

- 50.3 The formulae to use in calculating employer support payment payable for a claim period, in respect of the member's part-time work with each claimant, are to be applied for each employment relationship, as set out in the table.

Item	Week in claim period	number of days the member's has been absent on continuous Defence service at the end of the claim period	the payment for that week of the claim period is worked out using the...
1.	1 to 4 days in the first week of the claim	5 or more	Part week formula
2.	5 to 7 days in the first week of the claim	5 or more	Full week formula
3.	1 to 4 days in the second or later week of the claim period	a. 1 to 4 days in that week of the claim period; and b. 7 days in the previous week and	Part week formula
4.	the second or later week of the claim period	a. 5 to 7 days in that week of the claim period; and b. 7 days in the previous week and	Full week formula

51 Maximum amount payable for a single period of absence on Defence service

The maximum claim period that can be paid for a single period of absence on continuous Defence service under this section is 52 weeks.

Note 1: Even though the absence may cross two years, payments stop once 52-weeks' AWOTE has been paid.

Note 2: The single period of continuous Defence service may be the subject of any number of claims.

See: Section 37, Absence not due to Defence service

52 Additional employer support payments

- 52.1 For this section, a substantial financial loss must be a financial loss that:

- a. Is, or will be, incurred in the ordinary course of the business of a claimant because of the absence of a member on defence service.
- b. Is not:
 - i. a loss of a remote, speculative or indirect kind; or
 - ii. a loss that has not yet occurred, and is not certain to occur; or
 - iii. a loss of a personal nature or incurred in a personal capacity; or

- iv. a loss that is incurred, or that may be incurred, otherwise than in the prudent and reasonable conduct of the business.
- 52.2 A claimant may apply to the decision-maker in writing for an additional amount of employer support payment, if the conditions in all of the following paragraphs are met.
 - a. The claimant believes that they have suffered, or will suffer, hardship or loss because of the absence of an employee on continuous defence service.
 - b. The amount of the employer support payment payable in relation to a particular claim period is insufficient to prevent substantial financial hardship or substantial financial loss.
 - c. A sessional fee is not payable in relation to the member's defence service.
- 52.3 An application under subsection 2 must be made as soon as reasonably practicable after the first day of the claim period to which the application or claim relates.
- 52.4 Subject to subsection 3, the application may relate to any number of claim periods.
- 52.5 A decision-maker may only approve the application if satisfied of the following matters in relation to any relevant claim period.
 - a. The claimant has suffered, or will suffer, substantial financial hardship or substantial financial loss caused by the absence of the claimant's employee on defence service (or caused by absence due to injury or illness resulting from the member's defence service) during the claim period.
 - b. It was not possible in the circumstances for the claimant to make arrangements to avoid the substantial financial hardship or substantial financial loss.
 - c. The claimant has made, or is making, a reasonable effort to avoid or limit substantial financial hardship or substantial financial loss.
 - d. Any allowances the claimant has received, or is eligible to receive, under any other Determination made under section 58B of the Act are insufficient to avoid substantial financial hardship or substantial financial loss.
 - e. The claimant applied for the additional payment as soon as reasonably practicable after becoming aware that he or she would suffer substantial financial hardship or substantial financial loss because of the employee's absence during the claim period.
- 52.6 The additional employer support payment must be paid to the claimant as soon as possible after an application is approved.

53 Capability and employer support payments

- 53.1 A Service Chief may recommend to the Chief of the Defence Force that a capability employer support payment be payable, if both the following conditions are met.
 - a. An employer support payment is payable in accordance with this Determination.

Exception: If the employer support payment is not payable only because a sessional fee is payable for the member's Defence service, then this condition is taken to be met.
 - b. The payment would facilitate the provision of a capability required by the Defence Force that involves a specified member, class or classes of members in the Reserves.

Note: Employer support payment to which this subsection applies is in addition to any employer support payment permitted under this Determination.

- 53.1A If satisfied that the following circumstances exist, Head Cadet, Reserve and Employer Support Division may recommend to the Chief of the Defence Force that a capability employer support payment be payable.
- The capability relates to more than one Service.
 - The conditions in subsection 53.1 are met.
 - The Service Chiefs involved with the provision of the capability required by the Defence Force have been consulted and support the recommendation that a capability employer support payment be payable if a claim is made in relation to that capability.
- 53.2 A Service Chief or Head Cadet, Reserve and Employer Support Division may also recommend to the Chief of the Defence Force that an employer support payment should be payable, if all the following conditions are met.
- A condition, limitation or restriction in this Determination that is specified in the recommendation cannot be met or has not been met.
 - The payment would facilitate the provision of a capability required by the Defence Force that involves a specified member, class or classes of members in the Reserves.
 - It is possible to administer payment as if the condition, limitation or restriction that has not or cannot be met:
 - did not apply
 - were modified or replaced in a way specified in the recommendation.

Example: A condition, limitation or restriction may relate to the member's principal source of income or a business related to the member.

Non-example: The employer has ceased to trade. There is no employer to pay and so the payment cannot be administered within the scope of the determination.
- 53.3 If the Chief of the Defence Force approves a recommendation, the approval must specify the following matters.
- The member, or class of members in the Reserves to which the additional payment relates.
 - Any conditions, limitations, or restrictions that are specified as being modified, replaced or not applicable, in relation to the member or class of members.
 - The Chief of the Defence Force may make the approval or payment subject to limits to which the additional payment is subject, including limits on any of the following.
 - The period in which the capability employer support payment is payable
 - The maximum amount of capability employer support payment in relation to any claim.
 - The number of claims that may be made in relation to a part, class or member specified in the approval.
- 53.4 The Chief of the Defence Force must provide a copy of the approval to the Minister.
- 53.5 If the Chief of the Defence Force has approved a capability employer support payment, a claimant may apply for the payment in the same way as normal, subject to any modified, replaced or inapplicable conditions.

53A Payment relating to medical practitioner's service to be reduced

If civil practice support allowance is payable to a member for a period, then any amount payable under this Determination in respect of the member's service for that period is reduced by the amount of the civil practice support allowance.

54 Change or revocation of capability support payment

54.1 A Service Chief or Head Cadet, Reserve and Employer Support Division may recommend to the Chief of the Defence Force that the limits that have been placed on a capability support payment that has been approved should be varied or revoked. The recommendation may relate to a past period only if it would be beneficial to any affected claimants.

54.2 The Chief of the Defence Force may approve the recommendation, specifying the date of effect for a variation or revocation of any limits placed by the original approval.

Note: The decision to revoke a limit may either increase or decrease the amount that is payable.

54.3 The Chief of the Defence Force must provide a copy of the approval to the Minister.

55 When the amounts are paid

If a claim is approved and the amount payable calculated, the payment may then be made to the claimant at the following times.

- a. If the claim is for a period of up to 21 days of Defence service, then, if practicable, the amount is paid within 14 days of the decision to approve the claim.
- b. If the claim is for a period of more than 21 days of Defence service, then the amount is paid fortnightly during the period of the absence.
- c. If the claim is made after the member's period of Defence service has ended, then the amount is paid as soon as practicable after the decision to approve the claim.

Note: The claimant, business or company may become liable for income tax in relation to the payment.

Part 5 Review

56 General

- 56.1 An claimant for an employer support payment may request a decision-maker to review their decision, within 30 days of receiving the notice of a decision.

Note: A decision-maker can always be asked to reconsider their own decision, if new information has become available relevant to the decision. This rule limits the time for requesting a reconsideration.

- 56.2 The decision-maker may accept a later request under subsection 1, if they consider it is reasonable to do so.

Example: The member was injured in an accident and so could not write a request until a later date.

- 56.3 The redress of grievance system established under the *Defence Force Regulations 1952* does not apply in relation to employer support payments.

Note: This is because the benefit is payable to employers, it is not a benefit paid for service.

- 56.4 Within 30 days of receiving a notice of a decision or a notice of a reconsideration of a decision under subsection 1, a claimant may request a senior review officer to review the decision. The request must be in writing and must set out the reasons for making the request.

- 56.5 The senior review officer may, if they consider it reasonable, accept a request under subsection 4 despite the fact that it was made more than 30 days after receipt of a decision.

- 56.6 In relation to a request for review made under subsection 4, the senior review officer must reconsider the claim and the earlier decision relating to the claim and must, in writing:

- a. confirm the decision; or
- b. substitute a new decision.

56A Review initiated by senior review officer

- 56A.1 Within 12 months of the date on which a decision is made in relation to a claim for an employer support payment, a senior review officer may review the decision to determine whether it was made in accordance with the Determination.

- 56A.2 If a review is initiated under subsection 1, the senior review officer must notify the claimant to whom the review relates and provide an opportunity for the claimant to give the officer further information about the original decision or about the claim to which it relates.

- 56A.3 If the senior review officer considers that the decision was not made in accordance with this Determination, they may substitute a new decision in place of the first decision.

Note: The effect of the decision can be to authorise a payment that occurs after the new decision is made, or require a repayment in accordance with the *Public Governance and Accountability Rule 2014*, in relation to a past period.

- 56A.4 A senior review officer acting under this section must notify the claimant of the result of the review as soon as practicable, regardless of whether any new decision is made on a claim.

57 Review by Administrative Appeals Tribunal

Application may be made to the Administrative Appeals Tribunal for review of a senior review officer's decision made under any of the following.

- a. Subsection 56.6.
- b. Subsection 56A.3.

58 Investigation by Ombudsman

- 58.1 A person who is not a member may request the Commonwealth Ombudsman to investigate a decision made under this Determination.
- 58.2 A member may request the Defence Force Ombudsman to investigate a decision or process under this Determination.
- 58.3 To avoid doubt, a person may request the investigation of a process under either subsection 2 or 3.

Note: Under the *Ombudsman Act 1976* the Ombudsman has discretion as to whether to investigate a complaint.

NOTE

- 1. Defence Determination 2012/68, as amended to date. For previous amendments see Defence Determination 2013/33 and amendments made by Defence Determination 2014/14.

Notes to *Defence Determination 2012/68, Reserve employer support payments*

Defence Determination 2012/68, Reserve employer support payments (in force under subsection 58B (1) of the *Defence Act 1903*, as shown in this compilation is amended as indicated in the Tables below

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Instruments

Title	Date of notification in Gazette or Signing date	Date of commencement	Application, saving or transitional provisions
<i>Defence Determination 2012/68, Reserve employer support payments</i>	14 December 2012 (see <i>Gazette</i> 2012, No. S187)	1 January 2013	
<i>Defence Determination 2013/33</i>	2 July 2013 (see <i>Gazette</i> C2013G00984)	1 July 2013	—
<i>Defence Determination 2014/14</i>	3 April 2014 (see <i>Gazette</i> C2014G00571)	28 March 2014	—
<i>Defence Determination 2014/55</i>	28 November 2014 (see <i>Gazette</i> C2014GO1957)	1 December 2014	S. 3A

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 2.....	am. 2014/14
S. 3.....	am. 2014/55
S. 3A	ad. 2014/55
S. 4.....	am. 2013/33; 2014/55
S. 5.....	am. 2014/14; 2014/55
S. 5A	ad. 2014/55
S. 8.....	am. 2014/55
S. 12.....	am. 2014/55
S. 12A	ad. 2014/55
S. 14.....	am. 2014/55
S. 16.....	am. 2014/55
S. 17.....	am. 2014/55
S. 18.....	am. 2014/55
S. 19.....	am. 2014/55
S. 20.....	am. 2014/55
S. 21.....	am. 2014/55
S. 21A	ad. 2014/55
S. 22.....	rs. 2014/55
S. 23.....	am. 2014/55
S. 25.....	am. 2014/55
S. 26.....	am. 2014/55
S. 27.....	am. 2014/55
S. 27A	ad. 2014/55
S. 29.....	am. 2014/55
S. 30.....	am. 2014/55
S. 31.....	am. 2014/55
S. 32.....	rs. 2014/55
S. 33.....	am. 2014/55
S. 36.....	rs. 2014/55
S. 37.....	am. 2014/55
S. 38.....	am. 2014/55
S. 39.....	am. 2014/55
S. 40.....	am. 2014/55
S. 41.....	am. 2014/55
S. 43.....	am. 2014/55
S. 44.....	am. 2014/55
S. 46.....	rs. 2014/55
S. 48.....	am. 2014/55
S. 49.....	am. 2014/55
S. 50.....	am. 2014/55
S. 51.....	rs. 2014/55
S. 52.....	am. 2014/55
S. 53.....	am. 2014/55
S. 53A	ad. 2013/33
S. 54.....	am. 2014/55
S. 55.....	am. 2014/55
S. 56.....	am. 2014/55
S. 56A	ad. 2014/55
S. 57.....	rs. 2014/55

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
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S. 58.....	rs. 2014/55
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