



# **Defence Force Retirement and Death Benefits Regulations 2017**

---

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 24 August 2017

Peter Cosgrove  
Governor-General

By His Excellency's Command

Dan Tehan  
Minister for Defence Personnel

---



---

## Contents

1	Name.....	1
2	Commencement .....	1
3	Authority.....	1
4	Schedules .....	1
5	Definitions .....	1
6	Annual pay applicable to a member of the Defence Force on a day .....	1
7	Benefits for certain spouses in post-retirement marital or couple relationships—pension.....	2
8	Benefits for certain spouses in post-retirement marital or couple relationships—lump sum payment.....	4
	<b>Schedule 1—Repeals</b> .....	<b>5</b>
	<i>Defence Force Retirement and Death Benefits (Annual Rates of Pay) Regulations 1979</i> .....	5
	<i>Defence Force Retirement and Death Benefits Regulations 1973</i> .....	5



## 1 Name

This instrument is the *Defence Force Retirement and Death Benefits Regulations 2017*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	29 August 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Defence Force Retirement and Death Benefits Act 1973*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 5 Definitions

In this instrument:

*Act* means the *Defence Force Retirement and Death Benefits Act 1973*.

*Defence Act* means the *Defence Act 1903*.

## 6 Annual pay applicable to a member of the Defence Force on a day

*Members who are public office holders*

- (1) For the purposes of the definition of **annual rate of pay** in subsection 3(1) of the Act, the annual pay applicable on a particular day to a member of the Defence Force whose remuneration is determined by the Remuneration Tribunal under subsection 7(3) of the *Remuneration Tribunal Act 1973* is the amount that is the

## Section 7

---

annual rate of remuneration of the member on that day as determined by the Remuneration Tribunal under that subsection.

### *Other members*

- (2) For the purposes of the definition of **annual rate of pay** in subsection 3(1) of the Act, the annual pay applicable on a particular day to a member of the Defence Force (other than a member referred to in subsection (1) of this section) is the sum of:
  - (a) the amount of the annual rate of salary applicable to the member on that day under a determination under Part IIIA of the Defence Act; and
  - (b) if service allowance is payable to the member under a determination under Part IIIA of the Defence Act—the amount of the annual rate of service allowance applicable in respect of service by the member on that day.
- (3) If, under the relevant determination under Part IIIA of the Defence Act, different annual rates of salary are specified according to the number of years of service that a member of the Defence Force who holds a specified rank, or is taken to hold that rank, has completed, then for the purposes of paragraph (2)(a) of this section, the annual rate of salary under the determination applicable to a member of the Defence Force who holds that rank is taken to be the annual rate of salary applicable to a member of the Defence Force who has completed the longer or longest period of service that is specified in the determination in relation to a member who holds, or is taken to hold, that rank.
- (4) A reference in this section to the annual rate of salary applicable to a member of the Defence Force on a particular day under a determination under Part IIIA of the Defence Act is a reference to the amount that would be the annual rate of salary applicable to the member on that day under the determination if the term **rank** had the meaning given by subsection 3(1) of the *Defence Force Retirement and Death Benefits Act 1973*.

### *Chaplains*

- (5) For the purposes of paragraph (2)(a) of this section, the annual rate of salary applicable on a particular day to a member of the Defence Force who is a chaplain is the highest annual rate of salary applicable on that day under a determination under Part IIIA of the Defence Act for the classification applicable to the chaplain.

## **7 Benefits for certain spouses in post-retirement marital or couple relationships—pension**

### *Prescribed rate*

- (1) For the purposes of subsection 6BA(3) of the Act, the rate of \$1,779.02 is prescribed.

### *Indexation of prescribed rate*

- (2) On 1 January 2018 and on each following 1 July and 1 January, the prescribed rate is increased in accordance with subsection (3) or (4) (as the case requires).

- (3) If, in the 6 month period beginning on 1 July in a year (the *relevant period*), the latest CPI number is greater than the earlier CPI number, the prescribed rate is increased, on 1 January immediately following the end of the relevant period, in accordance with the formula:

$$\frac{\text{Prescribed rate} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

*earlier CPI number* is the CPI number for the last March quarter before the start of the relevant period.

*latest CPI number* is the CPI number for the September quarter before the end of the relevant period.

*prescribed rate* is the rate in force under this section at the end of the relevant period.

- (4) If, in the 6 month period beginning on 1 January in a year (the *relevant period*), the latest CPI number is greater than the earlier CPI number, the prescribed rate is increased, on 1 July immediately following the end of the relevant period, in accordance with the formula:

$$\frac{\text{Prescribed rate} \times \text{Latest CPI number}}{\text{Earlier CPI number}}$$

where:

*earlier CPI number* is the CPI number for the last September quarter before the start of the relevant period.

*latest CPI number* is the CPI number for the March quarter before the end of the relevant period.

*prescribed rate* is the rate in force under this section at the end of the relevant period.

- (5) The amount of the rate worked out under subsection (3) or (4) is to be rounded to the nearest cent (rounding 0.5 cents upwards).
- (6) If the Australian Statistician publishes for a particular March quarter or September quarter a CPI number in substitution for a CPI number previously published by the Australian Statistician for that quarter, the publication of the later CPI number is to be disregarded for the purposes of this section.
- (7) However, if the Australian Statistician changes the index reference period for the Consumer Price Index, then for the application of this section after the change is made, regard is to be had only to CPI numbers published in terms of the new index reference period.
- (8) In this section:

*CPI number* means the All Groups Consumer Price Index number (being the weighted average of the 8 Australian capital cities) published by the Australian Statistician.

*March quarter* means a period of 3 months ending at the end of March.

*September quarter* means a period of 3 months ending at the end of September.

## **8 Benefits for certain spouses in post-retirement marital or couple relationships—lump sum payment**

For the purposes of subsection 6BA(3) of the Act, a lump sum payment to which a spouse is entitled under that subsection is worked out in accordance with the formula:

Rate of pension × Age factor

where:

*age factor* means:

- (a) if the spouse is a female—the factor specified in the column headed “Spouse pension Single life” that relates to the spouse’s age in Table 4B of Part 4 of Schedule 1 to the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*;  
or
- (b) if the spouse is a male—the factor specified in the column headed “Spouse pension Single life” that relates to the spouse’s age in Table 4A of Part 4 of Schedule 1 to the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*.

*rate of pension* means the rate of pension worked out for the spouse in accordance with subsection 6BA(2) of the Act.



## **Schedule 1—Repeals**

### ***Defence Force Retirement and Death Benefits (Annual Rates of Pay) Regulations 1979***

#### **1 The whole of the Regulations**

Repeal the Regulations.

### ***Defence Force Retirement and Death Benefits Regulations 1973***

#### **2 The whole of the Regulations**

Repeal the Regulations.