EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment Determination (No. 17) 2026

This Determination amends Defence Determination 2016/19, Conditions of service (the Principal Determination), 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.

The Principal Determination is exempt from sunsetting 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:

- Provide clarity as to when a member ceases to be a member undergoing recategorisation training to ensure members continue to receive the benefit of a salary non-reduction provision, as appropriate.
- Specify to whom Chapter 6 Part 1 of the Principal Determination applies, and that an additional removal taken by a member or their unaccompanied resident family when the member ceases continuous full-time service is not counted as a separate removal for the purpose of disturbance allowance.
- Update the international travel meal and incidental rates for overseas conditions of service to align with the rates provided by the Department of Foreign Affairs and Trade, which is the lead agency for overseas condition of employment for the whole of the Australian government.
- Amend the formula related to rent allowance when a member is subletting a home for the purpose of calculating the amount of rent allowance the member is eligible for.
- Make technical amendments to replace references to the Court of Inquiry with Commission of Inquiry and update pinpoint references to relevant provisions within Part 7 of Chapter 8 of the Principal Determination, as a consequence of changes to the relevant regulations.
- Amend the storage of furniture and effects not removed overseas provision to provide that the removal to storage must occur in the period immediately before the member commences the long-term posting overseas.

Operational details

Details of the operation of the Determination are provided at annex A.

Incorporation by reference

For the purpose of adopting Defence Force Remuneration Tribunal (DFRT) determinations, being instruments other than a legislative instrument, section 58B(1A) of the Defence Act provides a contrary intention to section 14(2) of the Legislation Act. Section 58B(1A) of the Defence Act permits DFRT

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determinations, as in force from time to time, being adopted in this determination in accordance with section 14(1)(b) of the Legislation Act.

The Determination makes references to sections of the Defence Regulations 2026. The Regulations are incorporated into the Determination as in force from time to time. Section 1.2.5A of the Principal Determination specifies that a reference to an Act of Parliament or a legislative instrument to which section 14(3) of the AI Act applies are incorporated as in force from time to time, unless otherwise stated.

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:

- Schedule 1: The Directorate of Remunerations Operations.
- Schedule 2: Directorate of Relocations and Housing and Directorate of Personnel Policy Operations.
- Schedules 3 and 5: Military Personnel Branch, International Policy Division, Defence Finance Group, Australian Signals Directorate, Australian Submarine Agency, Australian Navy Nuclear Power Safety Regulator.
- Schedule 4: The Directorate of Relocations and Housing, the Directorate of Personnel Policy Operations and the Overseas Administration Team.

Those consulted provided advice, 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

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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 Determination commences on 8 October 2026.

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—Recategorisation training amendments

Items 1 and 2 amend section 1.3.3 of the Principal Determination, which provides the definition for 'member undergoing recategorisation training'. The item 1 inserts a subsection number at the beginning of the text as a consequence of changes made by item 2. Item 2 inserts two new subsections into section 1.3.3. Specifically, the item inserts the following:

- Subsection 2, which specifies when a member ceases to be member undergoing recategorisation training, being when the member ceases undertaking training in a capacity listed in Schedule B.13 of DFRT Determination No. 2 of 2017.

- Subsection 3, which provides exceptions to the rule in subsection 2. A member does not cease to be a member undergoing training because they are suspended from the training, they cease the training program in connection with a decision to end their service in the ADF, or if they are a member who is undertaking the recategorisation training in connection with a transfer from one Service to another, for example from Army to Navy, and have been removed from the training program before being transferred back to their previous Service.

  This subsection enables the member to continue to be paid their salary under DFRT Determination No. 2 of 2017 until decisions are made about their continuation with the training or with their new Service. For example, under the suspension provision, a member will remain a member undergoing recategorisation training while suspended from a course. If it is decided to remove the member from the course and to return them to their previous employment category, they will then cease to be a member undergoing recategorisation training.

Schedule 2—Disturbance allowance – additional removal amendments

Item 1 adds a new section 6.1.3A into the Principal Determination, which provides that disturbance allowance under Division 1 of Part 1 of Chapter 6 applies to a member, a member of the Reserves and a former member. The section is added to specify the types of members to whom the part related to disturbance allowance applies. Members must still satisfy the eligibility requirement before they can receive the allowance.

Item 2 amends section 6.1.5 of the Principal Determination, which provides the circumstances in which a member is not eligible for disturbance allowance under Division 1 of Part 1 of Chapter 6. Paragraph 6.1.5.b is amended to specify that a member is not eligible for disturbance allowance if they are moving overseas from Australia for a long-term posting.

Items 3 and 4 amend section 6.1.7 of the Principal Determination, which provides the meaning of 'number of current removals' for the purpose of disturbance allowance payable to a member under section 6.1.6, by making the following changes:

- A note is added in subsection 2 to specify that the subsection applies whether the separate removals are from the same location or different locations.

- A new subsection 3 is added to specify that, for the purpose of disturbance allowance, an additional removal under section 6.5.46A is not counted as a removal.

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Item 5 amends section 6.5.46A of the Principal Determination, which provides an additional removal to a member or their unaccompanied resident family to the location the member nominates when they cease continuous full-time service. A note is added at the end of the section to specify that a removal under section 6.5.46A is in addition to a removal under section 6.5.46 and that together are counted as only one removal in total under section 6.1.7, for the purpose of disturbance allowance under Division 1 of Part 1 of Chapter 6.

Schedule 3—International travel meal and incidental rates amendment

Item 1 amends the definition of accepted period in section 12.3.1 of the Principal Determination to update the language used in connection with the payment of incidentals and allowance. This amendment is consequential to the changes made by items 2, 3 and 4 of this Schedule.

Items 2, 3 and 4 insert definitions for incidentals allowance and meal allowance. Item 2 specifically insert meal allowance and incidental allowance in to the list of definitions in section 12.3.1 of the Principal Determination. These are inserted in the appropriate alphabetical position, determined on a letter-by-letter basis, in accordance with the section 11A of the AI Act. The definitions point to section 12.3.6 and 12.3.10, which are inserted by items 3 and 4 respectively.

Item 3 provides the definition for incidentals allowance for a location. The definition incorporates by description the rates of incidentals allowance for specific locations, which are provided on the Defence Intranet. The rules contained in the definition enable the member to find the rate of incidentals allowance that applies to their location.

Item 4 provides the definition for the rate of meal allowance for a location. The definition incorporates by description the rates of meal allowance for specific locations, which are provided on the Defence Intranet. The rules contained in the definition enable the member to find the rate of meal allowance that applies to their location.

The rates of incidentals and meal allowances are commercially sensitive, being proved by a contracted service provider and subject to contractual protections. This prevents the rates being published outside of the Department of Defence. The rates are accessible to members through internal administrative systems including a direct link to the document on Defence IT platforms, or through their overseas post administration team when IT access may be limited. For other individuals who require access, such as the member's partner or dependants, the information will be accessible through their usual overseas post administration team.

Item 12 repeals section 13.3.4 of the Principal Determination, which required members use the Defence travel card to access incidentals allowance and meal allowance. This section is no longer relevant as a consequence of a change to travel policy. Rules about the use of the Defence travel card and how the allowances are paid are provided in internal policy documents.

Items 13 and 14 amend section 13.3.6 of the Principal Determination, which specifies the rate of allowances paid in connection with overseas travel. In addition to making amendments to remove references to Annex 13.3.A of the Principal Determination, the items remove the rate differentiation of the rates. As a consequence of these amendments, all members, regardless of rank, will receive the same rate of allowances when they travel overseas.

Item 15 repeals section 13.3.7 of the Principal Determination, which repeats the eligibility requirement for allowances to cover travel costs. Due to the repetitive nature of this rule, it is redundant and is repealed.

Item 23 repeals section 13.3.10 of the Principal Determination, which provides for circumstances in which the rate of incidentals allowance is reduced. The section has been redrafted in to 3 separate sections dealing with different circumstances and to enhance findability of the rules. The new section 13.3.10 reduces the rate of incidentals allowance based on the time of day the member arrives or departs from the location. Section 13.3.10A reduces the rate of incidentals allowance when members have been in the location for 28 days or more. Section 13.3.10B reduces the rate of incidentals allowance in other circumstances. These changes do not reflect a change in policy.

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The following items amend the Principle Determination make consequential changes across Chapter 12 to 16, inclusive, to remove references to Annex 13.3.A of the Principal Determination and to provide consistent language across Chapters 12 to 16 of the Principal Determination in relation to incidentals allowance and meals allowance.

- Items 5 to 11
- Items 16 to 22
- Items 24 to 43.

These amendments do not change the underlying policy.

Schedule 4—Miscellaneous amendments

Item 1 amends section 7.8.23 of the Principal Determination, which provides the rule on how to calculate rent allowance when a member is subletting a home. The item amends the formula at subsection 2 to provide that the lesser of the fortnightly rent paid by the member for a property and the approved rent ceiling for the property is required when calculating rent allowance when a member is subletting. The amended formula provides clarity on how to calculate rent allowance when subletting.

Items 2 to 5 and 8 amend Part 7 of Chapter 8 of the Principal Determination, which provides assistance to a member's family for their attendance at an inquiry involving an injured or deceased member. The following changes are made as a consequence of the *Defence (Inquiry) Regulations 1985* being replaced by *Defence (Inquiry) Regulations 2018*.

- Items 2 and 8 amend various provisions within the Part to replace references to 'Court of Inquiry' with 'Commission of Inquiry'.
- Item 3 repeals and substitutes section 8.7.2 to replace 'Court of Inquiry' with 'Commission of Inquiry', and update the pinpoint reference and legislation title from 'regulation 3 of the *Defence (Inquiry) Regulations 1985*' to 'regulation 74 of the *Defence (Inquiry) Regulations 2018*'.
- Items 4 and 5 make the following amendments to section 8.7.3, which provides the list of persons to whom the Part applies. The items do the following:
    - insert the missing preposition 'in' after the word 'listed' in subsection 2 to correct a typographical error;
    - replace 'regulation 33 or regulation 121 of the *Defence (Inquiry) Regulations 1985*' with 'regulation 23 of the *Defence (Inquiry) Regulations 2018*' in paragraph 2.b to update the pinpoint reference and legislation title.

Item 6 amends section 14.3.5 of the Principal Determination, which provides the removal benefit for a member at the beginning of a long-term posting overseas. A note has been added to provide that storage of items not removed overseas is provided under section 14.3.7.

Item 7 repeals and substitutes section 14.3.7 of the Principal Determination, which provides a storage benefit in Australia of furniture and effects not removed overseas for a member posted on a long-term posting overseas. The section is amended to provide that the removal of the furniture and effects to storage must occur in the period immediately before the member commences the long-term posting overseas. Additionally, the section includes the period the furniture and effects can be stored.

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

Schedule 5—Transitional provisions

Item 1 inserts subdivision 11 into Division 2 of Part 2 of the Principal Determination. The item inserts the following:

- Section 1.2.28 which provides the defined terms that apply to this Schedule. Specifically it defines 'amending determination' to mean the *Defence Determination, Conditions of service Amendment Determination (No. 17) 2026* and 'travel costs' to mean meal and incidental rates under

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Annex 13.3.A as in force immediately before the commencement of this Schedule 3 of this Determination.

- Section 1.2.29 provides that travel costs continue to apply to a member who would be financially disadvantaged by the changes made by Schedule 3 of this Determination if their travel costs were approved immediately before the commencement of Schedule 3 and the member would be financially disadvantaged by the amendment.

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Annex B

Defence Determination, Conditions of service Amendment Determination (No. 17) 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 do the following:

- Provide clarity as to when a member ceases to be a member undergoing recategorisation training to ensure members continue to receive the benefit of a salary non-reduction provision, as appropriate.
- Specify to whom Chapter 6 Part 1 of the Principal Determination applies, and that an additional removal taken by a member or their unaccompanied resident family when the member ceases continuous full-time service is not counted as a separate removal for the purpose of disturbance allowance.
- Update the international travel meal and incidental rates for Overseas Conditions of Service to align with the rates provided by the Department of Foreign Affairs and Trade, which is the lead agency for overseas condition of employment for the whole of the Australian government.
- Amend the formula related to rent allowance when a member is subletting a home for the purpose of calculating the amount of rent allowance the member is eligible for.
- Make technical amendments to replace references to the Court of Inquiry with Commission of Inquiry and update pinpoint references to relevant provisions within Part 7 of Chapter 8 of the Principal Determination, as a consequence of changes to the relevant regulations.
- Amend the storage of furniture and effects not removed overseas provision to provide that the removal to storage must occur in the period immediately before the member commences the long-term posting overseas.

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 by amending the definition of ‘member undergoing recategorisation training’ to ensure that their salary is appropriately administered and they receive the benefit of a salary non-reduction provision as intended. The schedule makes amendments to the Principal Determination which do not change the underlying policies or benefits. As such, it does not engage with any of the applicable rights or freedoms.

Schedule 2 amends disturbance allowance which compensates for some of the costs the member incurs when relocating for Service reasons or when ceasing continuous full-time service. A member ceasing continuous full-time service may be granted additional removal to enable them to reunite with unaccompanied resident family before moving together to the final location, or to enable unaccompanied resident family to reunite with them at the final location. The amendments made by the schedule in relation to disturbance allowance in any of these situations is reasonable and proportionate in that the amount is equivalent to that which is payable to a removal as if the member and their unaccompanied resident family had one removal together to the final location.

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Schedule 3 is compatible with human rights as it promotes a member's right to just and favourable conditions of work by providing incidentals allowance and meal allowances to members when they travel overseas for duty as a part of their conditions of service. The amendments ensure that incidentals allowance and meal allowance associated with oversea travel are evidence based and reflect more accurate actual costs of incidental and meal expenses in each location.

Schedule 4 items 6 and 7 are compatible with human rights as it promotes the right to the enjoyment of just and favourable conditions of work by providing members with benefits to store furniture and effects that will remain in Australia at the commencement of their long-term posting overseas. This ensures that a member's belongings are secure for the period they are posted. This benefit is provided as a part of the member's conditions of service.

The remaining provisions in this Determination make amendments to the Principal Determination which 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*.

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