

EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment Determination (No. 14) 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 the rates of allowances for members who perform duty in locations in Australia that involve hardship. These updates are routine in nature and are made annually to align with the Consumer Price Index and the adjustments recommended by the Australian Public Service Commission.
- Provide early removal benefits to members posted to RAAF Base Tindal and their dependants to facilitate their move.
- Update the post index locations following a review of the post index rates applicable to the United States of America.
- Establish a special location allowance for members on a long-term posting to Kyiv, Ukraine.
- Repeal the special location allowance for the Defence Attaché Baghdad, Iraq, as the position no longer exists.
- Amend the daily rate of special location allowance for members on a long-term posting to Ukraine by 3.4% in line with the ADF's Workplace Remuneration Arrangement.
- Amend eligibility to travel for specialist medical or dental treatment for members in grade C, D or E remote locations to account for locations where members have access to a doctor or dentist in the location.
- Update cross-references and to correct typographical and punctuation errors.

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: Payroll Systems and Payroll Services Branch, and Directorate of Attaché and Overseas Management, the Directorate of Personnel Policy Operation.
- Schedule 2: Directorate of Personnel Policy Operations, Security and Estate Group – Directorate of Relocations and Housing and the base management team – RAAF Base Tindal.
- Schedule 3: The rule maker was satisfied that the changes made by this Schedule are routine in nature and consultation was not required.
- Schedule 4: Directorate of Attaché and Overseas Management, the Directorate of Personnel Policy Operation.
- Schedules 5 and 6: The rule maker was satisfied that the changes made by this Schedule are technical in nature and consultation was not required.

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 provides the following commencement dates:

- Sections 1 to 4 of the Determination commences on the day the instrument is registered.
- Schedule 1 of the Determination commences on 6 November 2025.
- Schedules 2, 3 and 5 of the Determination commence on 11 September 2025.
- Schedules 4 and 6 of the Determination commence on 9 October 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—Location allowances amendments

Item 1 amends subsection 4.4.9.1 of the Principal Determination, which sets out the rate of district allowance payable to members whose housing benefit location is a remote location. The amendment repeals and substitutes the table to provide the updated rates of allowance. The allowance rates are increased in line with the all groups component of the Consumer Price Index for the 12-month period ending March 2025 and rounded to the nearest five dollars.

Items 2 and 3 amend subsection 4.4.19.2 of the Principal Determination, which sets out the rate of Port Wakefield allowance payable to members who live at the Proof and Experimental Establishment at Port Wakefield. The amendments provide the updated annual rate of allowance. The allowance rates are increased in line with the all groups component of the Consumer Price Index for the 12-month period ending March 2025 and rounded to the nearest five dollars.

Items 4 and 5 amend section 4.4.31 of the Principal Determination, which sets out the rates for Antarctic allowance payable to members posted to, or serving in, Antarctica. The amendments provide the updated annual rate of allowance. The allowance rates are increased based on advice from a contracted service provider.

Item 6 amends subsection 4.4.36.2 of the Principal Determination which sets out the rates for Antarctic allowance payable to members who are eligible for common duties allowance and performing duties that are additional and unrelated to their ordinary duties for a period in Antarctica. The amendment provides the updated annual rate of allowance. The allowance rates are increased based on advice from a contracted service provider.

Item 7 amends section 16.8.2 of the Principal Determination, which provides a special location allowance for members on long-term posting to Kyiv, Ukraine, as amended by schedule 4 of this Determination. Item 7 increases the daily rate of the allowance from AUD 50.40 to AUD 52.10, which is an increase of 3.4% in line with the ADF Workplace Remuneration Arrangement.

Schedule 2—Temporary accommodation at losing location amendments

Item 1 amends section 6.5.32 of the Principal Determination, which provides that a member who has received a posting order is eligible for early removal of their furniture and effects before the start of their posting. The item repeals and substitutes paragraph b to include eligibility for a member who is being posted to RAAF Base Tindal for an early removal that does not require a decision maker's approval.

Items 2 and 3 amend section 7.5.17 of the Principal Determination, which provides the maximum period the member is eligible for payment of temporary accommodation allowance in specific circumstances. The amendments to subsection 1, as a consequence of the changes made by item 1 of this Schedule, are as follows:

- Item 2 repeals and substitutes the cell in column B of item 1 of the table to provide that a member whose next posting is to RAAF Base Tindal is eligible for a maximum of 6 weeks' payment of temporary accommodation allowance at their losing location. This will apply if they have at least one of their resident family or recognised other persons with them when they leave the losing location.
- Item 3 repeals and substitutes the cell in column B of item 2 of the table to provide that a member whose next posting is to RAAF Base Tindal is eligible for a maximum of 3 nights' payment of temporary accommodation allowance at that location. This will apply if they have at least one of their resident family or recognised other persons with them when they arrive at RAAF Base Tindal.

Schedule 3—Post index locations – USA amendments

Items 1 to 8 amend Annex 12.3.B of the Principal Determination, which provides the post index for overseas locations where a member is posted. Annex 12.3.B is amended as follows:

- Item 1 repeals and substitutes table item 56 to replace Los Angeles as the location for California with San Francisco;
- The following amendments have been made to separate combined post index locations:
 - Item 2 repeals and substitutes table item 58 to reinsert Connecticut;
 - Item 5 repeals and substitutes table item 64 to reinsert Maryland;
 - Item 8 reinserts Virginia and Washington DC as table items 69A and 69B respectively;
- Item 3 repeals and substitutes table item 59 to replace the location for Florida from Miami to Jacksonville. As Miami is a city with a significantly higher post index than the rest of its state's post index it is, therefore, reinserted as its own post index location by item 7 of this Schedule.
- Items 4 and 6 remove the following, including Rhode Island, as a consequence of the changes made by item 7:
 - Table item 63: Illinois;
 - Table item 65: Massachusetts;
 - Table item 66: Missouri;
 - Table item 67: New Your State, excluding Manhattan;
- Item 7 inserts the following as there are more than 10 personnel posted in each state and are, therefore, listed as post index locations:
 - Table item 68B: Pennsylvania;
 - Table item 68C: South Carolina.

Schedule 4—Special location allowance amendments

Item 1 amends section 16.8.2 of the Principal Determination, which identifies the members to whom Part 8 of Chapter 16 applies. The section has been amended to remove 'Iraq' and substitute it with 'Ukraine' to reflect the change made by item 2 of this Schedule.

Item 2 repeals and substitutes section 16.8.3 of the Principal Determination, which provides a special location allowance for the Defence Attaché Baghdad. The allowance is no longer required, as the position of Defence Attaché Baghdad no longer exists. The new section provides a special location allowance for a member on long-term posting to Kyiv, Ukraine. The allowance ceases to be payable to a member if they are temporarily absent from the location for longer than 28 days. The allowance becomes payable again on the day they return to the posting location.

Schedule 5—Miscellaneous amendments

Items 1 and 2 amend subsection 3.2.47AD, which provides the anniversary day for a cyber warfare member. Item 1 amends subsection 3 updating a reference from subsection 1 to paragraph 1.a. This means that a member's anniversary day under subsection 1 is only affected by subsection 3 if it were the day the member became a cyber warfare member. Item 2 replaces the phrase "commencement of this Division" with the date the division commenced. As the date is now known, it will improve the comprehension of the subsection.

Item 3 amends section 4.4.6 of the Principal Determination, which provides that a member is not eligible for ADF district allowance for any period they are eligible for Antarctic allowance. The section is amended to update an incorrect cross-reference.

Items 4 and 9 respectively amend sections 6.5.37A and 7.5.17 of the Principal Determination to correct typographical and punctuation errors and promote the use of contemporary drafting styles.

Item 5 and 6 amend section 9.2.26 of the Principal Determination, which provides travel for a member's accompanied resident family to access specialist medical or dental treatment. The changes are as follows:

- Item 5 amends paragraph 9.2.26.1A.a to clarify that a member who lives in a grade C, D or E location can only have their Commanding Officer to certify that specialist treatment is necessary and cannot be provided in the member's housing benefit location if they are unable to access a doctor or dentist in the location.
- Item 6 amends paragraph 9.2.26.1A.b to correct a typographical error.

Item 7 repeals and substitutes section 14.6.17 of the Principal Determination, which provides that a member is eligible for payment of an amount for financial losses that have resulted from a withdrawal at short notice from a posting location overseas. The section is amended to include a definition of 'withdrawal at short notice'.

Item 8 amends section 15.3.30 of the Principal Determination, which provides the purpose statement for Division 6 of Part 3 of Chapter 15 (Travel for compassionate reasons). The section is amended to provide, in addition to travel related to a very serious illness or death, travel for compassionate reasons for a serious illness.

Item 9 amends various references in section 7.5.17.1, which provides the period of eligibility for temporary accommodation allowance. The amendments are technical in nature to update drafting styles and to correct grammatical errors, as specified in the list.

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

Schedule 6—Transitional provisions

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

Clause 2 provides a transitional benefit to members on long-term posting to Kyiv, Ukraine, between 1 April 2025 and the commencement of this Schedule. Members are eligible for the payment of special location allowance under section 16.8.3 of the Defence Determination as though the change made by item 2 of Schedule 4 of this Determination had applied at the time.

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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 do the following:

- Update the rates of allowances for members who perform duty in locations in Australia that involve hardship. These updates are routine in nature and are made annually to align with the Consumer Price Index and the adjustments recommended by the Australian Public Service Commission.
- Provide early removal benefits to members posted to RAAF Base Tindal and their dependants to facilitate their move.
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- Update cross-references and to correct typographical and punctuation errors.

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.

Assessment of compatibility

Schedule 1 is compatible with human rights as it promotes a member's right to just and favourable conditions of work by adjusting the rates of location allowances to reflect the current cost of living and are proportionate to the hardship a member encounters at remote locations. The schedule includes a daily allowance to a member who is on a long-term posting to Kyiv, Ukraine, to recognise additional difficulties the member may experience in the location.

Schedule 2 is compatible with human rights as it ensures just and favourable conditions of work for a member by providing early removal benefits if the member is posted to a remote location, which will assist them in their move to the new posting location.

Schedule 3 is compatible with human rights as it promotes a member's right to just and favourable conditions of work and the right to an adequate standard of living by ensuring that the location on which the member's post index rate is based remains current.

Schedule 4 is compatible with human rights as it promotes a member's right to just and favourable conditions of work by providing a daily allowance to a member who is on a long-term posting to Kyiv, Ukraine, to recognise additional difficulties the member may experience in the location.

Schedule 5 is compatible with human rights as it promotes just and favourable conditions of work by ensuring that specialist treatment is accessible to a member and their dependants in remote location.

The remainder of amendments made by this Schedule do not change the underlying policies or benefits. As such, they do not engage with any of the applicable rights or freedoms.

The transitional provisions in Schedule 6 of this Determination do 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*.