

EXPLANATORY STATEMENT

Defence Determination (Individual benefits) Determination (No. 13) 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 overseas conditions of service benefits to a member who is on a long-term posting overseas whose dependants live at another overseas location. The location where the dependants will live ensures that the dependants have access to appropriate education standards compared to the standard of education that is available at the member's posting location. The member will commence a long-term posting at the location where the dependant's will live at the end of their current long-term posting.

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.

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 consultation was undertaken with Military Personnel Branch.

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 (Individual benefits) 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 Determination commences on the day after 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.

Section 5 provides that the Determination applies to the member who holds the employee identification number 8093897.

Section 6 provides definitions of terms used within the Determination, including the following.

- 'Defence Determination' which means Defence Determination 2016/19, Conditions of service, as in force from time to time.
- 'Dependant' which means a person who would have been recognised under section 12.3.5 of the Defence Determination had the person lived with the member.
- 'Dependant's location' which is New Delhi, India. This is the location where the member's dependants will reside during the member's posting.
- 'Member's posting location' which is Wellington, Tamil Nadu, India.

Section 7 provides that the member is eligible for benefits provided under chapters 12 and 14 to 16 of Defence Determination 2016/19, Conditions of service (the Defence Determination) that they would be eligible for had their dependants lived at the member's posting location. It also provides that Division 3 of Part 3 of Chapter 15 of the Defence Determination does not apply to the member, however, a similar limited application of the benefit provided under the Division is provided by section 10 of this Determination.

Section 8 provides that the member is eligible for a business class flight for each of their dependants for them to travel from the members posting location the dependant's location. This is to relocate the dependants to the location where they will reside during the member's posting.

Section 9 provides that the member is eligible for a removal of items from the member's posting location to the dependant's location. Items that are required by the member will not be relocated under this section.

Section 10 provides one return economy class travel benefit for the member to travel to the dependant's location for the purpose of reuniting with their dependants.

Section 11 provides that the benefits provided to the member under this Determination do not limit the benefits provided to the member at their posting location under the Defence Determination. The section also provides that the member is eligible for a business class flight and excess baggage costs to enable them to travel to the dependant's location on the completion of their posting.

Section 12 provides that benefits provided under this Determination cease to apply on the day the member commences their long-term posting in the dependant's location.

Schedule 1—Transitional provision

Clause 1 provides that the member is eligible the benefits provided under this Determination between 29 July 2025 and the commencement of this Determination. This will ensure that the member's dependants will not be disadvantaged if they travel to the dependant's location before the commencement of this Determination.

Defence Determination (Individual benefits) 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 provide overseas conditions of service benefits to a member who is on a long-term posting overseas whose dependants live at another overseas location. The location where the dependants will live ensures that the dependants have access to appropriate education standards compared to the standard of education that is available at the member's posting location. The member will commence a long-term posting at the location where the dependant's will live at the end of their current long-term posting.

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

This Determination is compatible with human rights as it promotes the member's rights to housing, education, travel and other conditions of service benefits for a member and their dependants while they live in different overseas locations.

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*.