EXPLANATORY STATEMENT

###### Defence (Individual benefits) Determination (No. 3) 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 equivalent to the cost of posting allowance to a member that they would have received if it were not for an unexpected delay in commencing their long-term posting overseas. The consequence of the delay has resulted in a loss to the member and their family. Providing compensation for that loss through this Determination is consistent with the purpose of the cost of posting allowance that the member would have received had they commenced their posting as originally advised.

**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 Personal Branch. The rule maker was satisfied that further consultation was not required.

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| **Approved by:** | **Sarah Kate McGregor**  Acting Director General  People Policy and Employment Conditions |
| **Authority:** | Section 58B of the  *Defence Act 1903* |

**Annex A**

***Defence (Individual benefits) Determination (No. 3) 2025***

***Operational details***

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

Section 2 provides that 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 that the purpose of this Determination is to provide a payment equivalent to the cost of posting allowance to a member that they would have received but for an unexpected delay in commencing their long-term posting overseas.

Section 5 provides that the Determination applies to the member holding the employee identification number 8239873.

Section 6 provides that the member is to receive a one off payment of AUD 7,317.72. This amount is what the member would have received as cost of posting allowance had the member been able to commence their posting as originally described.

Section 7 provides when the Determination is repealed.

**Annex B**

***Defence (Individual benefits) Determination (No. 3) 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 equivalent to the cost of posting allowance to a member that they would have received if it were not for an unexpected delay in commencing their long-term posting overseas. The consequence of the delay has resulted in a loss to the member and their family. Providing compensation for that loss through this Determination is consistent with the purpose of the cost of posting allowance that the member would have received had they commenced their posting as originally advised.

**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 protects the right to just and favourable conditions of work by providing a member a payment of an amount of cost of posting allowance that the member would have received if not for an unexpected delay in commencing their long-term posting overseas 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*.