

# EXPLANATORY STATEMENT

## Defence (Individual benefits) Determination (No. 4) 2025

This Determination is made under section 58B of the *Defence Act 1903* and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (AI 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 AI Act.

### Purpose

The purpose of this Determination is to provide a payment in lieu of recreation leave to a member due to exceptional circumstances.

### Operational details

Details of the operation of the Determination are provided at annex A.

### Human rights compatibility

The statement of compatibility under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* for this Determination is at annex B.

### Review options

Decisions that are made under this Determination may be subject to inquiry under the ADF redress of grievance system provided under Part 7 of the Defence Regulation. Also, a person may make a complaint to the Defence Force Ombudsman.

### Consultation

Before this Determination was made, the consultation was undertaken with Military Personnel Branch.

The rule maker was satisfied that further consultation was not required.

### Approved by:

**Sarah Kate McGregor**  
Acting Director General  
People Policy and Employment Conditions

### Authority:

Section 58B of the  
*Defence Act 1903*

***Defence (Individual benefits) Determination (No. 4) 2025***

***Operational details***

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

Section 2 provides the Determination commences on the day after the instrument is registered.

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

Section 4 provides the purpose of the Determination.

Section 5 provides that the Determination applies to the member who holds employee identification number 8532114.

Section 6 provides a definition of 'Defence Determination' which means Defence Determination 2016/19, Conditions of service, as in force from time to time. A definition is also provided for 'accrued leave credits' which incorporates a reference to section 5.4.42 of the Defence Determination and 'purchased recreation leave credits' which incorporates a reference to Chapter 5 Part 4 Division 5 of the Principal Determination.

Section 7 provides that the member is to be paid an amount in lieu of, and equivalent to, the accrued leave credits and purchased recreation leave credits that the member has on the day this Determination commences.

The amount payable is to be calculated according to section 5.4.44 of the Defence Determination, which provides the method for determining the payout of leave credits for a member, other than a senior officer who transitioned, who is to be paid an amount for all or part of their accrued leave credits and purchased recreation leave credits.

The member's accrued leave credits and purchased recreation leave credits are to be reduced by the number of recreation leave credits that are paid out under this section.

Section 8 provides that the Determination is repealed on 31 May 2025.

***Defence (Individual benefits) Determination (No. 4) 2025***

***Statement of Compatibility with Human Rights***

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

**Overview of the Determination**

The purpose of this Determination is to provide a payment in lieu of recreation leave to a member due to exceptional circumstances.

**Human rights implications**

*Right to the enjoyment of just and favourable conditions of work*

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

***Assessment of compatibility***

This Determination is compatible with human rights as it promotes a member's right to the enjoyment of just and favourable work conditions by providing a member who is in exception circumstances a payment in lieu of their accrued leave credits and purchased recreation leave credits as a part of their conditions of service.

**Conclusion**

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