

EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment Determination (No. 13) 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:

- Update Christmas stand-down provisions, which apply to members domestically and overseas. The provisions have been updated to provide a more enduring effect, eliminating the need to update them annually. The amendments are technical in nature and do not change the underlying policies or what is currently provided to members.
- Amend the rates of allowances and related benefits that may be paid to a member in connection with travel undertaken for duty purposes. The rates are adjusted annually to ensure they remain contemporary based on annual advice from a contracted service provider. The rate changes in this Determination are based on the Subscription Notice No. 5 of 6 2024-2025 Allowance Subscription Service Travel Related Allowances – May 2025.
- Amend leave provisions to allow a member who has been diagnosed with a terminal illness to receive payment for their accrued leave credit and purchased leave credit before they cease continuous full-time service.
- Amend the excess baggage provisions by removing the restriction of locations and period when travel occurs for additional excess baggage benefits to be provided. The provisions have been amended to allow the provision of additional excess baggage to a member if global shipping and supply chain disruptions are expected to significantly impact the movement of their personal effects to and from overseas posts.
- Amend accompanied resident family provisions to clarify that for a child who lives with the member for 90 or more nights in a year, 'living with' means living with the member in the member's housing benefit location.
- Amend the deployment allowance provisions to insert Operation KUDU and to remove three operations that have now ceased.
- Amend higher duties allowance provisions to ensure that a member is eligible for higher duties allowance when they are directed to perform duties attributed to a higher rank or higher position within the Australian Signals Directorate.

- Amend the minimum salary of an eligible dependant in line with the National Minimum Wage for the purpose of trainee's dependant allowance.
- Extend the school holiday program cost reimbursement benefit to a member who is on an overseas posting with a child who attends a preschool or kindergarten.
- Make a range of technical and consistency amendments that do not alter the underlying policies, or the benefits that are currently provided.

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 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 the following.

- Schedules 1, 6 and 7: The rule maker was satisfied that the changes made by these Schedules are technical in nature and do not alter the underlying policies or the benefits that are currently provided and consultation was not required.
- Schedule 2: Defence Print and Travel Services, Defence Relocations and Housing and People System & Payroll Services.
- Schedule 3: Military Personnel Branch.
- Schedule 4: Directorate of Attaché and Overseas Management, Directorate of Personnel Policy Operations, Defence Print and Travel Services, Travel Policy, Overseas Administration Team, Australian Submarine Agency and Australian Signals Directorate.
- Schedule 5: 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

Defence Determination, Conditions of service Amendment Determination (No. 13) 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 commence on the day the instrument is registered.
- Schedule 1 of the Determination commences on 14 August 2025.
- Schedule 2 of the Determination commences on 9 October 2025.
- Schedules 3 to 7 of the Determination commence on 14 August 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—Christmas stand-down amendments

Item 1 amends section 1.3.1 of the Principal Determination, which provides definitions that apply to the Principal Determination. A definition of 'Christmas stand-down' has been added. In accordance with section 11A of the AI Act, definitions are inserted in their appropriate alphabetical positions, determined on a letter-by-letter basis.

Item 2 repeals and substitutes section 5.12.3 of the Principal Determination, which provides the Christmas stand down dates for the current year and how both days that are public holidays and days that are not public holidays are to be treated during the period. The section has been redrafted to provide that a member is on short absence – not required for duty during Christmas stand-down, and uses the definition of 'Christmas stand-down' added by item 1 of this Determination to set the dates for the relevant year.

Item 3 amends section 15.1.10 of the Principal Determination, which provides how public holidays are treated for a member who is posted to an overseas posting location. Subsection 15.1.10.2 has been amended to update a cross reference as a consequence of the definition of 'Christmas stand-down' which has been added by item 1 of this Determination.

Items 4 and 5 amend section 15.1.11 of the Principal Determination, which provides the Christmas stand-down dates for a member who is posted to an overseas posting location. The section has been amended in the following ways as a consequence of the definition of 'Christmas stand-down', which has been added by item 1 of this Determination:

- Subsection 15.1.11.1 has been amended to provide that a member is on short absence – not required for duty under Chapter 5 Part 11 Division 2A for the Christmas stand-down period unless required for duty.
- Subsection 15.1.11.3 has been repealed, as it is no longer required.

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

Schedule 2—Travel and meal allowance amendments

Items 1 to 4 amend section 4.5.9 of the Principal Determination, which sets out the rates of meal allowance payable in circumstances where Service-provided meals are unavailable. The rates have increased by an average of 2.56%.

Items 5 and 6 amend section 7.5.24 of the Principal Determination, which provides meal allowance rates for a member and other persons when they stay in temporary accommodation.

- Item 5 repeals and substitutes the table in subsection 7.5.24.2 which provides meal allowance rates for a member and each of their resident family and recognised other persons aged 10 years or older. The rates have increased on average by 2.6%.
- Item 6 repeals and substitutes the table in subsection 7.5.24.3, which provides meal allowance rates for persons aged less than 10 years. The rates have increased on average by 1.86%.

Item 7 amends subsection 9.5.10.2 of the Principal Determination, which provides the rate for part-day travelling allowance. The rate has increased by 2.5%.

Items 8, 9 and 11 amends subparagraph 9.5.20.2.d.ii, paragraph 9.5.22.2.c and paragraph 9.5.41.3.c of the Principal Determination, which provide the rate of incidentals payable to a member for each day for periods of travel longer than 21 days. The rate has increased by 2.08%.

Item 10 amends table item 5 in subsection 9.5.39.2 of the Principal Determination which provides the weekly rate of incidentals payable to a member for travel longer than 21 days when they occupy living-in accommodation. The rate has increased by 2.27%.

Item 12 repeals and substitutes the table in Part 1 of Annex 9.5.A of the Principal Determination which provides the accommodation, meals and incidental rates for a member at the rank of Brigadier or higher, and for the rank of Colonel or lower. Specifically:

- Capital city accommodation rates for Brigadier or higher, and for Colonel or lower have decreased for 5 locations and increased for 4 locations.
- The medium-cost country centre accommodation rates for Brigadier or higher decreased on average by 15.82%, and for Colonel or lower decreased on average by 6.62%.
- The accommodation rate for country-centres for Brigadier or higher decreased on average by 15.41%, and for Colonel or lower decreased on average by 5.84%.

Item 13 repeals and substitutes the table in Part 2 of Annex 9.5.A of the Principal Determination, which provides the accommodation, meals and incidental rates for high-cost country centres. Thirty-two locations have been added and 4 locations have been removed to reflect the changing cost of living and accommodation in these areas. Accommodation rates for Jabiru, Nhulunbuy and Tennant Creek have been divided into high and low cost rates to make seasonal adjustments to the rates.

Item 14 repeals and substitutes the table in Part 3 of Annex 9.5.A of the Principal Determination, which lists the medium-cost country centres for accommodation, meals and incidental rates. Two locations have been added and 18 locations have been removed to reflect the changing cost of living and accommodation in these areas.

Item 15 repeals and substitutes the table in Part 4 of Annex 9.5.A of the Principal Determination, which provides the meals and incidentals rates payable. Specifically:

- The meal rates for Capital cities and high-cost country centres have increased by 2.59%.
- The meal rates for medium-cost centres and other country centres have increased by 2.61%.
- The incidentals rates have increased by 2.3%.

Item 16 repeals and substitutes the table in Part 2 of Annex 9.5.B to the Principal Determination, which provides the maximum meal rates for a member living out on a journey longer than 21 days. The daily rate where cooking facilities are not provided has increased by 2.59%. The daily rate where cooking facilities are provided has increased by 2.58%.

Item 17 amends the formula in subsection 15.2A.27.3 of the Principal Determination, which provides the meal allowance that a member is eligible for if they perform additional duty while living at a posting location overseas. The rate has increased by 2.6%.

Schedule 3—Payment of leave credits to a member diagnosed with a terminal illness amendments

Item 1 amends section 5.4.41 of the Principal Determination, which provides who Division 8 of Part 4 of Chapter 5 applies to. The section has been amended to include a member who has been diagnosed with a terminal illness before ceasing continuous full-time service. This will allow payment for a member's accrued leave credit and purchased leave credit balance to be paid out before they cease continuous full-time service.

Item 2 inserts section 5.4.43A into the Principal Determination. The new section provides the following.

- Subsection 1 provides that the section applies to a member who has been diagnosed with a terminal illness before ceasing continuous full-time service.
- Subsection 2 provides that the member is eligible for payment of the balance of their accrued leave credit and purchased recreation leave credit balance if the decision maker is satisfied that doing so is reasonable in the circumstances.
- Subsection 3 provides that payment under the section can be for all or part of the member's leave balances on the day the decision to make payment is made.
- Subsection 4 provides that the balance of the member's accrued leave credit and purchased recreation leave credit is to be reduced by the number of credits they receive payment for under the section, and they are to be reduced in the order that is set out in section 5.4.33A of the Principal Determination.
- Subsection 5 provides definitions of 'leave balance' and 'decision maker' for the purpose of the section.

Item 3 amends section 5.4.44 of the Principal Determination, which provides how to calculate the amount a member is to receive if they are to be paid out all or part of their accrued leave credit and purchased recreation leave credit balance. Subsection 5.4.44.1, which provides who the section applies to, has been amended to include that it applies to a member who is eligible to receive payment because they have been diagnosed with a terminal illness prior to ceasing continuous full-time service.

Schedule 4—Excess baggage amendments

Item 1 repeals and substitutes section 14.4.11 of the Principal Determination, which provides excess baggage benefits for overseas travel. The new section provides an excess baggage benefit to a member when global shipping and supply chain disruptions significantly impact the movement of their personal effects to and from overseas posts. The section has also been redrafted to reflect the enduring nature of the benefit and to remove location and time limitations.

Schedule 5—Deployment allowance amendments

Items 1 and 2 amend the table under subsection 17.7.6.1 of the Principal Determination, which provides deployment allowance rates for members deployed on operations. The items make the following changes.

- Item 1 repeals table item 5 relating to Operation LILIA as it has ceased. A new operation, Operation KUDU has been inserted and provides the location and daily rate of deployment allowance in AUD.
- Item 2 repeals table items 9 and 10 relating to Operation OKRA and Operation ORENDA respectively as they have ceased.

Schedule 6—Miscellaneous amendments

Item 1 amends section 1.3.17 of the Principal Determination, which provides that a child who lives with a member for 90 nights or more in a year is accompanied resident family of a member. The section has been amended to make a technical amendment to clarify that the child must live with the member in their housing benefit location.

Items 2, 3, 10, 17, 20 and 21 amend various provisions of the Principal Determination to ensure clarity and to reflect contemporary drafting standards. These amendments are minor grammatical and consistency corrections that do not affect the policies behind the provisions.

Item 4 and 5 amend section 4.1.2 of the Principal Determination, which provides definitions that apply to Part 1 of Chapter 4 of the Principal Determination. Item 4 amends the definition of 'higher rank' to include reference to a position within the Australian Signals Directorate. Item 5 inserts a definition of 'ASD', which means Australian Signals Directorate. In accordance with section 11A of the AI Act, definitions are inserted in their appropriate alphabetical positions, determined on a letter-by-letter basis.

Items 6 to 8 amend section 4.1.17 of the Principal Determination, which provides the rate of higher duties allowance for a member when they are performing the duties of an APS employee or foreign military force position. The section has been amended to provide the rate of higher duties allowance for a member when they are performing the duties of an Australian Signals Directorate position. The section heading has also been amended to include reference to Australian Signals Directorate.

Item 9 amends section 4.8.6 of the Principal Determination, which provides when a member is not eligible to receive trainee dependant allowance. The minimum salary amount for a eligible dependant has been increased from \$47,626.80 to \$49,296.00 in line with the National Minimum Wage, which will increased by 3.5% on 1 July 2025.

Items 11 and 12 amend subsection 7.6.13.1 and subsection 7.6.19.3 of the Principal determination to modernise sections relating to tables. The subsections have been amended to refer to specific columns in the table and the heading row of the table has been amended to label the columns.

Item 13 amends section 7.7.13 of the Principal Determination, which provides the rent ceilings for members occupying member's choice accommodation. Subsection 7.7.13.1 has been amended to express what is currently presented as a table into subsection format. This amendment is to ensure clarity and to reflect contemporary drafting standards.

Items 14 and 15 amend section 14.6.14 of the Principal Determination, which provides reunion visit benefits to a member during an evacuation when they are posted overseas. Subsection 14.6.14.1 and paragraph 14.6.14.1.b have been amended to reflect contemporary drafting standards for lists.

Item 16 repeals and substitutes section 14.6.17 of the Principal Determination, which provides that a member is eligible for payment of an amount for their financial losses that have resulted from a withdrawal at short notice from the posting location overseas. The section is amended to include a definition of 'withdrawal at short notice' and promote the use of contemporary drafting standards.

Item 18 amends section 15.6.17C of the Principal Determination, which provides the members that the Division applies to. The amendment to this section adds preschools and kindergartens to the schools that a child can be attending for the member to be eligible under this Division.

Item 19 amends section 15.6.17D of the Principal Determination, which provides the eligibility requirements for a member to be reimbursed the costs of a school holiday program. A new subsection 1A has been inserted to provide that the section does not apply to a member who is not eligible for a compulsory tuition fee benefit under section 15.6.10 of the Principal Determination.

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

Schedule 7—Transitional provisions

Clause 1 provides the following definitions for the purpose of the transition provisions.

- 'Defence Determination' as meaning the *Defence Determination 2016/19, Conditions of service*, as in force from time to time.
- 'Trainee's dependant allowance' as meaning trainee's dependant allowance under Division 1A of Part 8 of Chapter 4 of the Defence Determination.

Clause 2 provides that a member who was deployed to Operation KUDU, inserted by Schedule 5 of this Determination, is eligible for the payment of deployment allowance for each day the member performed duty in the specified area during the specified period. The clause also provides that a member who has

been paid an amount under section 17.7.6 of the Defence Determination during the specified period, the amount payable under this clause is reduced by the amount they have already received.

Clause 3 provides that a member is eligible for trainee's dependant allowance if the member would have been eligible for trainee's dependant allowance had the changes made item 9 of Schedule 6 of this Determination been in force between 1 July 2025 and the commencement of Schedule 6 of this Determination.

Clause 4 applies to a member who was on a long-term posting overseas with their child. If the child attended a preschool holiday program between 19 May 2025 and the commencement of this Determination, the member is eligible for the reimbursement of the cost of the preschool or kindergarten school holiday program. These benefits are provided under Division 2A of Chapter 15 Part 6 of the Defence Determination had the change made by items 18 and 19 of Schedule 6 applied at the time.

Defence Determination, Conditions of service Amendment Determination (No. 13) 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:

- Update Christmas stand-down provisions, which apply to members domestically and overseas. The provisions have been updated to provide a more enduring effect, eliminating the need to update them annually. The amendments are technical in nature and do not change the underlying policies or what is currently provided to members.
- Amend the rates of allowances and related benefits that may be paid to a member in connection with travel undertaken for duty purposes. The rates are adjusted annually to ensure they remain contemporary based on annual advice from a contracted service provider. The rate changes in this Determination are based on the Subscription Notice No. 5 of 6 2024-2025 Allowance Subscription Service Travel Related Allowances – May 2025.
- Amend leave provisions to allow a member who has been diagnosed with a terminal illness to receive payment for their accrued leave credit and purchased leave credit before they cease continuous full-time service.
- To amend the excess baggage provisions by removing the restriction of locations and period when travel occurs for additional excess baggage benefits to be provided. The provisions have been amended to allow the provision of additional excess baggage to a member if global shipping and supply chain disruptions are expected to significantly impact the movement of their personal effects to and from overseas posts.
- Amend accompanied resident family provisions to clarify that for a child who lives with the member for 90 or more nights in a year, 'living with' means living with the member in the member's housing benefit location.
- Amend the deployment allowance provisions to insert Operation KUDU and to remove three operations that have now ceased.
- Amend higher duties allowance provisions to ensure that a member is eligible for higher duties allowance when they are directed to perform duties attributed to a higher rank or higher position within the Australian Signals Directorate.
- Amend the minimum salary of an eligible dependant in line with the National Minimum Wage for the purpose of trainee's dependant allowance.
- Extend the school holiday program cost reimbursement benefit to a member who is on an overseas posting with a child who attends a preschool or kindergarten.
- Make a range of technical and consistency amendments that do not alter the underlying policies, or the benefits that are currently provided.

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 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 makes amendments to the Principal Determination that do not change the underlying policies or benefits. As such, it does not engage with any of the applicable rights or freedoms.

Schedule 2 is compatible with human rights as it promotes a member's rights to just and favourable conditions of work by providing an annual adjustment to travel-related allowances so a member neither gains nor loses financially when they are undertaking duty travel or travel in connection with a new posting.

Schedule 3 is compatible with human rights as it promotes a member's right to just and favourable conditions of work by providing members who have been diagnosed with a terminal illness with the ability to be paid out all or part of their accrued leave credit and purchased leave credit balance in advance of ceasing continuous full-time service.

Schedule 4 is compatible with human rights as it promotes a member's rights to just and favourable conditions of work by providing additional excess baggage benefits when global shipping and supply chain disruptions significantly impact the movement of a member's personal effects to and from overseas posts. As a condition of service, this benefit assists in reducing any detriment a member may suffer as a consequence of these disruptions.

Schedule 5 is compatible with human rights as it promotes a member's rights to just and favourable conditions of work by providing deployment allowance to member's who are deployed on a new operation.

Schedule 6 items 2 to 6 are compatible with human rights as they promote a members right to just and favourable conditions of work by ensuring that when they are directed to perform duties attributed to a higher rank or higher position with the Australian Signals Directorate they are eligible to be paid higher duties allowance. Item 7 of the same Schedule also promotes a members right to just and favourable conditions of work by ensuring that members receive the increased income threshold when a trainee had an eligible dependant.

Schedule 6 items 17 and 18 are compatible with human rights as they promote the right of a child to education by providing members with benefits to assist the member's child attending school holiday programs when they are posted long-term overseas. The amendments expand the schools eligible for the program to include preschool or kindergarten school holiday programs as eligible for the reimbursement of costs.

The remainder of Schedule 6 makes amendments to the Principal Determination that does not change the underlying policies or benefits. As such, it does 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*.