

EXPLANATORY STATEMENT

Defence Determination, Conditions of service (Individual benefits) Determination (No. 12) 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 an allowance to a member who was on an exchange posting with a partner nation during the specified period.

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, consultation was undertaken with Department of Veterans' Affairs, Nature of Service Directorate – Military Strategic Commitments Division, Joint Operations Command Headquarters and Defence Finance Group.

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

Approved by:

BRIG Kirk Lloyd

Director General

People Policy and Employment Conditions

Authority:

Section 58B of the
Defence Act 1903

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Operational details

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

Section 2 of this Determination provides that this instrument commences on the day after it is registered.

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

Section 4 of this Determination provides the definition of terms used in this Determination.

Section 5 of this Determination provides that this Determination applies to a member who was on an exchange posting with a partner nation during the specified period.

Section 6 of this Determination provides that a member is eligible for a payment of AUD 166.44 for each day they were deployed as a part of the partner force to which they were posted to conduct military operations or activities in Somalia between 21 December 2020 and 11 February 2021. The amount payable is reduced by any amount of deployment allowance the member received under Defence Determination 2016/19, Conditions of service, during the specified period.

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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 this Determination is to provide allowance to a member who was on an exchange posting with a partner nation during the specified period.

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 just and favourable conditions of work by providing an allowance to a member who is part of a third-country deployment with a partner force to which they were posted.

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*.