EXPLANATORY STATEMENT

Defence (Individual Benefits) Determination (No. 11) 2026

This Determination is made under section 58B of the *Defence Act 1903* (the Defence Act) 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 a member of the Australian Defence Force (ADF) with a payment that is the equivalent to the amount of rent allowance they would have received had their housing benefit location coincided with the location where they lived. The Determination is being made as a consequence of the specific circumstances relating to the member.

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

This Determination provide a payment in connection with past events. The retrospective aspects of this Determination do 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 made and actions taken 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, the consultation was undertaken with the Directorate of Personnel Policy Operations in the Military Personnel Organisation, and the Directorate of Relocations and Housing within the Security and Estate Group of the Department of Defence.

Those consulted provided advice on, and contributed to, the development of the underlying policy that lead to the amendments being made by this Determination. The policy, as being implemented by this Determination, has been supported by those consulted.

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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Annex A

Defence (Individual Benefits) Determination (No. 11) 2026

Operational details

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

Section 2 provides that the Determination commencement 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 specifies the purpose of the Determination.

Section 5 provides defined terms that apply in the Determination. Specifically, it defined “Defence Determination” as being the Defence Determination 2016/19, Conditions of service, as in force from time to time, and “member” being the member of the ADF who holds the employee identification number 8592340.

Section 6 provides the member with a payment in lieu of rent allowance for the period between 11 March 2026 and 11 June 2026. Rent allowance is calculated in accordance with the provisions of the Defence Determination. When calculating the amount of rent allowance, the contribution that is the minimum Defence expects to pay, for the period between 11 March 2026 and 2 June 2026, is $0.00 and, for the remaining period, is the contribution that would have been used had they been eligible for rent allowance at the time. This amount is specified in the Defence Determination.

Section 7 provides that this instrument is repealed on 1 December 2026.

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Annex B

Defence (Individual Benefits) Determination (No. 11) 2026

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 a member of the Australian Defence Force (ADF) with a payment that is the equivalent to the amount of rent allowance they would have received had their housing benefit location coincided with the location where they lived. The Determination is being made as a consequence of the specific circumstances relating to the member.

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

Schedule 1 is compatible with human rights as it provides a member with a payment that is equal to the amount they would have received had their housing benefit location under the Defence Determination included the location they lived at the time. This is provided as a part of the member’s 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*.

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