

EXPLANATORY STATEMENT

Defence (Individual benefits) Determination (No. 5) 2025

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 member on long-term posting overseas with an accommodation benefit in Australia before and after the birth of their child.

Operational details

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

Incorporation by reference

The Determination makes references to sections of the *Defence Determination 2016/19, Conditions of service*. This Instrument is incorporated into this Determination as in force from time to time.

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. 5) 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 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, which is to provide a member on long-term posting overseas with an accommodation benefit in Australia before and after the birth of their child.

Section 5 provides that the Determination applies to the member holding employee identification number 8573589.

Section 6 provides the following definitions, which apply to the Determination.

- Accommodation period, which means the period starting 31 May 2025 and ending 1 August 2025.
- Defence Determination, which means *Defence Determination 2016/19, Conditions of service*, as in force from time to time.

Section 7 provides that the member is eligible for the cost of accommodation during the accommodation period, which is the lesser of the amount the member pays for accommodation or AUD 323.90 per day. The benefit may be provided to the member or the accommodation provider, allowing flexibility as to how the benefit is taken.

The section further provides that during the accommodation period the member ceases to be eligible for any other accommodation benefits in Australia that would otherwise apply during the accommodation period under the *Defence Determination 2016/19, Conditions of Service*.

Section 8 provides that the accommodation period may be extended for up to 28 days if there are medical complications for the member's partner or their child as a consequence of the birth of the child that require the member's partner or their child to remain in Australia.

Section 9 provides that if the member and their partner cease to occupy the accommodation for which benefits under the Determination relate before the end of the accommodation period, eligibility to benefits under the Determination cease from the day the member and their partner no longer occupy the accommodation.

Section 10 is provided to clarify that the member is not eligible for any other travel benefits under this Determination.

Section 11 provides that the Determination is revoked on 30 September 2025.

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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 the Determination, which is to provide a member on long-term posting overseas with an accommodation benefit in Australia before and after the birth of their child.

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

Schedule 1 promotes a member's right to the enjoyment of just and favourable conditions of work by providing a member on a long-term posting overseas with accommodation in Australia prior to and after the birth of their children as a part of their conditions of service package.

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*.