

EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment Determination (No. 18) 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:

- Enable a member to complete a period of service in connection with a Category A or Category B bonus while they are subject to a continuation bonus. This means a member will complete the Category A or Category B bonus while providing the capability for which the bonus is being paid. It may result in a member's period of service for the continuation bonus being completed either side of the period of service for the Category A or Category B bonus.
- Amend the ADF's continuation bonus to:
 - Broaden the application of the ADF's continuation bonus to enable a member who has a military employment classification of J41, or changed to J41 to be able to be given an offer of a continuation bonus if their categorisation changes within 1 year of getting a J41 military employment classification.
 - Clarify that a member has to repay the continuation bonus if their service in the ADF is terminated for more than one reason.
- Amend removal benefits to provide members:
 - Who have had a privately arranged a removal with access to storage for their items when their accommodation is temporarily unavailable.
 - Who purchase a suitable own home in their housing benefit location with a removal to that home if that they or their resident family remain in the housing benefit location for 12 months or more.
 - With a removal benefit within the same location in Australia for a member when their dual serving partner has received a posting order to the same housing benefit location and the home will not be suitable for the member and their resident family.
- Include simplified outlines within Chapter 7 of the Principal Determination as a part of the modernisation of the Determination.
- Remove the end date of the flexible housing trial.

- Amends overseas conditions to:
 - Update the post index locations following a review of the post index rates applicable to Florida and Washington DC in the United States of America.
 - Changing the relief centre for Ukraine to Berlin, Germany, which provides broader English accessibility, a more distinct change of setting, better amenities, and a more international atmosphere, enhancing the quality of respite.
 - Establish Yemen as a hardship location to ensure a member who is deployed there has access to the overseas hardship package of benefits.
 - Amend the name of the approved club for a member's overseas posting location in Spain as a consequence of a name change.
- Replace directly conferred decision makers with the Chief of Defence Force (CDF) from the Principal Determination as they will be placed in an ADF Pay and Conditions (Chief of the Defence Force) Authorisation instrument.

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, consultation was undertaken with Military Personnel Branch, the Directorate of Housing and Relocations and Program Management and Governance Branch within Security and Estate Group, Defence Personnel Support Officer Washington, the Directorate of Attaché and Overseas Management, Defence Finance Group, and Toll.

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. 18) 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 commences on the day the instrument is registered.
- Schedules 1 to 7 of the Determination commences on 6 November 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—Continuation bonus amendments

Item 1 amends subparagraph 3.3.3.b.iii of the Principal Determination, which provides when a member commences their agreed period of service for a Category A or Category B bonus under Part 3 of Chapter 3. The amendment excludes a continuation bonus under Part 4 of Chapter 3 from subparagraph 3.3.3.b.iii. This means the member can commence their agreed period of service for a Category A or Category B bonus while they are subject to a period of service in connection with a continuation bonus.

Items 2, 7, 12, and 14 amend various sections of the Principal Determination to insert military employment classification J41. The amendment enables a member holding a military employment classification of J41, which is a temporary classification, to be treated in the same way as members with a J34 or J40 military employment classification.

Item 3 amends subsection 3.4.6.1 of the Principal Determination, which defines 'effective service'. The amendment separates the definition of 'effective service' relating to the commencement day of a period of service and the calculation of a period of service in paragraph 3.4.6.1.a. This enables an additional criteria to be added to the calculation of an agreed period of service which excludes a day on which a member is in connection with their agreed period of service under Part 3 of Chapter 3. This allows a break in the continuation bonus agreed period of service when a member is subject to a Category A or Category B bonus.

Items 4 and 9 amend the note at subsections 3.4.8.3 and 3.4.13.3, respectively, of the Principal Determination, which provide who each of the respective Divisions apply to. The amendments clarify that only a period of leave without pay of more than 21 days do not count as effective service.

Items 5 and 10 amend paragraphs 3.4.10.1.a and 3.4.15.1.a of the Principal Determination, which provide when a member is eligible to receive an offer for a continuation bonus. The amendment inserts military employment classifications: J34 and J41. The amendment enables a member holding a military employment classification of J34 or J41, which is a temporary classification, to be treated in the same way as members with a J40 military employment classification.

Items 6 and 11 amend the notes in subsections 3.4.10.1 and 3.4.15.1 of the Principal Determination, respectively. The amendments are consequential to changes made by items 5 and 10.

Items 8 and 13 amend sections 3.4.12 and 3.4.17, respectively, which provide when an offer for a continuation bonus can be made to a member who has had a change in their military employment classification. Both sections are amended to include a member holding a military employment classification of J41. This enables the member to be given an offer of a continuation bonus if their military employment classification is changed within 1 year of being given a military employment classification of J34 or J40.

Item 15 inserts a note at subsection 3.4.23.2 of the Principal Determination, which specifies when a member must repay the continuation bonus. The note clarifies that if more than one reason for a

member's service in the ADF is being terminated includes a reason listed in the subsection, the member must still repay the continuation bonus, regardless of the other reasons specified.

Schedule 2—Removals amendments

Item 1 amends section 6.5.16 of the Principal Determination, which provides the assistance a member is eligible to receive when they make private removal arrangements instead of using the Commonwealth removalist. Subsection 6.5.16.2 is repealed and substituted to provide storage to a member if they meet all of the following.

- Their accommodation is temporarily unavailable.
- Their items would have been stored at no cost to them if they had been removed by the Commonwealth removalist.
- The CDF is satisfied that storing the member's items is reasonable in the circumstances.

Item 2 amends table item 2 of section 6.5.29 of the Principal Determination, which provides a removal between residences in the same location in Australia when a member purchases a suitable own home in their housing benefit location. The cell in column B has been amended to provide that a member is eligible for a removal from their accommodation in the housing benefit location to the new suitable own home in the same location when they or their resident family will remain in the housing benefit location for 12 months or more.

Item 3 inserts a new section 6.5.29A into the Principal Determination. The new section provides a removal benefit to a member who is a part of a dual serving couple when their partner receives a posting order to the same housing benefit location and the accommodation will not be suitable for resident family. The member is eligible for a removal of furniture and effects to a new home in the same location.

Schedule 3—Housing amendments

Items 1, 6, 8, 9, 11, 12, 14, 16, 18, 21, 23 and 24 repeal various provisions within Chapter 7 of the Principal Determination to remove purpose statements, which are repealed as a consequence of the simplified outlines that have been added by the other amendments made under this Schedule.

Item 2 repeals section 7.1.2 of the Principal Determination, which provides definitions that apply to Chapter 7. The section has been removed and re-inserted by item 4 of this Schedule to place the definitions in a more appropriate place within Division 1 of Part 1 of Chapter 7 to promote consistency within the Principal Determination.

Item 3 repeals and substitutes section 7.1.5 of the Principal Determination, which provides the purpose of Division 1 of Part 1 of Chapter 7. The purpose statement has been replaced by a simplified outline of Chapter 7 (ADF housing and meals) to promote the use of contemporary drafting styles. This section has been renumbered as section 7.1.1.

Item 4 amends section 7.1.14 of the Principal Determination, which provides definitions that apply to Chapter 7 of the Principal Determination. The section has been amended to include definitions of 'HPAS' and 'HPSEA' as a consequence of the changes made by item 2 of this Schedule. These definitions are to be placed in alphabetical order relative to existing definitions in accordance with section 11 of the AI Act.

Item 5 repeals subsection 7.1.15.4 of the Principal Determination, which provides that approval for the flexible housing trial must not be given after 31 December 2025. The flexible housing trial will be made a permanent provision and the end date is no longer required.

Items 7, 10, 13, 15, 17, 19, 20 and 26 amend various provisions within the Principal Determination to remove purpose statements and replace with simplified outlines to promote the use of contemporary drafting styles. The following purpose statements have been repealed and substituted with a simplified outline.

- Section 7.2.4 of the Principal Determination, which provides the purpose of Part 2 of Chapter 7 (Suitable own home).
- Section 7.3.1 of the Principal Determination, which provides the purpose of Part 3 of Chapter 7 (Home sale or purchase).

- Section 7.4.1 of the Principal Determination, which provides the purpose of Part 4 of Chapter 7 (Living-in accommodation).
- Section 7.5.1 of the Principal Determination, which provides the purpose of Part 5 of Chapter 7 (Temporary accommodation allowance).
- Section 7.6.1 of the Principal Determination, which provides the purpose of Part 6 of Chapter 7 (Service residences).
- Section 7.7.1 of the Principal Determination, which provides the purpose of Part 7 of Chapter 7 (Member choice accommodation).
- Section 7.8.2 of the Principal Determination, which provides the purpose of Part 8 of Chapter 7 (Rent allowance).
- Section 7.11.1 of the Principal Determination, which provides the purpose of Part 11 of Chapter 7 (Evacuation assistance).

Item 22 inserts section 7.9.1 into the Principal Determination, which provides a simplified outline of Part 9 of Chapter 7 (Meals) to promote the use of contemporary drafting styles.

Item 25 inserts section 7.10.3 into the Principal Determination, which provides a simplified outlines of Part 10 of Chapter 7 (Utilities) to promote the use of contemporary drafting styles.

The changes made by this Schedule are technical in nature and do not alter the underlying policies, or the benefits which are currently provided.

Schedule 4—Overseas conditions amendments

Items 1 to 5 amend the table at Annex 12.3.B of the Principal Determination, which provides the list of locations overseas that attract a post index adjustment. The annex has been amended to more appropriately reflect the location's expected cost of living, childcare and other allowance amounts, which has been done by the following.

- Item 1 amends table item 59 to specify that the part of Florida for which Jacksonville remains as its data service provider includes Jacksonville and the Florida Panhandle Region. The Florida Panhandle Region is commonly understood to include the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, and Wakulla in the state of Florida. The item also inserts a new table item 59A to provide Tampa as the data service provider location for the rest of the state of Florida.
- Items 2 and 4 amend table items 64 (Maryland) and 69A (Virginia) to exclude counties and cities in the Washington DC Metropolitan Region from their location. The excluded areas are separately incorporated by item 5 of this Schedule.
- Item 3 repeals table item 68A, Miami, from the Annex. This table item is being removed, following a review of the locations in Florida, which highlighted that there were no personnel posted to Miami and that the regions where members have been posted are more similar in cost to Tampa, except for the Panhandle region and Jacksonville.
- Item 5 amends table item 69B to rename the post index location from 'Washington DC' to 'Washington DC Metropolitan Region'. The Washington DC Metropolitan Region is commonly understood to include specific counties and cities in Virginia and Maryland. The use of Washington DC Metropolitan Region is most appropriate as the location, as the post index for these cities and counties is more in line with Washington DC than their own states' post index location.

Item 6 amends subsection 15.8.2.2 of the Principal Determination, which provides the approved clubs for the member's overseas posting location. This amendment changes the approved club for Spain at table item 25, which was required following the closure of the previous approved club.

Items 7 and 8 amend Annex 16.B of the Principal Determination, which provides locations that are hardship locations for the purpose of overseas conditions of service. Annex 16.B has been amended as follows.

- Item 7 amends table item 57A column C to replace Warsaw, Poland as the relief centre for Ukraine with Berlin, Germany.
- Item 8 inserts Yemen as a hardship location to ensure that members who are deployed to the location have access to the overseas hardship package of benefits.

Schedule 5—Miscellaneous (decision maker) amendments

Item 1 repeals and substitutes subsection 9.3.52.4 of the Principal Determination, which provides defined terms used within section 9.3.52. The subsection has been amended to remove the defined term of ‘decision maker’ consequential to a change made under item 3 of this Schedule.

Items 2 and 3 amend various provisions in the Principal Determination to remove references to ‘decision maker’ and replace it with ‘CDF’, being the Chief of the Defence Force.

Item 4 repeals various provisions from the Principal Determination to remove definitions of decision maker that are required to be removed consequential to the changes made under this Schedule.

Schedule 6—Application and savings provisions

Item 1 inserts a new subdivision into Division 2 of Part 2 of Chapter 1. The new subdivision inserts transitional provisions as a consequence of changes made by Schedule 1 of this Determination. Specifically, the amendment inserts the following:

- Section 1.2.11, which provides a definition of amending determination that applies to the subdivision. The definition refers to Schedule 1 of this Determination.
- Section 1.2.12, which is an application rule that ensures that amendments made by sections 3.4.12 and 3.4.17 apply to members who have held a military employment classification of J34, J40 or J41 within 12 months before the commencement of Schedule 1.

Section 1.2.13, which is a savings provision that ensures amendments to sections 3.3.3 and 3.4.6 only apply to members who have not received an offer for the continuation bonus before the commencement of Schedule 1.

Schedule 7—Transitional Provisions

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

Clause 2 provides that a member who was on a posting to the regions of the United States of America amended by Schedule 4 of this Determination between 31 July 2025 and the commencement of this Determination is eligible for any benefits that they would have been eligible for had the changes made by Schedule 4 applied at the time. The clause also provides that the amount the member is eligible under the section is reduced by any amount the member has already received for the same benefit in the same period.

Defence Determination, Conditions of service Amendment Determination (No. 18) 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:

- Enable a member to complete a period of service in connection with a Category A or Category B bonus while they are subject to a continuation bonus. This means a member will complete the Category A or Category B bonus while providing the capability for which the bonus is being paid. It may result in a member's period of service for the continuation bonus being completed either side of the period of service for the Category A or Category B bonus.
- Amend the ADF's continuation bonus to:
 - Broaden the application of the ADF's continuation bonus to enable a member who has a military employment classification of J41, or changed to J41 to be able to be given an offer of a continuation bonus if their categorisation changes within 1 year of getting a J41 military employment classification.
 - Clarify that a member has to repay the continuation bonus if their service in the ADF is terminated for more than one reason.
- Amend removal benefits to provide members:
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- Include simplified outlines within Chapter 7 of the Principal Determination as a part of the modernisation of the Determination.
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- Amends overseas conditions to:
 - Update the post index locations following a review of the post index rates applicable to Florida and Washington DC in the United States of America.
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 - Amend the name of the approved club for a member's overseas posting location in Spain as a consequence of a name change.

Replace directly conferred decision makers with the Chief of Defence Force (CDF) from the Principal Determination as they will be placed in an ADF Pay and Conditions (Chief of the Defence Force) Authorisation instrument.

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 and 6 are compatible with human rights as it promotes fair and equitable access to the continuation bonus to members who do not hold an appropriate military employment classification for service in their employment category but are suitable to train for ongoing service in another employment category.

Schedule 2 is compatible with human rights as it promotes the right to an adequate standard of living by ensuring that members are provided with the following:

- Storage benefit when they made private removal arrangements and their accommodation is temporarily unavailable.
- Removal benefit between homes in the housing benefit location that is suitable for the number of people who will occupy the accommodation.

Schedules 3 and 5 make amendments to the Principal Determination that do not change the underlying policies or benefits. As such, they do not engage with any of the applicable rights or freedoms.

Schedule 4 and 7 are compatible with human rights as it promotes the right to the enjoyment of just and favourable conditions of work and the right to an adequate standard of living by ensuring the following:

- That members who are posted overseas are not being disadvantaged by where their post index location is, providing them with adequate standard of living at a reasonable cost.
- That members who are posted to overseas locations where they may experience difficulties or hardships have access to the overseas hardship package of benefits 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*.