



Defence Determination, Conditions of Service Amendment (Flexible Service Determination) Determination 2018 (No. 15)

I, FIONA LOUISE McSPEERIN, Assistant Secretary, People Policy and Employment Conditions, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 17 April 2018

F L McSPEERIN
Assistant Secretary
People Policy and Employment Conditions
Defence People Group

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1 Name

This instrument is the *Defence Determination, Conditions of Service Amendment (Flexible Service Determination) Determination 2018 (No. 15)*

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. Sections 1 to 4 of this instrument and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedules 1 – 13 to this instrument	A day to be fixed by Assistant Secretary People Policy and Employment Conditions (the Minister's delegate) by notifiable instrument. However, if the provisions do not commence within the period of 12 months beginning on the day after this instrument is registered, the provisions are repealed on the day after the end of that period.	

Note: This table relates only to the provisions of this instrument as originally made.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 section 58B of the *Defence Act 1903*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Chapter 1: Introduction

Defence Determination 2016/19, Conditions of service

1 Subsection 1.3.24A.2 (Flexible service determination)

Omit the subsection.

2 Section 1.3.45A (Nonworking period)

Omit the section, substitute:

1.3.45A Nonworking period

A nonworking period under a ***flexible service determination*** is the period that is not the member's ***pattern of service***.

3 Subsection 1.3.47.3 (Normal working hours)

Omit the subsection.

4 Section 1.3.50A (Pattern of service)

Omit the section, substitute:

1.3.50A Pattern of service

Means the hours of duty or periods of duty prescribed under a ***flexible service determination***.

5 Subsection 1.3.77A.2 (Unpaid leave)

Omit the subsection.

6 Subsection 1.3.87.2 (Normally lives with)

At the end of the subsection, insert:

Note: If a member is on a ***flexible service determination***, the member's ***nonworking period*** does not affect the 90 night period when the child stays with the member in the posting location.

7 Section 1.5.4 (Overpayment)

After the section, insert:

1.5.4A Contributions and payments payable by a member not receiving salary

1. This section applies to a member not receiving salary for either of the following reasons.
 - a. The member meets a condition under section A.1.4 of DFRT Determination No. 2 of 2017, *Salaries*.
 - b. The member is on a ***nonworking period*** under the member's ***flexible service determination***.
2. Any unpaid contributions or payments are a debt to the Commonwealth. The Commonwealth may recover any unpaid contributions or payments.

Note: The Accountable Authority Instructions issued under Section 20A of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) provide guidance and relevant procedures relating to debt management to ensure officials can meet their obligations under the PGPA Act.

8 Section 1.6.1 (Dual entitlement – member’s adult dependant is also a member)

After the section, insert:

1.6.1A Payment of contributions by another person

1. This section applies to a member not receiving salary for either of the following reasons.
 - a. The member meets a condition under section A.1.4 of DFRT Determination No. 2 of 2017, *Salaries*.
 - b. The member is on a ***flexible service determination*** — during their ***nonworking period***.
2. The member may nominate, in writing, an adult dependant to pay contributions owed by the member if all of the following conditions are met.
 - a. The dependant is also a member.
 - b. The dependant has consented in writing to make the contributions on the member’s behalf.

Notes:

1. The dependant may revoke consent at any time.
2. Contributions are to be paid through the Department of Defence pay system.
3. If the contribution is not paid by the dependant, the contribution may be recovered from the member as a debt owed to the Commonwealth.

Schedule 2—Chapter 2

Defence Determination 2016/19, Conditions of service

1 Section 2.0.2 (Contents)

Omit "Part 1A Flexible service determination".

2 Chapter 2 Part 1A (Flexible service determination)

Omit the part.

Schedule 3—Chapter 3

Defence Determination 2016/19, Conditions of service

1 Section 3.2.7 (Administration of salary and allowances)

Omit the section, substitute:

3.2.7 Administration of salary and allowances

1. This section applies to salary and allowances payable to a member.

Exception: Salary and allowances being paid to a member on a ***flexible service determination***.

Note: Administration of salary and allowances for a member on a ***flexible service determination*** is provided under section 3.2.7A.

2. The daily rate of an annual rate of salary or allowance set by the DFRT, or an allowance identified in the following table, is the annual rate divided by 365.

Item	Allowance	Reference
1.	ADF district allowance	Chapter 4 Part 4 Division 1 and Division 2
2.	Allowances for services in Antarctica – Antarctic allowance	Chapter 4 Part 4 Division 6
3.	Allowances for service in the Antarctic – Common duties allowance	Chapter 4 Part 4 Division 7
4.	Allowances for service in the Antarctic – Antarctic parity allowance	Chapter 4 Part 4 Division 8
5.	Child allowance – member posted before 1 July 2017	Chapter 15 Part 2 Division 4
6.	Child supplement allowance – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 4
7.	Child reunion allowance – member posted before 1 July 2017	Chapter 15 Part 2 Division 5
8.	Cost of living adjustment – member posted before 1 July 2017	Chapter 15 Part 2 Division 2
9.	Cost of living adjustment – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 2
10.	Executive vehicle allowance	Chapter 4 Part 6
11.	Hardship allowance – member posted before 1 July 2017	Chapter 16 Part 2
12.	Higher duties allowance	Chapter 4 Part 1
13.	Language allowance	Chapter 4 Part 3 Division 1
14.	Location allowance – member posted on or after 1 July 2017	Chapter 16 Part 2A
15.	Port Wakefield allowance	Chapter 4 Part 4 Division 3
16.	Post adjustment – member posted before 1 July 2017	Chapter 15 Part 2 Division 3
17.	Post adjustment – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 3
18.	Scherger allowance	Chapter 4 Part 4 Division 4
19.	Trainee's dependant allowance	Chapter 4 Part 8 Division 1
20.	Uniform allowance	Chapter 10 Part 1

3. The daily rate of rent allowance is one fourteenth of the rate calculated in Chapter 7 Part 8 Division 4 section 7.8.19, Working out rent allowance.

3.2.7A Administration of salary and allowances – member on a flexible service determination

1. This section applies to salary and allowances being paid to a member on a **flexible service determination**.
2. The daily rate of an annual rate of salary, an allowance set by the DFRT or an allowance identified in the following table, is worked out using the following formula.

$$\text{daily rate} = \frac{\text{annual rate}}{365} \times 1.4$$

Item	Allowance	Reference
1.	Child allowance – member posted before 1 July 2017	Chapter 15 Part 2 Division 4
2.	Child supplement allowance – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 4
3.	Child reunion allowance – member posted before 1 July 2017	Chapter 15 Part 2 Division 5
4.	Cost of living adjustment – member posted before 1 July 2017	Chapter 15 Part 2 Division 2
5.	Cost of living adjustment – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 2
6.	Executive vehicle allowance	Chapter 4 Part 6
7.	Hardship allowance – member posted before 1 July 2017	Chapter 16 Part 2
8.	Higher duties allowance	Chapter 4 Part 1
9.	Language allowance	Chapter 4 Part 3 Division 1
10.	Location allowance – member posted on or after 1 July 2017	Chapter 16 Part 2A
11.	Port Wakefield allowance	Chapter 4 Part 4 Division 3
12.	Post adjustment – member posted before 1 July 2017	Chapter 15 Part 2 Division 3
13.	Post adjustment – member posted on or after 1 July 2017	Chapter 15 Part 2A Division 3
14.	Trainee's dependant allowance	Chapter 4 Part 8 Division 1
15.	Uniform allowance	Chapter 10 Part 1

3. The maximum fortnightly rate payable to a member must not exceed the fortnightly rate of a member not on a **flexible service determination**.

4. The daily rate of an annual rate of an allowance identified in the following table is the annual rate divided by 365.

Item	Allowance	Reference
1.	ADF district allowance	Chapter 4 Part 4 Division 1 and Division 2
2.	Antarctic allowance	Chapter 4 Part 4 Division 6
3.	(Antarctic) Common duties allowance	Chapter 4 Part 4 Division 7
4.	Antarctic parity allowance	Chapter 4 Part 4 Division 8
5.	Scherger allowance	Chapter 4 Part 4 Division 4

5. Salary and allowances are paid to a member each fortnight at the daily rate under this section for both of the following.
- Each full day of duty in the fortnight.
 - Each combination of part days of duty in the fortnight that add up to eight hours.

2 Section 3.2.8 (Pro rating contributions)

Omit the section, substitute:

3.2.8 Pro rating contributions

- This section applies to a member if both the following apply.
 - The member is required to make a contribution for receiving a benefit.
 - The rate of contribution needs to be calculated for a period that is less than the prescribed time period.
- The daily rate of contribution is one fourteenth of the fortnightly rate.

3 Subparagraph 3.2.30.1.c.i (Increment advancement), note

Omit the note.

4 Subsection 3.2.30.5 (Increment advancement)

Omit the subsection, substitute:

- For a member of the Permanent Forces, any period when a member is not entitled to salary cannot be counted for salary increments.

Exceptions: A member undertaking service with the United Nations or a member on a ***flexible service determination***.

5 Section 3.5.2 (Members on part-time leave without pay)

Omit the section, substitute:

3.5.2 Calculating effective service for a member on a flexible service determination

1. This section applies to a member who is on a ***flexible service determination*** and who is eligible for a retention or completion bonus.
2. A member's effective service under this Part is calculated each fortnight by multiplying each day in a member's ***pattern of service*** by 1.4. The total number of days of effective service in a fortnight must not exceed 14.
3. Each day in a member's ***pattern of service***, used to calculate effective service under subsection 2, includes the following.
 - a. Each full day of duty in the fortnight.
 - b. Each combination of part days of duty in the fortnight that add up to eight hours.

6 Subsection 3.5.10.3 (Effective service for the purpose of the bonus), table item 1 and table item 1A

Omit the table items, substitute:

1.	A member on a <i>flexible service determination</i> .	Effective service is calculated in accordance with section 3.5.2.
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7 Subsection 3.5.70.3 (Service that counts towards a member's retention bonus), table item 1

Omit the table item, substitute:

1.	A member on a <i>flexible service determination</i> .	Effective service is calculated in accordance with section 3.5.2.
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8 Subsection 3.5.70.3 (Service that counts towards a member's retention bonus), table item 3 exception

Omit the exception.

9 Subsection 3.5.70.3 (Service that counts towards a member's retention bonus), table item 4A

Omit the table item.

10 Subsection 3.5.95.1 (Service that counts towards the bonus)

After the subsection, insert:

- 1A. For a member on a **flexible service determination**, when calculating the number of days of eligible service that count towards the bonus, each day in a member's **pattern of service** is multiplied by 1.4. The total number of days of effective service in a fortnight must not exceed 14.
- 1B. For a member on a **flexible service determination**, each day in a member's **pattern of service** over a fortnightly period can be either of the following.
 - a. A day in the fortnight that equals or exceeds eight hours.
 - b. A combination of part days in the fortnight that add up to eight hours.

11 Subsection 3.5.95.2 (Service that counts towards the bonus), table item 2

Omit the table item.

12 Subsection 3.5.95.2 (Service that counts towards the bonus), table item 9

After the table item, insert:

9A.	A member on a flexible service determination .	Each day in a member's pattern of service is effective service and counts towards the bonus
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13 Section 3.5.98 (Calculation of partial bonus payment), table step 2

Omit the table step, substitute:

2.	Subtract the number of days of service that do not count towards the bonus from the outcome of Step 1. For a member on a flexible service determination , multiply this result by 1.4.
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Schedule 4—Chapter 4

Defence Determination 2016/19, Conditions of service

1 Paragraph 4.1.12.2.c (Conditions and relevant considerations for a higher duties direction)

Omit the paragraph, substitute:

- c. The direction to perform higher duties is within the relevant time limits prescribed in section 4.1.14, section 4.1.15 and section 4.1.16.

2 Paragraph 4.1.12.2.d (Conditions and relevant considerations for a higher duties direction)

Omit the paragraph, substitute:

- d. This paragraph applies if the member to be directed to undertake higher duties is on a ***flexible service determination***. The duties of the position can be carried out effectively during the member's ***pattern of service***.

3 Subsection 4.1.14.1 (Minimum qualifying period – member on continuous full-time service)

Omit the subsection, substitute:

1. This section applies to a member on continuous full-time service.

Exception: Member on a ***flexible service determination***.

See: Section 4.1.15, Minimum qualifying period – certain categories of member

4 Subsection 4.1.15.1 (Minimum qualifying period – certain categories of member)

Omit the subsection, substitute:

1. This section applies to a member in any of the following categories.

- a. A member on Reserve service.
- b. A member on a ***flexible service determination***.

Related Information: Section 4.1.14, Minimum qualifying period – member on continuous full-time service

5 Subsection 4.1.15.3 (Minimum qualifying period – certain categories of member)

Omit the subsection, substitute:

3. In this section, continuous working days are not broken by either of the following.
 - a. A day a member of the Reserves is not required to attend for duty.
 - b. For a member on a ***flexible service determination***, a ***nonworking period*** that is 14 days or less.

6 Section 4.4.4 (Definitions)

Before the definition of 'Grade', insert:

Continuous period	<p>A continuous period means the period that the member stays in the remote location. A continuous period is not broken if any of the following apply.</p> <p>a. The member is not required for duty.</p> <p>b. The member is on a <i>nonworking period</i>.</p> <p>c. The member leaves the remote location during the periods in a. or b.</p>
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7 Section 4.4.7 (Period of eligibility)

Omit the section, substitute:

4.4.7 Period of benefit

1. Subject to subsection 2, this table sets out the period for which a member may be paid ADF district allowance.

Item	If the member is...	then the member may be paid the allowance for the period...	
		<i>from</i>	<i>to</i>
1.	posted for duty at a remote location and they live there	the later of these two days: a. the effective date of the member's posting to the location b. the day the member arrives at the location.	the day immediately before they leave the location..
2.	posted for service in a seagoing ship or submarine based at a remote location		
3.	serving on temporary duty at a remote location for a continuous period of more than 21 days	the day the member begins the period of temporary duty	the day immediately before they leave the location.

2. A member on a flexible service determination is not eligible for the allowance for any continuous nonworking period of more than 28 days.

Note: The period for which a member who is away from the remote location on temporary duty or is posted for service in a seagoing ship or submarine that is away from its remote location may be paid the allowance is set out in section 4.4.11.

See: Division 2 section 4.4.11, Absence for temporary duty

8 Subsection 4.4.19.1 (Benefit)

Omit the subsection, substitute:

1. Subject to subsection 1A, a member is eligible for Port Wakefield allowance if the member is posted to the establishment and must live there.
- 1A. Port Wakefield allowance is not payable during a **nonworking period** that exceeds 28 days under a member's **flexible service determination**.

9 Subsection 4.4.32.1 (Period of eligibility)

Omit the section, substitute:

1. Subject to subsection 1A, a member is eligible for Antarctic allowance from 0001 on the day of embarkation until 2359 on the day of disembarkation.
- 1A. Antarctic allowance is not payable during a **nonworking period** that exceeds 28 days under a member's **flexible service determination**.

10 Subsection 4.6.6.3 (Executive vehicle allowance)

Omit the subsection.

11 Subsection 4.6.6.4 (Executive vehicle allowance)

Omit the subsection, substitute:

4. A daily rate of the annual rate of the allowance may be paid for any day a member performs duty for which salary is payable and the member is either of the following.
 - a. A member of the Reserves.
 - b. A member on a **flexible service determination**.

Note: The method used to calculate the amount of allowance is provided under Chapter 3 Part 2 Division 1:

1. Subsection 3.2.7, for members on continuous full-time service.
2. Subsection 3.2.7A, for members on a **flexible service determination**.

12 Subsection 4.6.6.6 (Executive vehicle allowance), note

Omit the note, substitute:

Note: For a Reserve member or a member on a **flexible service determination**, the four-week period may include days when the member does not perform duty. This includes **nonworking periods** for a member on a **flexible service determination**. The table only applies when the member stays at a star rank level and does not perform duty at their substantive rank during the period.

13 Section 4.8.7 (Rate of benefit)

At the end of the section, insert:

3. If the trainee is on a ***flexible service determination***, the trainee is to be paid trainee's dependant allowance on a pro rata basis as calculated under section 3.2.7.

Schedule 5—Chapter 5

Defence Determination 2016/19, Conditions of service

1 Section 5.2.4 (Member this Division applies to)

Omit the section, substitute:

5.2.4 Member this Division applies to

This Division applies to a member that has applied for a period of any of the following leave types and the member plans to travel to a ***restricted destination*** in that period.

- a. Recreation leave.
See: Part 4
- b. Long service leave.
See: Part 5
- c. War service leave.
See: Part 8
- d. Compassionate leave.
See: Part 9 Division 2
- e. Leave without pay.
See: Part 10

2 Paragraph 5.3.2.a (Member this Part applies to)

After the paragraph, insert:

Exception: A member on a ***flexible service determination*** during their ***nonworking period***.

3 Section 5.3.10A (Medical absence for a member on a flexible service determination (weeks per month pattern of service))

Omit the section.

4 Subsection 5.4.6 (Definitions), non-effective service

After paragraph d, insert:

- e. On a ***nonworking period***.

5 Section 5.4.8 (Basic recreation leave credit)

Omit the section, substitute:

5.4.8 Basic recreation leave credit

1. A member may accrue up to a maximum credit of 20 days basic recreation leave a year.
2. Leave credit accrues fortnightly and is credited on each payday.
3. A member's fortnightly leave credit is calculated using the following formula.

$$\textit{fortnightly leave credit} = (10 - \textit{NEF}) \times \frac{\textit{max}}{260}$$

Where:

NEF is days of *non-effective service* in the fortnight.

max is 20, being the annual maximum for additional recreation leave.

6 Subsection 5.4.13.2 (Sea Service)

Omit the subsection, substitute:

2. If a member is eligible for a daily rate of maritime disability allowance, the member accrues a credit of 0.1 of a day of additional recreation leave for each day.
3. If a member is eligible for an annual rate of maritime disability allowance, the member's fortnightly additional leave credit is calculated using the following formula.

$$\textit{fortnightly additional leave credit} = (10 - \textit{NEF}) \times \frac{\textit{max}}{260}$$

Where:

NEF is the number days of *non-effective service* that occurs on a weekday in the fortnight.

max is 20, being the annual maximum for additional recreation leave.

Note:

1. Section 5.4.12 limits the amount of additional recreation leave credit that can be accrued under this Part.
2. Special rules apply to a member who is eligible for two or more allowances. See subsection 5.4.11.4.

7 Subsection 5.4.15.2 (Flight duties)

Omit the subsection, substitute:

2. If a member is eligible for a daily rate of flying disability allowance, the member accrues a credit of 0.1 of a day of additional recreation leave for each day.
3. If a member is eligible for an annual rate of flying disability allowance, the member's fortnightly additional leave credit is calculated using the following formula.

$$\textit{fortnightly additional leave credit} = (10 - \textit{NEF}) \times \frac{\textit{max}}{260}$$

Where:

NEF is the number days of *non-effective service* that occurs on a weekday in the fortnight.

max is 10, being the annual maximum for additional recreation leave.

Note:

1. Section 5.4.12 limits the amount of additional recreation leave credit that can be accrued under this Part.
2. Special rules apply to a member who is eligible for two or more allowances. See subsection 5.4.11.4.

8 Subsection 5.4.16.2 (Special service)

Omit the subsection, substitute:

2. If a member is eligible for a daily rate of Special Forces disability allowance or clearance diver allowance, the member accrues a credit of 0.1 of a day of additional recreation leave for each day.
3. If a member is eligible for an annual rate of Special Forces disability allowance or clearance diver allowance, the member's fortnightly additional leave credit is calculated using the following formula.

$$\textit{fortnightly additional leave credit} = (10 - \textit{NEF}) \times \frac{\textit{max}}{260}$$

Where:

NEF is the number days of *non-effective service* that occurs on a weekday in the fortnight.

max is 10, being the annual maximum for additional recreation leave.

Notes:

1. Section 5.4.12 limits the amount of additional recreation leave credit that can be accrued under this Part.
2. Special rules apply to a member who is eligible for two or more allowances. See subsection 5.4.11.4.

9 Subsection 5.4.17.3 (Service in a remote location)

Omit the subsection, substitute:

3. The fortnightly additional recreation leave credit under this section is calculated using the following formula.

$$\textit{fortnightly additional leave credit} = \frac{\textit{max}}{365} \times (\textit{RL} - \textit{NEF})$$

Where:

max is the maximum benefit set out in Annex 5.4.A for the remote location.

RL is the number of days in the remote location.

NEF is number of days of *non-effective service* days in the remote location.

10 Subsection 5.4.22.4 (Application to purchase recreation leave), note

Omit “part-time leave without pay or on leave without pay (flexible service determination)”, substitute “a *flexible service determination*”.

11 Subsection 5.4.24.4 (Payment)

Omit the subsection, substitute:

4. The amount of the payment is not reduced if the member is on a *flexible service determination*.

Note: If a payment is required by the member during a *nonworking period*, see Chapter 1 Part 5 section 1.5.4A, Contributions and payments payable by a member not receiving salary.

12 Section 5.4.29 (Member on part-time leave without pay or a flexible service determination)

Omit the section, substitute:

5.4.29 Member on a flexible service determination

A member on a *flexible service determination* may only be granted trainee leave for a period in the member's *pattern of service*.

13 Section 5.4.33 (Grant of recreation leave)

Omit the section, substitute:

5.4.33 Grant of recreation leave

1. A supervisor in the member's chain of command may grant recreation leave in accordance with the following.
 - a. If the member is on a **flexible service determination** and the **pattern of service** for the leave day is less than 8 hours — leave is granted for the period of the duty specified in the member's **flexible service determination** for that day.
 - b. If the recreation leave credit is less than a full day and is taken with another type of leave credit to make a full day — leave is granted for the period of recreation leave credit that is less than 1 day.
 - c. In all other cases — leave is granted for whole days.
2. For the purposes of subsection 1, a supervisor must be at one of the following ranks or higher.
 - a. Warrant Officer Class 2.
 - b. APS 4.
3. If a supervisor has made a decision to grant or refuse leave, they must notify the member of the decision as soon as possible and must do one of the following.
 - a. If the member applied electronically on PMKeyS Self Service — the supervisor must approve or deny the application on PMKeyS Self Service.
 - b. If the member applied in writing on an application form — the supervisor must give the member's original application and a record of their decision to the relevant administrator.
4. If a member has a part-day of recreation leave credit and a part day of war service leave credit that total at least one full day of leave, the following actions may be taken.
 - a. The member may apply to take a part-day of war service leave and a part-day of recreation leave, that form a combined total of one day of leave.
 - b. The member may keep any remaining part-day of leave credit that exceeds the total of one day as credit for future use.

Related Information: Part 8, War service leave.

14 Section 5.4.33A (Order of use of credits ('leave take'))

Omit the section, substitute:

5.4.33A Leave credits

1. A member's leave credits are reduced by the number of days for which recreation leave is granted.
Note: This may include a part day.
2. A grant of recreation leave reduces a member's combined recreation and war service leave credit balances in the following order.

Item	Leave type
1.	War service leave credits. See: Part 8 subsection 5.8.6.1, War service leave and other leave.
2.	Purchased recreation leave credits. See: Division 5, Purchased recreation leave.
3.	Recreation leave credits, including extra recreation leave, additional recreation leave, and basic recreation leave.

15 Subsection 5.5.6.5 (Administrative concepts)

Omit the subsection, substitute:

5. A member's long service leave credits are reduced by every calendar day in the leave period.
Note: To avoid doubt, this includes days the member would not normally have worked, such as weekends and public holidays.

16 Subsection 5.5.6.7 (Administrative concepts)

Omit "weekend or public holidays", substitute "weekend, public holiday or *nonworking period*".

17 Section 5.5.8 (How much long service leave?)

Omit the section, substitute:

5.5.8 Long service leave entitlement

1. A member is entitled to a long service leave credit once the member has completed 10 years of accrued service.

See: Division 3 for how service is accrued for long service leave.

2. Long service leave credits are credited to a member on the completion of the following.
 - a. 10 years of accrued service.
 - b. every year of accrued service thereafter.

Note: Credit is not given for part years of accrued service.

3. Annual long service leave credit is calculated on the following basis.
 - a. If the member is not on a **flexible service determination** for any period during a completed year of accrued service, the member earns 0.3 of a month long service leave credit.
 - b. If the member is on one or more **flexible service determinations** during a year of accrued service, the member's long service leave credit for the year is the sum of the long service leave credit for each period.

Example: Within one year of accrued service a member was on a flexible service determination for three months, followed by six months **not** on a **flexible service determination**, followed by another 2 months on a **flexible service determination**.

The member's long service leave credit for the year is the credit earned for each period added together.

4. For the purposes of paragraph 3.b, a member's long service leave credit is calculated using the following formula.

$$\text{long service leave credit} = \frac{\text{days}}{365} \times \frac{\text{Hrs}}{40} \times 0.3$$

Where:

days is the numbers of days in the period.

Example: 1 March – 1 May = 92 days in the period

Hrs is the number of hours worked each week calculated using the following.

- Eight hours for any full day of duty.
- The number of duty hours under the flexible service determination for any part day.

Example: A member works a full day of duty on Monday and Tuesday and three hours of duty on Wednesday. The number of hours for the week is 19 hours.

18 Subsection 5.5.9.1 (How long service leave is granted), exception

Omit the exception and cross reference, substitute:

Exception: The CDF may not grant long service leave for a period the member is on a **flexible service determination**.

See: Section 5.5.8, Long service leave entitlement.

19 Subsection 5.5.26.2 (Payment instead of long service leave), table item 2

Omit "(ie taken from the 'months' column of the table in section 5.5.8.)".

20 Subsection 5.5.26.3 (Payment instead of long service leave)

Omit the subsection, insert:

3. Long service leave credits for completed months of accrued service are calculated in accordance with the following.
 - a. For a member who has not been on a **flexible service determination** since their last long service leave credit anniversary — the following table shows how to work out the credit for completed months of accrued service.

Months of Service	Long service leave as part of a month
1	0.025
2	0.050
3	0.075
4	0.100
5	0.125
6	0.150
7	0.175
8	0.200
9	0.225
10	0.250
11	0.275

- b. For a member who has been on a **flexible service determination** since their last long service leave credit anniversary — the following calculation is used to work out the credit for completed months of accrued service.

$$\text{long service leave credit} = \frac{POS}{260} \times 0.025 \times AS$$

Where:

POS is the number of days in the member's pattern of service that they would have expected to complete in the year of accrued service.

AS Number of completed months of accrued service.

21 Paragraph 5.6.14.1.b (Paid maternity leave)

Omit “(weeks per month pattern of service)”.

22 Paragraph 5.6.14.1.b (Paid maternity leave), cross reference

Omit the cross reference.

23 Section 5.6.14.2 (Paid maternity leave)

Omit the subsection, substitute:

- 2. If a member is not on a **flexible service determination** and has completed 12 months' **qualifying service**, she is entitled to salary for up to 14 weeks of her maternity leave. This table sets out the period of entitlement.

Item	If the member's absence is...	then she is entitled to paid maternity leave for...
1.	more than 14 weeks	the first 14 weeks of the absence. The rest of her absence will be unpaid maternity leave. See: Section 5.6.18, Access to other leave.
2.	less than 14 weeks	the whole of the period.

Note: The period of paid maternity leave will usually overlap a member's period of required absence. However, they are separate matters. Sometimes the two periods can be very different. They must be worked out separately. Required absence is described in Division 3.

Example 1: A member completes her first 12 months of qualifying service, she then becomes pregnant with her first child and takes 14 weeks of paid maternity leave and other types of leave which adds up to her 52 weeks of entitled leave. She comes back to full time service for an additional five months before applying for maternity leave to have her second child. She is entitled to 14 weeks of paid maternity leave for the second child.

Example 2: A member completes her first 12 months of qualifying service, she then becomes pregnant with her first child and takes 14 weeks of paid maternity leave and other types of leave which adds up to her 52 weeks of entitled leave. At the end of the leave she comes back to full time service for two months before leaving the ADF to join a Federal Government department for two years. After the two years she rejoins the ADF and after three months applies for maternity leave to have her second child. She is entitled to 14 weeks of paid maternity leave for the second child.

- 2A. If a member is on a **flexible service determination**, and has completed 12 months' **qualifying service**, she is entitled to salary for up to 14 weeks of her maternity leave. This table sets out the period of entitlement.

Item	If the member's absence is...	then she is entitled to paid maternity leave for...
1.	more than 14 weeks	her pattern of service for the first 14 weeks of the absence. The rest of her absence will be unpaid maternity leave. See: Section 5.6.18, Access to other leave.
2.	less than 14 weeks	her pattern of service for the whole of the period.

24 Section 5.6.14A (Paid leave for member on a flexible service determination (weeks per month pattern of service))

Omit the section.

25 Section 5.6.15 (Maternity leave at half pay)

Omit the section, substitute:

5.6.15 Maternity leave at half pay

1. If a member is eligible for paid maternity leave under subsections 5.6.14.2 or 5.6.14A.1, the CDF may grant the member a period of paid maternity leave at a rate of one-half the member's salary.
2. A grant of paid maternity leave at a rate of one-half the member's salary has either of the following effects.
 - a. If the grant is for the full period of paid maternity leave — the member will be paid salary at a rate of one-half the member's salary over double the number of weeks of paid maternity leave.
 - b. If the grant is for a portion of the full period of paid maternity leave — the member will be paid salary at a rate of one-half the member's salary over double the number of weeks of the portion of paid maternity leave.

Item	If a member applies for half pay for...	then she is entitled to...
1.	the full period of paid maternity leave (maximum of 14 weeks subject to qualifying service) See: Division 1 section 5.6.4, Definition of 'qualifying service'.	28 weeks maternity leave at half pay. The remainder of her maternity leave is unpaid.
2.	6 weeks of the full period (a portion of the full period) of paid maternity leave	8 weeks maternity leave at full pay and 12 weeks at half pay. The remainder of her maternity leave is unpaid.

3. The period that the member receives maternity leave at half pay cannot be more than the period the member takes maternity leave.

26 Subsection 5.6.20.5 (Resuming duty)

Omit the subsection.

27 Section 5.6.33 (Members on part-time leave without pay)

Omit the section.

28 Subsection 5.7.3.1 (Paid parental leave)

After the subsection, insert:

- 1A. For the purpose of subsection 1, if a member is on a *flexible service determination* the member may only be granted paid parental leave for their *pattern of service*.

29 Section 5.7.9 (Return from parental leave)

Omit the section.

30 Subsection 5.8.7.1 (Debiting leave credit)

Omit “Saturdays, Sundays and public holidays”, substitute “weekends, public holidays and *nonworking periods*”.

31 Section 5.9.5 (Leave not to accrue under this Part)

After the section, insert.

5.9.6 Member on a flexible service determination

For a member on a *flexible service determination*, leave under this Part can only be taken during the member’s *pattern of service*.

32 Section 5.10.2 (Contents)

Omit the entries for Division 2 and Division 3.

33 Section 5.10.5A (Leave without pay (flexible service determination))

Omit the section.

34 Subsection 5.10.6.1 (Allowances during leave without pay), exception

Omit the exception.

35 Chapter 5 Part 10 Division 2 (Part-time leave without pay)

Omit the Division.

36 Chapter 5 Part 10 Division 3 (Part-time leave without pay for members overseas)

Omit the Division.

37 Section 5.11.5 (Approval of absence)

Omit the section, substitute:

5.11.5 Approval of absence

1. A **decision maker** may grant a member short absence from duty if they consider that both the following conditions are met.
 - a. The member needs the absence for either of the following reasons.
 - i. To rest and recover from long or unusual duty.
 - ii. To attend to urgent personal matters. This is only if Service requirements prevent the member from dealing with the matter without the short absence.

Non-examples: Short absence cannot be granted for any purpose other than the two listed above. Examples of other reasons where short absence from duty cannot be granted are as follows.

- i. As a reward for a job well done.
 - ii. To attend to urgent personal requirements when there was no Service requirement stopping the member from doing the task in their own time.
 - b. There is no form of leave that can reasonably be used to provide the member with leave for the period. In considering what is reasonable the following considerations are relevant.
 - i. It is not reasonable to grant a member short absence from duty for an urgent personal matter if the member has recreation or other paid leave available.
 - ii. Leave without pay does not need to be considered.

See: Part 10 Division 1, Leave without pay

- iii. Any other factors relevant to the reasonable use of leave.

Examples:

- i. Recreation leave might be reasonable in a range of situations, for example if a member has a recreation leave credit and who needs to attend to a personal issue.
 - ii. Carer's leave is reasonable to use to care for a sick dependant.
 - iii. Maternity or parental leave is reasonable to use following the birth of a child.

Non-example: Recreation leave would not be reasonable for a member who needs to be absent for less than a day. Recreation leave cannot be granted for less than a day.

2. Short absence from duty may not be granted for a period immediately before or after a period of recreation leave unless either of the following conditions are met.
 - a. The decision maker considers that exceptional circumstances apply.
 - b. Section 5.11.6 applies.

See: Section 5.11.6, Short absence from duty and additional recreation leave.

3. If a member is on a ***flexible service determination***, leave under this Part can only be granted a short absence from duty for a period during the member's ***pattern of service***.

Schedule 6—Chapter 6

Defence Determination 2016/19, Conditions of service

1 Section 6.5.5 (Members not eligible for a removal)

At the end of the section, insert:

- f. If a member is on a ***flexible service determination*** and chooses to vacate the member's accommodation during a ***nonworking period***.
- g. If a member is on a ***flexible service determination*** and both of the following apply.
 - i. The member had previously chosen to vacate their accommodation during a ***nonworking period***.
 - ii. The member returns to accommodation at the posting location.

Schedule 7—Chapter 7: ADF housing and meals

Defence Determination 2016/19, Conditions of service

1 Section 7.1.7 (Allowance not payable)

Omit the section, substitute:

7.1.7 Allowance not payable

A member is not eligible for an allowance or reimbursement under this Chapter for any period the member is not entitled to salary.

Exceptions:

1. If the CDF has approved payment of an allowance during all or part of a period of leave without pay under subsection 7.8.34.3 or subsection 5.10.6.2.
2. A member who is on a **flexible service determination**.

2 Section 7.1.14 (Definitions)

After the definition of "HomeFind", insert:

Incomplete cycle	If a member does not complete a member's cycle , it is the part of the cycle that has been completed.
Member's cycle	is the repetitive pattern in the member's flexible service determination that consists of the pattern of service and nonworking periods .

3 Paragraph 7.1.22.1.c (CDF may approve a house-hunting trip)

Omit the paragraph, substitute:

- c. At least one of these conditions applies.
 - i. The member has been granted leave for the trip.
 - ii. The member will be on a **nonworking period** during the trip.

4 Paragraph 7.3.12.1.c (Conditions of eligibility)

Omit the paragraph, substitute:

- c. On the day the contract for purchase is signed, the member is expected to serve at the posting location where the member purchased the home for 12 months after the date the contract for purchase is signed.

5 Section 7.4.26 (Member on part-time leave without pay)

Omit the section.

6 Subsection 7.4.27.1 (Member on leave without pay)

Omit "It does not apply to a member granted part-time leave without pay or leave without pay (flexible service determination).".

7 Section 7.4.27A (Contribution for a member on a flexible service determination)

Omit the section, substitute:

7.4.27A Member on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is on a **flexible service determination**.
 - b. The member is not a member with dependants (unaccompanied).

See: Section 7.4.27B, Member with dependants (unaccompanied) on a flexible service determination.
 - c. The member lives in living-in accommodation at the gaining location.
2. Subject to subsection 3, a member pays the rate of contribution that applies to the member's circumstances under Annex 7.4.B for living-in accommodation.
3. The rate of contribution is 150% of the rate that would have been payable by the member under subsection 2 for the following periods.
 - a. Unless subsection b applies, the period commencing on the 29th day of a continuous **nonworking period** and ending on the last day of the same **nonworking period**.

Note: This applies to each **nonworking period**.
 - b. The whole period of the member's **flexible service determination** if the total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in the flexible service determination that is one year — less than 130 days.
 - ii. If a period in the flexible service determination that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members **pattern of service** for the part of the year.

4. If the member's **pattern of service** changes for a reason specified in the **flexible service determination** and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.

7.4.27B Member with dependants (unaccompanied) on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is a member with dependants (unaccompanied).
 - b. The member is on a **flexible service determination**.
 - c. The member lives in living-in accommodation at the gaining location.
2. A member's may be required to pay a contribution if they meet one of the following conditions.
 - a. The member has a continuous **nonworking period** that exceeds 28 days.
 - b. The total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in the **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in the **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the member's **pattern of service** for the portion of the year.

3. If subsection 2 applies, the member must make a contribution towards their living in accommodation for each weekday in the member's nonworking period. The member's contribution is calculated as follows.

$$\text{Member's contribution} = NWP \times \left(\frac{C}{10}\right)$$

Where:

NWP is the number of weekdays during the member's **nonworking period** in the pay fortnight.

C is the fortnightly contribution rate set for the member's rank and circumstances in Annex 7.4.B that would apply to the member if they were categorised as a member without dependants and not on a **flexible service determination**.

4. If the member's **pattern of service** changes for a reason specified in the **flexible service determination** and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.

7.4.27C If a flexible service determination ends early

1. This section applies to a member who meets both of the following criteria.
 - a. The member pays a contribution for living-in under either of the following sections.
 - i. Section 7.4.27A, for a member on a **flexible service determination**.
 - ii. Section 7.4.27B, for a member with dependants (unaccompanied) on a **flexible service determination**.
 - b. The member's **flexible service determination** ends before the end date specified in the **flexible service determination**.
2. If the member has an **incomplete cycle**, the following table applies.

Item	If the contribution the member would have paid for the incomplete cycle is...	and the flexible service determination was ended...	then...
1.	higher than what the member has paid for the member's cycle	on request from the member	the member must pay to the Commonwealth the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle . b. The contribution that the member should have paid for the member's incomplete cycle .
2.	less than what the member has paid for the member's cycle	on request from the member	the member must be reimbursed the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle . b. The contribution that the member should have paid for the member's incomplete cycle .
3.	less than what the member has paid for the member's cycle	for Service reasons or a reason set out in the flexible service determination	the member is not required to pay any amount to the Commonwealth.
4.	higher than what the member has paid for the member's cycle	for Service reasons or a reason set out in the flexible service determination	the member is not required to pay any amount to the Commonwealth.

See: Part 1 Division 3 section 7.1.14, for the definitions of *incomplete cycle* and *member's cycle*.

8 Paragraph 7.4.32.1.b (Members who do not pay to live in)

Omit the paragraph, substitute:

- b. A member with dependants (unaccompanied) who is not on a ***flexible service determination***.

9 Subsection 7.6.41.2 (Contribution for Service residence or rent band choice home), table item 4

After the table item, insert:

5.	a member with dependants (unaccompanied)	living in the gaining location and their dependants are living in a Service residence or a rent band choice home	Item 1 of this table for the Service residence or a rent band choice home occupied by the member's dependants.
6.	a member with dependants (unaccompanied) on a <i>flexible service determination</i>	living in the gaining location and their dependants are living in a Service residence or a rent band choice home	Both of the following. a. Item 1 of this table for the Service residence or a rent band choice home occupied by the member's dependants. b. Section 7.6.55B, Member with dependants (unaccompanied) on a flexible service determination

10 Subsection 7.6.50.2 (Member on leave without pay)

Omit the subsection, substitute:

- 2. This section does not apply to a member on the following types of leave.
 - a. Maternity leave.
 - b. Parental leave.

11 Section 7.6.51 (Member on part-time leave without pay)

Omit the section.

12 Section 7.6.55A (Contribution for member on a flexible service determination)

Omit the section, substitute:

7.6.55A Contribution for member on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is on a **flexible service determination**.

Exception: A member on a **flexible service determination** who has an adult dependant who is also a member and that dependant is not on a **flexible service determination**. The contribution rate that the member must pay remains unchanged.
 - b. Either of the following applies.
 - i. The member lives in a Service residence or a rent band choice home.
 - ii. The member is a member with dependants (unaccompanied) and the member's dependants live in a Service residence or a rent band choice home.
 - c. The member is required to make a contribution for a Service residence or rent band choice home under this Division.
2. Subject to subsection 3, a member pays the rate of contribution that applies to the member's circumstances under Annex 7.A for a Service residence or rent band choice home.
3. The rate of contribution is 150% of the rate that would have been payable by the member under subsection 2 for the following periods.
 - a. Unless paragraph b applies, the period commencing on the 29th day of a continuous **nonworking period** and ending on the last day of the same **nonworking period**.

Note: This applies to each **nonworking period**.
 - b. The whole period of the member's **flexible service determination** if the total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in the **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in the **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members **pattern of service** for the part of the year.

4. For subsection 2, if the member is living in a Service residence or a rent band choice home that is above or below their rank group, the contribution rate in Annex 7.A is the relevant of the following.
 - a. The Service residence or rent band choice home is above the member's rank group by choice — the contribution is under Annex 7.A Part 2.
 - b. The Service residence or rent band choice home is below the member's rank group — the contribution rate is under Annex 7.A Part 1 and is the one listed for the lower rank group.
5. If the member's **pattern of service** changes for a reason specified in the **flexible service determination** and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.
6. If the member's **flexible service determination** is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution that the member has paid during the period of the variation.
 - b. The contribution that the member would have paid during the period of the variation.

7.6.55B Member with dependants (unaccompanied) on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is a member with dependants (unaccompanied).
 - b. The member is on a **flexible service determination**.
 - c. The member lives in a surplus Service residence at the gaining location.
2. A member's may be required to pay a contribution if they meet one of the following conditions.
 - a. The member has a **nonworking period** that exceeds 28 continuous days.
 - b. The total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in the **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in the **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members pattern of service for the part of the year.

3. If subsection 2 applies, the member must make a contribution towards surplus Service residence at the gaining location for each weekday in the member's nonworking period. The member's contribution is calculated as follows.

$$\text{Member's contribution} = NEF \times \left(\frac{C}{10}\right)$$

Where:

NEF is the number of weekdays during the members **nonworking period** in the pay fortnight.

C is the fortnightly contribution rate set for the member's rank and circumstances in Annex 7.A that would apply to the member if they were categorised as a member without dependants and not on a **flexible service determination**.

See: Division 8 section 7.6.41, Contribution for Service residence or rent band choice home, table item 2.

4. If the member's pattern of service changes for a reason specified in the flexible service determination, and the member has an **incomplete cycle**, the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.
5. If the member's flexible service determination is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution amount that the member has paid during the period of the variation.
 - b. The contribution rate that the member would have paid under Annex 7.A during the period of the variation.

7.6.55C If a flexible service determination ends early

1. This section applies to a member who meets both of the following criteria.
 - a. The member pays a contribution for a Service residence under either of the following sections.
 - i. Section 7.6.55A, for a member on a **flexible service determination**.
 - ii. Section 7.6.55B, for a member with dependants (unaccompanied) on a **flexible service determination**.
 - b. The member's **flexible service determination** ends before the end date specified in the **flexible service determination**.

2. If the member has an *incomplete cycle*, the following table applies.

Item	If the contribution the member would have paid for the incomplete cycle is...	and the flexible service determination was ended...	then...
1.	higher than what the member has paid for the member's cycle	on request from the member	the member must pay to the Commonwealth the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle . b. The contribution that the member should have paid for the member's incomplete cycle .
2.	less than what the member has paid for the member's cycle	on request from the member	the member must be reimbursed the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle .
3.	less than what the member has paid for the member's cycle	for Service reasons or a reason set out in the flexible service determination	b. The contribution that the member should have paid for the member's incomplete cycle .
4.	higher than what the member has paid for the member's cycle	for Service reasons or a reason set out in the flexible service determination	the member is not required to pay any amount to the Commonwealth.

See: Part 1 Division 3 section 7.1.14, for the definitions of *incomplete cycle* and *member's cycle*.

13 Section 7.7.14.2 (Contributions for accommodation), table

Omit item 4, substitute:

4.	a member with dependants (unaccompanied) not on a flexible service determination	for the accommodation they occupy in the gaining location, either of the following: a. if the member accepts an offer of accommodation above their rent ceiling, under subsection 7.7.12.1, the difference between the contribution for their rank group under Annex 7.D Part 2 and the rent ceiling that applies to the member's circumstances. b. if the member accepts an offer of accommodation at or below their rent ceiling, under subsection 7.7.12.1, no contribution.
5.	a member with dependants (unaccompanied) on a flexible service determination	for the accommodation they occupy in the gaining location, the amount required under 7.7.14B.

14 Section 7.7.14A (Contribution for member on a flexible service determination)

Omit the section, substitute:

7.7.14A Contribution for member on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is on a **flexible service determination**.
 - b. The member is required to make a contribution for rent under section 7.7.14.
 - c. The member is not a member with dependants (unaccompanied).
2. Subject to subsection 3, a member pays the rate of contribution that applies to the member's circumstances under Annex 7.D for rented accommodation.
3. The rate of contribution is 150% of the rate that would have been payable by the member under subsection 2 for the following periods.
 - a. Unless subsection b applies, the period commencing on the 29th day of a continuous **nonworking period** and ending on the last day of the same **nonworking period**.

Note: This applies to each **nonworking period**.

- b. The whole period of the member's **flexible service determination** if the total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in the **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in the **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members **pattern of service** for the part of the year.

- 4. If the member's **pattern of service** changes for a reason specified in the **flexible service determination**, and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.
- 5. If the member's **flexible service determination** is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution amount that the member has paid during the period of the variation.
 - b. The contribution rate that the member would have paid under Annex 7.D during the period of the variation.

7.7.14B Member with dependants (unaccompanied) on a flexible service determination

- 1. This section applies to a member who meets all of the following conditions.
 - a. The member is a member with dependants (unaccompanied).
 - b. The member is on a **flexible service determination**.
- 2. A member's may be required to pay a contribution if they meet one of the following conditions.
 - a. The member has a **nonworking period** that exceeds 28 continuous days.

- b. The total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in a **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in a **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members pattern of service for the part of the year.

3. If subsection 2 applies, the member must make a contribution towards accommodation for each weekday in the member's nonworking period. The member's contribution is calculated as follows.

$$\text{Member's contribution} = NWP \times \left(\frac{C}{10} \right)$$

Where:

NWP is the number of weekdays during the members **nonworking period** in the pay fortnight.

C the fortnightly contribution rate set for the member's rank and circumstances in Annex 7.D that would apply to the member if they were categorised as a member without dependants and not on a **flexible service determination**.

4. If the member's **pattern of service** changes for a reason specified in the **flexible service determination**, and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.
5. If the member's **flexible service determination** is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution amount that the member has paid during the period of the variation.
 - b. The contribution rate that the member would have paid under Annex 7.D during the period of the variation.

7.7.14C When a flexible service determination ends early

1. This section applies to a member who meets both of the following criteria.
 - a. The member pays a contribution for accommodation under either of the following sections.
 - i. Section 7.7.14A, for a member on a **flexible service determination**.
 - ii. Section 7.7.14B, for a member with dependants (unaccompanied) on a **flexible service determination**.
 - b. The member's **flexible service determination** ends before the end date specified in the **flexible service determination**.
2. If the member has an **incomplete cycle**, the following table applies.

Item	If the contribution the member would have paid for the incomplete cycle is...	and the flexible service determination was ended...	then...
1.	higher than what the member has paid for the incomplete cycle	on request from the member	the member must pay to the Commonwealth the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle . b. The contribution that the member should have paid for the member's incomplete cycle .
2.	less than what the member has paid for the incomplete cycle	on request from the member	the member must be reimbursed the difference between the following two amounts. a. The contribution that the member has paid for the member's cycle . b. The contribution that the member should have paid for the member's incomplete cycle .
3.	less than what the member has paid for the incomplete cycle	for Service reasons or a reason set out in the flexible service determination	b. The contribution that the member should have paid for the member's incomplete cycle .
4.	higher than what the member has paid for the incomplete cycle	for Service reasons or a reason set out in the flexible service determination	the member is not required to pay any amount to the Commonwealth.

See: Part 1 Division 3 section 7.1.14, for the definitions of **incomplete cycle** and **member's cycle**.

15 Section 7.7.18 (Exemptions from contributions)

Omit the section, substitute:

7.7.18 Exemptions from contributions

A member without dependants is not required to make a contribution towards their rent for a period the member satisfies any the criteria of the table at section 7.8.18.

16 Subsection 7.7.19.2 (Contributions for member on leave without pay)

Omit the subsection, substitute:

2. This section does not apply to a member on the following types of leave.
 - a. Maternity leave.
 - b. Parental leave.

17 Section 7.7.20 (Contribution for member on part-time leave without pay)

Omit the section.

18 Section 7.8.17.1 (Contribution for rented home)

Omit the subsection, substitute:

1. Subject to subsection 1A and section 7.8.18, a member who gets rent allowance must pay a contribution toward the cost of the rent.
- 1A. A member with dependants (unaccompanied) must pay a contribution towards the cost of their rent for the following.
 - a. A home for which rent allowance is payable that the member's dependants live in.
 - b. If the member is on a **flexible service determination** for a rented home the member lives in at the gaining location.

See: Division 8 section 7.8.18B, Member with dependants (unaccompanied) on a flexible service determination

19 Section 7.8.18 (When rent contribution ceases for a member without dependants)

After the section, insert:

7.8.18A Rent contribution for member on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is on a **flexible service determination**.

Exception: A member on a **flexible service determination** who has an adult dependant who is also a member and that dependant is not on a **flexible service determination**. The contribution rate that the member must pay remains unchanged
 - b. The member is required to make a contribution for rent under section 7.8.17.
2. Subject to subsection 3, a member pays the rate of contribution that applies to the member's circumstances under Annex 7.D for rented accommodation.
3. The rate of contribution is 150% of the rate that would have been payable by the member under subsection 2 for the following periods.
 - a. Unless subsection b applies, the period commencing on the 29th day of a continuous **nonworking period** and ending on the last day of the same **nonworking period**.

Note: This applies to each **nonworking period**.
 - b. The whole period of the member's **flexible service determination** if the total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in a **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in a **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members **pattern of service** for the part of the year.

4. If the member's **pattern of service** changes for a reason specified in the **flexible service determination** and the member has an **incomplete cycle**, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the **member's cycle**.
 - ii. The contribution that the member would have paid for the member's **incomplete cycle** under the changed **pattern of service**.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the **incomplete cycle**.
5. If the member's **flexible service determination** is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution amount that the member has paid during the period of the variation.
 - b. The contribution rate that the member would have paid under Annex 7.D during the period of the variation.

7.8.18B Rent contribution for member with dependants (unaccompanied) on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is a member with dependants (unaccompanied).
 - b. The member is on a **flexible service determination**.
 - c. The member lives in a rented home at the gaining location.
2. A member's may be required to pay a contribution if they meet one of the following conditions.
 - a. The member has a **nonworking period** that exceeds 28 continuous days.
 - b. The total number of days that are the member's **pattern of service** in the member's **flexible service determination** is either of the following.
 - i. If a period in a **flexible service determination** that is one year — less than 130 days.
 - ii. If a period in a **flexible service determination** that is part of a year — less than the number of days calculated using the following formula.

$$\text{Number of days} = 130 \times \frac{POS}{365}$$

Where:

POS is the number of days in the members pattern of service for the part of the year.

3. If subsection 2 applies, the member must make a contribution towards their living in accommodation for each weekday in the member's nonworking period. The member's contribution is calculated as follows.

$$\text{Member's contribution} = NWP \times \left(\frac{C}{10}\right)$$

Where:

- NWP** is the number of weekdays during the members *nonworking period* in the pay fortnight.
- C** is the fortnightly contribution rate set for the member's rank and circumstances in Annex 7.D that would apply to the member if they were categorised as a member without dependants and not on a *flexible service determination*.

4. If the member's *pattern of service* changes for a reason specified in the *flexible service determination* and the member has an *incomplete cycle*, either of the following applies.
 - a. If the member's contribution decreases, the member must be reimbursed the difference between the following two amounts.
 - i. The contribution that the member has paid for the *member's cycle*.
 - ii. The contribution that the member would have paid for the member's *incomplete cycle* under the changed *pattern of service*.
 - b. If the member's contribution increases, the member is not required to repay any amount to the Commonwealth for the *incomplete cycle*.
5. If the member's *flexible service determination* is varied for Service reasons, the member will be reimbursed the difference between the following two amounts.
 - a. The contribution amount that the member has paid during the period of the variation.
 - b. The contribution rate that the member would have paid under Annex 7.D during the period of the variation.

7.8.18C If a flexible service determination ends early

1. This section applies to a member who meets both of the following criteria.
 - a. The member pays a contribution for rented accommodation under either of the following sections.
 - i. Section 7.8.18A, for a member on a *flexible service determination*.
 - ii. Section 7.8.18B, for a member with dependants (unaccompanied) on a *flexible service determination*.
 - b. The member's *flexible service determination* ends before the end date specified in the *flexible service determination*.

2. If the member has an ***incomplete cycle***, the following table applies.

Item	If the contribution the member would have paid for the <i>incomplete cycle</i> is...	and the flexible service determination was ended...	then...
1.	higher than what the member has paid for the <i>incomplete cycle</i>	on request from the member	the member must pay to the Commonwealth the difference between the following two amounts. a. The contribution that the member has paid for the <i>member's cycle</i> . b. The contribution that the member should have paid for the member's <i>incomplete cycle</i> .
2.	less than what the member has paid for the <i>incomplete cycle</i>	on request from the member	the member must be reimbursed the difference between the following two amounts. a. The contribution that the member has paid for the <i>member's cycle</i> .
3.	less than what the member has paid for the <i>incomplete cycle</i>	for Service reasons or a reason set out in the <i>flexible service determination</i>	b. The contribution that the member should have paid for the member's <i>incomplete cycle</i> .
4.	higher than what the member has paid for the <i>incomplete cycle</i>	for Service reasons or a reason set out in the <i>flexible service determination</i>	the member is not required to pay any amount to the Commonwealth.

See: Part 1 Division 3 section 7.1.14, for the definitions of ***incomplete cycle*** and ***member's cycle***.

20 Subsection 7.8.34.2 (Member on leave without pay)

Omit the subsection, substitute:

2. This section does not apply to a member on one of the following types of leave.
- a. Maternity leave.
 - b. Parental leave.

21 Section 7.8.35 (Member on part-time leave without pay)

Omit the section.

22 Paragraph 7.9.5.2.b (Casual meal charges)

After the paragraph, insert:

Exception: A member on a ***flexible service determination*** while they are on a ***nonworking period***.

23 Subsection 7.9.5.3 (Casual meal charges), table

Omit the table, substitute:

Item	For a member who is...	The casual meal charge for breakfast is... (\$)	The casual meal charge for lunch is... (\$)	The casual meal charge for dinner is... (\$)
1.	not on leave without pay.	5.00	7.50	7.00
2.	on a nonworking period or leave without pay and one of the following apply. a. the member is a Corporal or lower. b. the member is a trainee.	14.00	14.00	25.85
3.	on a nonworking period or leave without pay and one of the following apply. a. the member is a Sergeant or higher. b. the member is an Officer (other than a trainee).	22.60	23.70	43.10
4.	on a nonworking period or leave without pay and the mess does not provide steward service.	14.00	14.00	25.85

24 Paragraph 7.9.6.1.c (Fortnightly meal charges)

Omit "Exception: A member on part-time leave without pay."

25 Paragraph 7.10.4.1.b (Eligible member – reimbursement for utilities)

Omit paragraph and substitute:

- b. Utilities, up to one of the following amounts.
 - i. If the member is not on a **flexible service determination** — the member may be reimbursed up to a maximum of \$71.32 a fortnight.

- ii. If the member is on a **flexible service determination** — the member may be reimbursed an amount calculated as follows.

$$\text{Utilities reimbursement} = U - NWP \times \left(\frac{U}{14}\right)$$

Where:

NWP is the number of days in the nonworking period in the pay fortnight.

U is the fortnightly utilities reimbursement amount specified in paragraph 7.10.4.1.b.

26 Subsection 7.10.9.1 (Contribution for utilities – member living in)

At the start of the subsection, insert "Subject to section 7.10.9A,".

27 Section 7.10.9 (Contribution for utilities – member living in)

After the section, insert:

7.10.9A Contribution for utilities – member living in on a flexible service determination

1. This section applies to a member who meets all of the following conditions.
 - a. The member is a member with dependants (unaccompanied).
 - b. The member is on a **flexible service determination**.
 - c. The member lives in.
2. The member must pay a fortnightly utilities contribution for their nonworking period. The contribution is calculated as follows.

$$\text{Utilities contribution} = NWP \times \left(\frac{C}{10}\right)$$

Where:

NWP is the number of days in the nonworking period in the pay fortnight.

C is the fortnightly utilities contribution amount specified in section 7.10.9.1.

Schedule 8—Chapter 9

Defence Determination 2016/19, Conditions of service

1 Paragraph 9.3.29.1.d (Members eligible for reunion travel)

Omit the paragraph, substitute:

- d. Any of the following apply for the duration of the reunion.
 - i. The member has enough leave credit.
 - ii. The member is on a **nonworking period**.
 - iii. The member is on short absence.
 - iv. A combination of the above.

2 Subsection 9.3.30.5 (Frequency and cost of reunion travel)

After the subsection, insert:

Note: The maximum number of annual reunion visits a member on a **flexible service determination** may apply for is reduced under section 9.3.30A.

3 Section 9.3.30 (Frequency and cost of reunion travel)

After the section, insert:

9.3.30A Frequency of reunion travel for member on a flexible service determination

1. This section applies to a member on a **flexible service determination**.
2. An eligible member on a **flexible service determination** may apply for a maximum number of reunion visits a year as set out in the following table. This is pro-rated for a part year.

Item	If the percentage of normal full time duty is ...	a member may apply for...
1.	less than 25%	a maximum of 2 reunion travel visits a year.
2.	25% to 50%	a maximum of 3 reunion travel visits a year.
3.	more than 50% and less than 75%	a maximum of 4 reunion travel visits a year.
4.	75% to less than 100%	a maximum of 5 reunion travel visits a year.

3. For the purpose of subsection 2, the percentage of the member's normal full time duty is calculated using the formula.

$$\text{Percentage of member's full-time duty} = \frac{POS}{Days} \times 100$$

Where:

POS is the number of days in the member's **pattern of service** over the life of the **flexible service determination**, calculated in accordance with subsection 4.

Days is the total number of days over the life of the **flexible service determination**.

4. To calculate the number of days in the member's **pattern of service** over the life of the **flexible service determination**, both the following apply.
 - a. Each full day of duty in a fortnight.
 - b. Each combination of part days of duty in a fortnight that add up to eight hours.
5. If a member's **pattern of service** is varied, the number of reunion visits is to be recalculated in accordance with subsection 2.

Note: A recalculation is not undertaken if the variation is for 28 or less continuous days.
6. If a member's **flexible service determination** is ended for Service reasons with at least three months remaining in a year, the member is eligible to apply for a maximum of six reunion travel visits in that year.
7. If a member ends their **flexible service determination** with at least six months remaining in a year, the member is eligible to apply for a maximum of six reunion travel visits in that year.

Schedule 9—Chapter 10

Defence Determination 2016/19, Conditions of service

1 Section 10.1.4 (Uniform allowance rates)

At the end of the section, insert:

Note: The method for calculating the daily rate of the allowance is provided in Chapter 3 Part 2 Division 1.

2 Section 10.1.5 (Allowance for member on a flexible service determination (weeks per month pattern of service))

Omit the section.

Schedule 10—Chapter 11

Defence Determination 2016/19, Conditions of service

1 Subsection 11.3.3.2 (Bereavement payment)

Omit the subsection, insert:

2. This section applies to a member who dies, and who satisfied either of the following conditions during all or part of the relevant pay period.
 - a. The member was on continuous full-time service and salary was payable.
 - b. The member was on a ***flexible service determination***.

2 Subsection 11.3.3.3 (Bereavement payment)

Omit the subsection, substitute:

3. If a member dies, the amount payable is either of the following.
 - a. For a member not on a ***flexible service determination*** — the payment is four times the member's gross fortnightly pay.
 - b. For a member on a ***flexible service determination*** — the payment is four times the member's gross fortnightly pay that would have been payable if the member was not on a ***flexible service determination***.

See: Chapter 1 Part 6 section 1.6.4, Payment of amounts on death of a member.

Schedule 11—Chapter 14

Defence Determination 2016/19, Conditions of service

1 Section 14.1.2 (Member this Chapter applies to)

Omit the section.

2 Section 14.1.3 (Member this Chapter does not apply to)

Omit the section and substitute:

14.1.3 Member this Chapter does not apply to

1. This chapter does not apply to a member if any of the following conditions apply.
 - a. They are not entitled to salary.
 - b. They are on a scholarship, bursary or endowment for studying overseas from an organisation other than the Commonwealth.

Example: Rhodes Scholarship.
 - c. They are on short term duty overseas.

Schedule 12—Chapter 15

Defence Determination 2016/19, Conditions of service

1 Section 15.1.2 (Member this Chapter applies to)

Omit the section.

2 Section 15.1.3 (Member this Chapter does not apply to)

Omit the section, substitute:

15.1.3 Member this Chapter does not apply to

1. This chapter does not apply to a member if any of the following conditions apply.
 - a. They are not entitled to salary.
 - b. They are on a scholarship, bursary or endowment for studying overseas from an organisation other than the Commonwealth.

Example: Rhodes Scholarship.
 - c. They are on short term duty overseas.

Schedule 13—Savings

Defence Determination 2016/19, Conditions of service

1 Savings

- a. This section applies to a member who was on part-time leave without pay immediately before the commencement of this schedule.
- b. The operation of Defence Determination 2016/19, *Conditions of service*, as in force immediately before the commencement of this Determination, is not affected.

2 Transitional arrangements

This section applies to member to whom section 1 applies.

- a. If the member is eligible for a benefit under the saved provisions of Defence Determination 2016/19, *Conditions of service*, and the rate of the benefit is changed subsequent to the commencement of this schedule, the member is eligible for the benefit at the new rate.
- b. If the member is required to pay a contribution towards a benefit under the saved provisions of Defence Determination 2016/19, *Conditions of service*, and the rate of the contribution is changed subsequent to the commencement of this schedule, the member is liable to pay the contribution at the new rate.