

# EXPLANATORY STATEMENT

## Defence Determination (Compassionate travel – amendment) 2018 (No. 7)

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

Chapter 9 of the Principal Determination sets out provisions dealing with travel in Australia for members of the Australian Defence Force (ADF).

This Determination has the following two purposes.

- To provide that compassionate travel may be granted to a member's spouse or partner where their brother or sister may have recently died.
- To provide clarification of what is an exceptional reason with regard to the grant of compassionate travel for the spouse or partner of a member.

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

Section 2 provides that this instrument commences on 8 February 2018.

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

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### Schedule 1 amends the Defence Determination 2016/19, *Conditions of service*

Section 1 amends table item 4 in section 9.3.52 of the Principal Determination, which provides that compassionate travel may be granted and who may be visited by a member's spouse or partner. The new provision provides for the member's spouse or partner being granted compassionate travel where their brother or sister has recently died.

Section 2 inserts a note in section 9.3.53 of the Principal Determination, which provides that compassionate travel may be granted for exceptional reasons. The note is to provide clarification that a relationship with a person not listed under section 9.3.52 is not considered to be an exceptional reason for travel to be granted.

### Consultation

Consultation is not considered necessary as this Determination is policy neutral and consequential amendments to the Principal Determination ensure it is compliant with section 14 of the *Legislation Act 2003*.

**Authority:** Section 58B of the  
*Defence Act 1903*

# **Statement of Compatibility with Human Rights**

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

## **Defence Determination (Compassionate Travel – amendment) 2018 (No. 7)**

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

### **Overview of the Determination**

This Determination makes amendments to Defence Determination 2016/19, Conditions of service (the Principal Determination).

This Determination has the following two purposes.

- To provide that compassionate travel may be granted to a member's spouse or partner where their brother or sister may have recently died.
- To provide clarification of what is an exceptional reason with regard to the grant of compassionate travel for the spouse or partner of a member.

### **Conclusion**

This Determination is compatible with human rights because it does not engage any applicable human rights or freedoms.

Fiona Louise McSpeerin, Assistant Secretary People Policy and Employment Conditions