

EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment Determination (No. 8) 2025

This Determination amends Defence Determination 2016/19, Conditions of service (the Principal Determination), 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.

The Principal Determination is exempt from sunseting under item 21A of section 12 of the Legislation (Exemptions and Other Matters) Regulation 2015. The exemption was granted as the instrument is a large and complex document that is subject to regular review and amendment. The exemption also provides certainty for members, stakeholders and administrators.

This Determination amends the Principal Determination which provides benefits for members of the Australian Defence Force (ADF) and their families as part of the member's conditions of service. The Principal Determination provides a range of benefits that recognise the unique nature of military service and the obligations and limitations that military service places on members and their families. Members undertake service in both the domestic and overseas environments, including on deployments. Specific benefits are provided for each environment.

Purpose

The purpose of this Determination is to do the following:

- Clarify the requirements a member must satisfy to access transition absence days to be able to attend Defence Force transition program activities, employment-related activities, career transition training, education courses, or transition-related administrative activities.
- Extend storage benefits to a member who is occupying an own home in their housing benefit location without any resident family or recognised other persons when they are deployed for 6 months or more and they choose to vacate the home for the duration of the deployment.
- Include Beirut, Lebanon as a new posting location and the American Community School, Beirut as a new benchmark school for Beirut, Lebanon to ensure that a member who is posted to the location has access to the overseas conditions of service.
- Amend the overseas reunion travel benefits to provide the following.
 - Clarify the number of reunion travel benefits a member is eligible for in a reunion year.
 - Provide reunion travel benefits for a member when they have a dependent who is a tertiary student studying in Australia or an overseas location that is not the member's posting location.
 - Provide that a member can travel to another overseas location for a reunion visit if the eligible person cannot travel to the member's posting location overseas.
 - To restructure the reunion travel provisions to reflect contemporary drafting standards.
- Update the total threshold amount for calculating the amount a member may be reimbursed in excess of the costs they incur for public transport when they travel to and from home to work.
- Update the threshold for calculating the amount a member may be reimbursed in excess of the costs they incur for their child's school transport when they travel to and from home and school.
- Amend the definition of 'housing benefit location' and 'family benefit location' to provide what the terms mean for a member who is on a long-term posting overseas.

- Clarify what storage benefits a member who is deployed for 6 months or longer who chooses to vacate their accommodation, or is directed to vacate their living-in accommodation, is eligible for.
- Extend the Early Eligibility for Rent Allowance Trial by 12 months.
- Make the following miscellaneous amendments.
 - Remove redundant text.
 - Update cross references.
 - Correct typographical errors.
 - Promote consistency and the use of contemporary drafting styles within the Principal Determination.

Operational details

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

Retrospective application

The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

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 the Principal Determination, as amended by 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:

- Schedule 1: Joint Transition Authority within Military Personnel Branch.
- Schedule 2: Military Personnel Branch, Defence Finance Group and the Directorate of Relocations and Housing.
- Schedules 3, 5 and 7: Military Personnel Branch, Defence Attaché and Overseas Management, Australian Signals Directorate and Australian Submarine Agency.
- Schedule 4: Military Personnel Branch, Australian Signals Directorate Workplace Relations, Australian Submarine Agency Overseas Placements, Overseas Administration Team, Defence Attaché and Overseas Management, and Defence Print and Travel Services.
- Schedule 6: Military Personnel Branch and the Directorate of Housing and Relocations.

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 Determination, Conditions of service Amendment Determination (No. 8) 2025***Operational details***

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

Section 2 provides the following commencement dates:

- Sections 1 to 4 of the Determination commences on the day the instrument is registered.
- Schedule 1 to 7 of the Determination commences on 5 June 2025.

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

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—Transition absence amendments

Item 1 repeals and substitutes section 2.2.8 of the Principal Determination which provides that a member is eligible for a cumulative total of 25 days of transition absence to attend transition program activities in the Defence Force and activities related to their employment, training for career transition or education courses that are relevant to their post-transition employment career path or meaningful engagement; or other transition-related administrative activities. The following amendments have been made.

- Clarify that a member's transition activities must be directly related to their employment career path or meaningful engagement following transition.
- Include that a member must have a transition date before they can apply for transition absence days.

Schedule 2—Removal on deployment amendments

Items 1 to 3 amend section 6.5.38 of the Principal Determination which provides when a member who is being deployed for 6 months or longer can access a removal of their furniture and effects to storage in their housing benefit location. The following amendments have been made.

- Item 1 amends subparagraph 6.5.38.1.c.ii to provide that a member who is occupying an own home and they choose to vacate the property for the duration of the deployment is also eligible for a removal of their furniture and effects to storage in their housing benefit location.
- Item 2 amends subsection 6.5.38.2 to make a technical amendment which promotes the use of contemporary drafting styles.
- Item 3 inserts a definition of own home for the purpose of the section. The definition provides that an own home means one of the following.
 - A suitable own home, as defined by section 7.2.5 for a member who has no resident family or recognised other persons.
 - A home that would be a suitable own home under section 7.2.5 had paragraph 7.2.12.1.g not applied for a member who has unaccompanied resident family and no accompanied resident family.

Items 4 and 5 amends section 6.5.53 of the Principal Determination which provides storage benefits for members who are deployed for 6 months or longer and either have no resident family or recognised other persons or members who have unaccompanied resident family and no accompanied resident family. The following amendments have been made.

- Item 4 amends subparagraph 6.5.53.1.c.ii to provide that a member who is occupying a suitable own home and they choose to vacate the property for the duration of the deployment is eligible for storage in their housing benefit location until they are rehomed after their deployment.

- Item 5 inserts a definition of own home for the purpose of the section which provides that an own home is a home that would be a suitable own home under section 7.2.5 had paragraph 7.2.12.1.g not applied for a member who has unaccompanied resident family and no accompanied resident family.

Item 6 repeals and substitutes section 6.5.57 of the Principal Determination which provides that a member occupying a suitable own home in their housing benefit location or family benefit location is not eligible for storage unless the CDF is satisfied the items of furniture to be stored are the same as non-portable items in their own home. A note has been included to provide that a member who has chosen to vacate their own home as a consequence of being deployed for 6 months or longer may be eligible for storage under section 6.5.53. The section has also been redrafted to promote the use contemporary drafting styles.

Technical amendments made under this Schedule do not alter the underlying policies, or the benefits which are currently provided.

Schedule 3—Post index location and benchmark school amendments

Item 1 amends Annex 12.3.B of the Principal Determination which provides the list of locations overseas which attract a post index adjustment. The annex has been amended to insert Beirut, Lebanon as a new post index location.

Item 2 amends Annex 15.6.A of the Principal Determination which provides a list of benchmark schools which are used for determining the amount of education assistance available to a member under Chapter 15 Part 6. The Annex has been amended to insert a benchmark school, the American Community School, Beirut, for the posting location of Beirut, Lebanon.

Schedule 4—Overseas reunion travel amendments

Item 1 amends section 14A.1.23 of the Principal Determination which provides reunion travel benefits to a member when their dependents have been evacuated from a posting location overseas due to COVID-19. Subsection 3 has been omitted and substituted with a legislative note which provides that a reunion travel benefit taken under the section reduces the number of benefits a member is eligible for under section 15.3.17G. The rule for reducing the number of benefits a member is eligible for is provided under subsection 15.3.17G.4.

Item 2 omits and substitutes Division 3 of Part 3 of Chapter 15 to the Principal Determination which provides reunion travel benefits for a member on a long-term posting overseas. The amendments made to the Division expand the benefits available to members. The new Division provides the following.

Subdivision 1 provides the General provisions that relate to the Division.

- Section 15.3.10 provides a simplified outline of the Division.
- Section 15.3.11 provides defined terms that are used within the Division.
- Section 15.3.12 provides the definition of 'dependent tertiary student'. A dependent tertiary student is a person who is under 25 years of age studying at a tertiary institution in an overseas location or in Australia.
 - For a dependent tertiary student studying in an overseas location, a person can only be recognised if they meet all of the specified criteria. Specifically, that the person would have lived with the member in the posting location but they are unable to because dependents are not permitted at the location, they must have been living with the member before the member's posting overseas and have a level of dependency on the member. If a member's dependents are not permitted at a posting location overseas it may be because of safety concerns or the living conditions at the location.
 - For a dependent tertiary student studying in Australia, they must be recognised family or an adult child of the member as provided under section 1.3.1 of the Principal Determination.
- Section 15.3.13 provides the definition of 'recognised partner'. A recognised partner can be a partner who lives in Australia, a partner who is living at the overseas posting location, or a partner who is also a member who is on long-term posting overseas in another location.

- Section 15.3.14 provides the rules that apply to a member when they take a reunion travel benefit. Specifically, it provides the following.
 - That the member must apply using the approved form.
 - That if more than one eligible person travels at the same time only one reunion travel benefit is used.
 - If the member is travelling, they must be on a type of leave of absence during the period of a reunion benefit. Types of leave and absences are provided in Chapter 5 of the Principal Determination.
 - The member cannot take a reunion travel benefit within 3 months of the start or end of their posting period unless the decision maker is satisfied it is reasonable.
- Section 15.3.15 provides that if both members of a dual serving couple are on long-term posting overseas, only one of the member is eligible for the number of reunion travel benefits under section 15.3.17G. The member who is eligible for the benefit is to be nominated by both of the members or, where a nomination has not been made, the member with the higher salary will receive the benefit. Both members may use that single benefit. This section is to prevent the members from receiving twice the number of benefits they would be eligible for if only one of the members was on long-term posting overseas.

Subdivision 2 provides the reunion travel benefit.

- Section 15.3.16 provides the reunion travel benefit that a member is eligible for. This benefit includes return economy class air travel, rail travel and coach travel. The member is not eligible for accommodation or meal and incidental costs during the reunion travel.
- Section 15.3.17 provides that a reunion travel benefit can be taken to another overseas location. This is provided if the eligible person is in an overseas location that is not the posting location, or if the member lives in a posting location overseas where the eligible person is not permitted.
- Section 5.3.17A provides that if travel under the Division is booked by the member they are eligible for the reimbursement of costs up to the lesser of the allowable travel cost or the cost of travel which the member paid. If the cost of travel the member paid is higher than the allowable travel costs, the member is not eligible to be reimbursed the amount above the allowable travel cost.
- Section 15.3.17B provides that a member is eligible for the reimbursement of public transport costs during a reunion visit. The member is not eligible for the reimbursement of vehicle allowance if they drive, the cost of a hire car, the cost of parking or the cost of chauffeur services.
- Section 15.3.17C provides that if there is an unavoidable stopover during travel to or from a reunion visit the member is eligible for one nights' accommodation, and meal and incidental costs for each person travelling.

Subdivision 3 provides the reunion travel benefit for a member with no eligible persons.

- Section 15.3.17D provides that the Subdivision applies to a member on a long-term posting overseas who has no eligible persons.
- Section 15.3.17E provides that a member is eligible for one reunion travel benefit to Australia during their posting period overseas.

Subdivision 4 provides the reunion travel benefit for a member with eligible persons.

- Section 15.3.17F provides that the Subdivision applies to a member on a long-term posting overseas who has eligible persons.
- Section 15.3.17G provides the number of reunion travel benefits a member is eligible for in each reunion year. The number of reunion travel benefits a member is eligible for in a reunion year is based on the eligible persons the member has and whether they are located in Australia or

overseas. It also provides that if a member who is eligible for 1 or 2 reunion travel benefits in a reunion year has used all of their reunion travel benefits, the member may be granted additional reunion benefits if the decision maker is satisfied it is reasonable.

Subdivision 5 provides reunion travel benefits for an eligible person to visit other people.

- Section 15.3.17H provides that a member is eligible for a reunion travel benefit for a recognised partner or a dependent child who lives at the overseas posting location to reunite with a person who is not an eligible person who lives in Australia. The decision maker must be satisfied it is reasonable for a reunion travel benefit taken under this section.
- Section 15.3.17J provides that a member is eligible for a reunion travel benefit for a dependent child who is attending boarding school in Australia to visit a person in Australia who has been approved by the member.

Subdivision 6 provides allowable travel costs for a chaperone to accompany a dependent child on a reunion travel benefit. A chaperone is provided allowable travel costs when a dependent child travelling on an international or domestic flight, or staying in overnight accommodation, is required to be accompanied by an adult.

- Section 15.3.17K provides that the Subdivision applies to a member on a long-term posting overseas who has a dependent child who requires a chaperone to accompany them when travelling for a reunion visit.
- Section 15.3.17L provides the allowable travel costs for a chaperone to accompany a dependent child on flights between or within the USA and Canada and to ensure their safe transfer between domestic and international flights.
- Section 15.3.17M provides the allowable travel costs for a chaperone to accompany a dependent child on flights to and from the Marshall Islands. The chaperone may also be eligible for the cost of accommodation for any unavoidable stopover if they arrive before, or leave after, the dependent child due to the availability of flights.

Technical amendments made under this Schedule do not alter the underlying policies, or the benefits which are currently provided.

Schedule 5—Public transport and school transport costs amendments

Item 1 repeals and substitutes section 15.3.7 of the Principal Determination which provides that if a member uses public transport to travel between their home and their normal place of duty is eligible to reimburse the amount that is in excess of the threshold set out under paragraph 15.3.7.1.b. The section is amended to adjust the threshold amount in line with the ACT Government's updated public transport fares and include the definition of 'benefit period' to remove the repetitive use of the phrase when referring to the period within which a member may claim reimbursements. The section is also amended to promote the use of contemporary drafting styles.

Item 2 repeals and substitutes section 15.6.12 of the Principal Determination which provides that a member whose child uses public transport or a transport provided by their school that is not included in their compulsory tuition fees to travel between their home and their school, is eligible to reimburse the amount that is in excess of the threshold set out under paragraph 15.6.12.1.b. The section is amended to adjust the threshold amount in line with the ACT Government's updated public transport fares and include the definition of 'benefit period' to remove the repetitive use of the phrase when referring to the period within which a member may claim reimbursements. The section is also amended to promote the use of contemporary drafting styles.

Technical amendments made under this Schedule do not alter the underlying policies, or the benefits which are currently provided.

Schedule 6—Miscellaneous amendments

Item 1 repeals and substitutes section 1.3.10 of the Principal Determination which provides the definition of 'housing benefit location'. The section has been amended to provide the meaning of 'housing benefit location' a member who is on long-term posting overseas. Housing benefit location for a member who is

on long-term posting overseas means the location that a member is provided housing for their long-term posting overseas.

Item 2 amends section 1.3.12 of the Principal Determination which provides the definition of ‘family benefit location’. Paragraph 1.3.12.1.a which provides that family benefit location means the location to which a member’s resident family received a removal to under the Principal Determination has been amended to also apply to a member who has unaccompanied resident family and no accompanied resident family when they are on a long-term posting overseas.

Item 3 amends section 3.2.7A of the Principal Determination which provides how specified allowances are paid to a member on a flexible service determination. The item repeals paragraphs 3.2.7A.1.c to e to update the cross-references to allowances paid for service in Antarctica.

Items 4 and 6 amend section 6.1.17 and 6.5.54 of the Principal Determination respectively. The following technical amendments have been made.

- Item 4 substitutes “either of the following conditions” with “any of the following” to promote consistency and the use of contemporary drafting styles within the Principal Determination.
- Item 6 corrects a typographical error.

Item 5 amends subsection 6.5.46.4 of the Principal Determination which provides removal benefits for a member who is ceasing continuous full-time service. The section has been amended to remove reference to “Toll decision maker”. This reference was inadvertently added by *Defence Determination, Conditions of service Amendment Determination (No. 5) 2025* and needs to be removed.

Item 7 amends section 6.5.54 of the Principal Determination which provides storage benefits for a member who has no resident family or recognised other persons. Subsection 6.5.54.1A which provides the storage benefits a member is eligible for based on their situation. It has been amended to clarify that when a member is deployed for 6 months or longer and they either choose to vacate their accommodation, or they are directed to vacate their living in accommodation, is eligible for storage of their furniture and effects until they are rehoused after the deployment.

Item 8 amends section 7.6.34 of the Principal Determination which provides reasons that a valid offer of a Service residence can be rejected. The amendment removes subparagraphs 7.6.34.2.f.i and ii from the list of valid reasons. The Puckapunyal housing trial has been built into the flexible housing trial, which is already provided as an exception in paragraph 7.6.34.2.f.

Items 9 and 10 amend subsection 7.8.5AA.1 of the Principal Determination which provides the eligibility criteria for the Early Eligibility for Rent Allowance Trial. Item 9 extends the period in which a posting order must be issued and item 10 adds the 2025-2026 posting period, which is in addition to the 2024-2025 posting period.

Item 11 amends section 7.8.6 of the Principal Determination which provides when a member is not eligible for rent allowance. Paragraph 7.8.6.5.e has been repealed and substituted to provide that a member who has unaccompanied resident family under section 1.3.26 of the Principal Determination is not eligible for rent allowance for their resident family. The changes made by this item do not change the underlying policies or how they are currently being applied.

Item 12 amends various provisions to Chapters 12 to 17 of the Principal Determination to omit and substitute reference to “both of the following” with “all of the following” and “either of the following” with “any of the following” to improve readability and better inform the reader of the intent of the provision.

Technical amendments made under this Schedule do not alter the underlying policies, or the benefits which are currently provided.

Schedule 7—Transitional and savings provisions

Clause 1 defines the Defence Determination for this Schedule as the Defence Determination 2016/19, Conditions of service, as in force from time to time.

Clause 2 provides that a member who was on a long-term posting to Lebanon between 14 February 2025 and the commencement of this Determination is eligible for any benefits that they would have been

eligible for had the changes made by items 1 and 2 of Schedule 3 of this Determination had applied at the time.

Clause 3 provides that a member who was eligible for reimbursement of excess costs of public transport under section 15.3.7 between 1 March 2025 and the commencement of this Determination is eligible for reimbursement at the rate provided by item 1 of Schedule 5 had it applied at the time. The clause also provides that the amount the member is eligible under the section is reduced by any amount the member has already received for reimbursement under the section for the same period.

Clause 4 provides that a member who was eligible for reimbursement of their child's excess costs of school transport under section 15.6.12 between 1 March 2025 and the commencement of this Determination is eligible for reimbursement at the rate provided by item 2 of Schedule 5 had it applied at the time. The clause also provides that the amount the member is eligible under the section is reduced by any amount the member has already received for reimbursement under the section for the same period.

Clause 5 provides that a member who was on a long-term posting overseas immediately and was eligible for reunion travel under Division 3 of Part 3 of Chapter 15 immediately before the commencement of this Determination remains eligible for the reunion travel benefits that applied before the changes made by Schedule 4 of this Determination.

Defence Determination, Conditions of service Amendment Determination (No. 8) 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 do the following:

- Clarify the requirements a member must satisfy to access transition absence days to be able to attend Defence Force transition program activities, employment-related activities, career transition training, education courses, or transition-related administrative activities.
- Extend storage benefits to a member who is occupying an own home in their housing benefit location without any resident family or recognised other persons when they are deployed for 6 months or more and they choose to vacate the home for the duration of the deployment.
- Include Beirut, Lebanon as a new posting location and the American Community School, Beirut as a new benchmark school for Beirut, Lebanon to ensure that a member who is posted to the location has access to the overseas conditions of service.
- Amend the overseas reunion travel benefits to provide the following.
 - Clarify the number of reunion travel benefits a member is eligible for in a reunion year.
 - Provide reunion travel benefits for a member when they have a dependent who is a tertiary student studying in Australia or an overseas location that is not the member's posting location.
 - Provide that a member can travel to another overseas location for a reunion visit if the eligible person cannot travel to the member's posting location overseas.
 - To restructure the reunion travel provisions to reflect contemporary drafting standards.
- Update the total threshold amount for calculating the amount a member may be reimbursed in excess of the costs they incur for public transport when they travel to and from home to work.
- Update the threshold for calculating the amount a member may be reimbursed in excess of the costs they incur for their child's school transport when they travel to and from home and school.
- Amend the definition of 'housing benefit location' and 'family benefit location' to provide what the terms mean for a member who is on a long-term posting overseas.
- Clarify what storage benefits a member who is deployed for 6 months or longer who chooses to vacate their accommodation, or is directed to vacate their living-in accommodation, is eligible for.
- Extend the Early Eligibility for Rent Allowance Trial by 12 months.
- Make the following miscellaneous amendments.
 - Remove redundant text.
 - Update cross references.
 - Correct typographical errors.
 - Promote consistency and the use of contemporary drafting styles within the Principal Determination.

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.

Right to an adequate standard of living

The protection of a person's right to an adequate standard of living engages Article 11 of the International Covenant on Economic, Social and Cultural Rights. Article 11 recognises the right of everyone to an adequate standard of living for them and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

Right of the child to education

The protection of a child's right to education engages Article 28 of the Convention on the Rights of a Child. Article 28 requires States to provide access to different types of education.

Assessment of compatibility

Schedule 1 is compatible with human rights as it promotes just and favourable conditions of work by ensuring that members have access to transition absence days to be able to attend activities that are directly related to their employment career path or meaningful engagement following transition as a part of their conditions of service.

Schedule 2 is compatible with human rights as it promotes a member's right to the enjoyment of just and favourable conditions of work by providing storage of furniture and effects to a member who lives with no resident family or recognised other persons if they choose to vacate their own home for the duration of their deployment.

Schedule 3 is compatible with human rights as it promotes the right of a child to education through providing child supplement, education assistance and location allowances to members posted overseas. This ensures that children accompanying members to a posting location are able to attend schools of a similar standard to those in Australia as a part of their conditions of service.

Schedule 4 is compatible with human rights as it promotes a member's ability to maintain relationships with dependents, family and friends while they are on a long-term posting overseas by providing reunion travel benefits as a part of the member's conditions of service.

Schedule 5 is compatible with human rights as it promotes just and favourable conditions of work by ensuring that the excess costs the member may reimburse for their public transport between their home and their normal place of work and their child's school transport between their home and their school remain current and aligned with government updates on transport fares. This is provided as a part of their conditions of service.

Schedule 6 is compatible with human rights as it promotes a member's right to the enjoyment of just and favourable conditions of work by:

- Extending a trial that increases choice and flexibility for a member, allowing them to access rent allowance as a part of their conditions of service.
- Ensuring that members who are on long-term overseas posting have access to Defence housing assistance for their family who remain in Australia.

The remaining amendments made by Schedules 6 and 7 do not change the underlying policies or benefits. As such, they do not engage with any of the applicable rights or freedoms.

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*.