

EXPLANATORY STATEMENT

Defence Determination (Door-to-door travel – amendment) 2018 (No. 3)

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* (AIA 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 AIA Act, as modified by section 58B of the Defence Act.

Chapter 9 of the Principal Determination sets out provisions dealing with travel costs in Australia for members of the Australian Defence Force (ADF).

This Determination has the following purposes:

- To provide a more comprehensive definition of door-to-door travel.
- To provide that door-to-door travel applies in specified travel provisions.

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

Section 2 provides that this Determination commences on 8 February 2018.

Section 3 provides that this instrument has authority under section 58B of the *Defence Act 1903*.

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 sets out amendments to the Principal Determination.

Section 1 omits and substitutes section 9.1.12 of the Principal Determination, which provides that travel on leave, temporary duty or posting is to be on a door-to-door basis. This section is substituted to specify that door-to-door travel includes the reasonable cost of public transport for travel to and from airports, railway stations and coach terminals. It also makes clear that door-to-door travel does not apply to remote location leave travel. A list of the types of travel where a door-to-door component is provided will follow this section as guidance on the 'Defence Pay and Conditions' website.

Section 2 inserts a new paragraph into section 9.2.6 of the Principal Determination, which sets out which benefits are included when a member travels by the most economical means for temporary duty. The new paragraph provides that the most economical means of travel includes door-to-door costs.

Sections 3, 4 and 5 amend sections 9.2.14, 9.2.15 and 9.2.16, respectively, of the Principal Determination. These sections provide the benefits available to members on posting within Australia when they travel by rail, air or coach. These sections are amended to provide that the member is eligible for door-to-door travel costs when travelling by one of these means of travel for a posting within Australia.

Section 6 omits and substitutes section 9.3.26 of the Principal Determination, which provides for a member to travel to access extended family support during a period of maternity leave. The section is amended to provide that the member is eligible for door-to-door travel costs when travelling.

Sections 7 and 8 amend section 9.3.30 of the Principal Determination, which provides the frequency and cost of reunion travel for members who are separated from their dependants for Service reasons. Section 7 substitutes subsection 2 to specify the benefits that are included as a part of reunion travel for member and the cost of door-to-door travel has been included in this subsection. Section 8 omits subsection 3 which provided the door-to-door component.

Sections 9 to 15 amend various sections of the Principal Determination, which provide the travel benefits for members and their dependants. These sections are amended to specify that travel benefits provided under these sections are on a door-to-door basis.

Section 16 amends the note to section 9.4.23 of the Principal Determination, which provides the purpose of remote location leave travel. The note is amended to include a second note that makes clear that door-to-door travel costs provided in section 9.1.12 of the Principal Determination do not apply to remote location leave travel.

Consultation

No external consultation was undertaken in relation to this Determination in accordance with section 17 of the *Legislation Act 2003* before this Determination was made as it is a minor or machinery nature and does not alter existing arrangements. It makes technical adjustments.

Authority: Section 58B of the
Defence Act 1903

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Determination

This Determination makes amendments to Defence Determination 2016/19, *Conditions of service*.

The purpose of this Determination is to provide door-to-door travel for members and their dependants as a part of specified Commonwealth provided travel.

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 guarantees just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

Right to the protection of the family

The protection and assistance accorded to the family engages Article 10 of the International Covenant on Economic, Social and Cultural Rights. Article 10 guarantees that the widest possible protection and assistance is accorded to the family.

Defence has interests across Australia, and travel by members is necessary to achieve Defence goals. Travel benefits at Commonwealth expense ensures that members and their families meet Defence requirements while maintaining contact with family members. By providing travel on a door-to-door basis, it relieves the member of any additional costs that may be incurred when the member or their dependants are required to travel. The underlying principle is that people should be provided assistance with reasonable travel costs on the basis that they should neither gain nor lose financially when required to travel.

Conclusion

This Determination is compatible with human rights because it advances the protection of human rights.

Fiona Louise McSpeerin, Assistant Secretary People Policy and Employment Conditions