

EXPLANATORY STATEMENT

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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 make a home the member owns not to be a suitable own home due to the unique circumstances that apply.

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 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 the Directorate of Relocations and Housing and the Directorate of Personnel Policy Operations.

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. 10) 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 it is registered.

Section 3 provides that the Determination 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Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Section 5 provides the purpose of the Determination, which is to make a home the member owns not a suitable own home due to the unique circumstances that apply.

Section 6 provides that the Determination applies to the member who holds employee identification number 8559423 during the period starting on 12 July 2024 and ending on 30 June 2026.

Section 7 defines “Defence Determination” for the purpose of the Determination as meaning *Defence Determination 2016/19, Conditions of service*, as in force from time to time.

Section 8 provides that the member’s home on Scarborough Close, Port Macquarie, New South Wales, is not a suitable own home.

Section 9 provides that the Determination is repealed on 1 July 2026.

Schedule 1—Repeals

Item 1 provides that *Defence (Individual benefits) Determination (No. 7) 2025*, which was made under section 58B of the *Defence Act 1903* on 20 May 2025, is repealed.

Defence (Individual benefits) Determination (No. 10) 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 make a home the member owns not to be a suitable own home due to the unique circumstances that apply

Human rights implications

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.

Assessment of compatibility

Schedule 1 is compatible with human rights as it promotes a member's right to an adequate standard of living by ensuring a home the member owns is not considered a suitable own home due to the unique circumstances that apply. This ensures that the member has access to other forms of housing assistance provided by Defence 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*.