



Defence Determination, Conditions of service (COVID-19 response) Amendment Determination 2020 (No. 21)

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

Dated 13 October 2020

J L Statton

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 (COVID-19 response) Amendment Determination 2020 (No. 21)*.

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	The day after the instrument is registered.	
2. Schedule 1	On 15 October 2020.	
3. Schedule 2	On 4 December 2020.	
4. Schedules 3 – 7	On 15 October 2020.	

Note: this table relates only to the provisions of this instrument as originally made.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 no 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Definitions amendments

Defence Determination 2016/19, Conditions of service

1 Section 1.3.29B (Isolation period), notes

Omit the notes, substitute:

Note: An isolation period may also be known as a quarantine period.

2 Section 1.3.66A (Required to isolate)

Omit the section, substitute:

1.3.66A Required to isolate

A person is required to isolate themselves if the following apply.

- a. If the person is in Australia, they are required under a law of a State or Territory to isolate themselves.
- b. If the person is on a long-term posting overseas or short-term duty overseas, or accompanying a member on a long-term posting overseas or short-term duty overseas, and they are required under a law of a State or Territory, or a law of a foreign government, to isolate themselves.

Note: Isolation may also be known as quarantine.

3 Section 5.11.12 (Definitions)

Omit the section.

4 Section 9.3.51 (Definitions)

Omit the section.

5 Section 12.3.7A (Isolation period)

Omit the section.

6 Section 12.3.16A (Required to isolate)

Omit the section.

7 Section 14A.1.2 (Definitions), Required to isolate

Omit the definition.

Schedule 2—Compassionate leave and travel amendments

Defence Determination 2016/19, Conditions of service

1 Section 9.3.52 (Who may be visited)

After the section, insert:

9.3.52A Attendance at memorial services – COVID-19

1. This section applies to a person who meets all of the following.
 - a. They are eligible for compassionate travel under section 9.3.52 to visit a person who recently died (“the deceased person”).
 - b. They were unable to visit the deceased person due to COVID-19 restrictions that prevented the person from attending a funeral or memorial service for the deceased person.
2. Subject to subsection 3, the person is eligible for compassionate travel to attend a memorial service for the deceased person if approved by the decision maker.
3. Compassionate travel in subsection 2 must be taken between the following days.
 - a. The day the COVID-19 restrictions ceased to prevent the person from travelling to a location where the memorial service is to be held.
 - b. The day 12 months after the day in paragraph a.
4. For the purpose of this section, the following apply.

COVID-19 restrictions include restrictions that apply in the person’s location and in the location of the funeral or memorial service.

Decision maker means the following.

- a. For a first decision to approve the attendance at a memorial service for a member, means member’s supervisor in the member’s direct chain of command or supervision who holds one of the following.
 - i. A rank not below Warrant Officer Class 2.
 - ii. An APS classification not below APS 4.
- b. For any subsequent decision to approve the attendance at a memorial service for the member, any of the following people in the member’s direct chain of command or supervision who holds a rank not below Major or an APS classification not below APS 6.
 - i. Commanding Officer
 - ii. Independent sub-unit commander.
 - iii. Supervisor.

Schedule 3—Overseas postings – Delay in departure amendments

Defence Determination 2016/19, Conditions of service

1 Section 14.2.11 (Reimbursement of costs if long-term posting cancelled)

After the section, insert:

Division 4: Delay in departure accommodation

14.2.12 Definitions

In this Division the following apply.

Decision maker means person who meets all of the following.

- a. They work in the Pay and Administration Centre – Victoria.
- b. They are authorised to manage the pay and administration of members at an overseas post.
- c. They hold one of the following.
 - i. A rank of Warrant Officer Class 2 or higher.
 - ii. An APS classification of APS 5 or higher.

Temporary accommodation means a serviced apartment, or other similar accommodation in which meals can be prepared.

14.2.13 People this Division applies

This Division applies to the following people.

- a. A member who is to depart Australia to commence a long-term posting overseas.
- b. A dependant of a member who is to depart Australia and is to accompany a member commencing a long-term posting overseas, regardless of whether they travel at the same time of the member.

14.2.14 Eligibility for temporary accommodation

1. Subject to subsection 2, a person is eligible for temporary accommodation if the following apply.
 - a. Travel to the posting location is delayed by one of the following.
 - i. COVID-19 related travel restrictions that prevent the person from travelling.
 - ii. An inability to travel on scheduled flights because of the COVID-19 pandemic.
 - b. The cause of the delay in paragraph a. was not in place before the member had a removal under section 14.3.5.

2. For the purpose of subparagraph 1.a.ii, reasons a person may be unable to travel on a scheduled flight because of the COVID-19 pandemic include, but are not limited to, the flight being cancelled or rescheduled, or the person contracting COVID-19 before their departure.
3. If the person is travelling with another person who is in the same family group, the family group is required to occupy the same accommodation if a decision maker is satisfied that is it reasonable to do so.

14.2.15 Duration of eligibility

1. The person is eligible to occupy temporary accommodation under section 14.2.13 from the day travel to the posting location is delayed.
2. The person ceases to be eligible to occupy temporary accommodation under section 14.2.13 or the earlier of the following.
 - a. The day they depart Australia.
 - b. The day that is 2 weeks after the day they became eligible to occupy the temporary accommodation.
3. Despite paragraph 2.b, a decision maker may extend the eligibility of a person to occupy the temporary accommodation by up to 2 weeks if they are satisfied it is reasonable in the circumstances.

Note: A decision under this section may be made more than once in relation to the same person.

Schedule 4—Overseas education assistance amendments

Defence Determination 2016/19, Conditions of service

1 Subsection 14A.1.21.1 (Education assistance)

After the subsection, insert:

- 1A. This section does not apply to a member whose child attends a government school in the USA.

2 Section 14A.1.21 (Education assistance)

After the section, insert:

14A.1.21A Education assistance – USA

1. This section applies to member accompanied by a dependant who is a child who is attending a Government school in the USA.
2. A member is eligible to be reimbursed the cost of up to 10 hours a week tuition for each child if one of the following applies.
 - a. The school is closed.
 - b. The decision maker is satisfied that the school is providing inadequate learning support to the dependant.

Note: Learning support may include online learning support.
3. The maximum a member may be reimbursed under subsection 2 is USD 75 an hour.
4. In this section, **decision maker** means one of the following.
 - a. The senior ADF representative at the overseas post.
 - b. A person authorised to manage Defence personnel administration at the overseas post who holds one of the following.
 - i. A rank of Warrant Officer Class 2 or higher.
 - ii. An APS classification of APS 5 or higher.
5. This section ceases to apply on 31 December 2020.

3 Subsection 15.6.15.1A (Summer school costs)

Omit “15.6.8”, substitute “15.6.18”.

Schedule 5—Overseas reunion travel amendments

Defence Determination 2016/19, Conditions of service

1 Section 15.3.14 (Amount of reimbursements), heading

After “reimbursements”, insert “ – travel”.

2 Section 15.3.14 (Amount of reimbursements)

After the section, insert:

15.3.14A Amount of reimbursements – unavoidable stopover

1. This section applies if a person travelling is on a benefit provided to a member under this Division and all of the following apply.
 - a. The person’s travel is broken into 2 or more segments.
 - b. The break between 2 consecutive segments requires an overnight stay in the location.
 - c. The decision maker is satisfied that the stopover is unavoidable.
2. The member is eligible to be reimbursed the following expenses incurred by the person.
 - a. The reasonable costs of 1 night’s accommodation.
 - b. The costs of meals up to the following amounts, as amended by section 13.3.9.
 - i. If the member holds a rank of Brigadier or higher, the amount specified for a place under the heading ‘Limit for each day: meals’ in the table in Part 1 of Annex 13.3.A.
 - ii. If the member holds a rank of Colonel or lower, the amount specified for a place under the heading ‘Limit for each day: meals’ in the table in Part 2 of Annex 13.3.A.
 - c. The costs of incidental expenses up to the following amounts, as amended by section 13.3.10.
 - i. If the member holds a rank of Brigadier or higher, the amount specified for a place under the heading ‘Limit for each day: incidentals’ in the table in Part 1 of Annex 13.3.A.
 - ii. If the member holds a rank of Colonel or lower, the amount specified for a place under the heading ‘Limit for each day: incidentals’ in the table in Part 2 of Annex 13.3.A.
3. If the person’s travel requires more than one break that requires an overnight stay, the person is eligible for the benefits provided under subsection 2 for each break.
4. In this section, **decision maker** means either of the following.
 - a. Director Defence Travel.
 - b. A person working in the Pay and Administration Centre – Victoria who manages pay and administration for members of the ADF and Defence APS employees at overseas

posts and holds one of the following.

- i. A rank of Warrant Officer 2 or higher.
- ii. An APS classification of APS 5 or higher.

Schedule 6—Miscellaneous amendments

Defence Determination 2016/19, Conditions of service

- 1 Subsection 12.5.3.1 (Cost of isolation accommodation)**
After “associated with a requirement”, insert “to”.

- 2 Subsection 14A.1.11A.1 (Furniture and household items), note**
Omit “This is”, substitute “This”.

Schedule 7—Transitional provisions

1. Definitions

In this schedule the following apply.

Principal Determination means Defence Determination 2016/19, Conditions of service, as amended by this Determination.

2. Delay in departure on overseas postings

1. This section applies to a person who meets the all of the following.
 - a. The person incurred a cost for accommodation between 13 July 2020 and the commencement of this Schedule as a consequence of the delayed departure from Australia.
 - b. The person would have been eligible to receive a benefit under Chapter 14 Part 3 Division 4 of the Principal Determination had it been in force at the time.
2. The person is eligible for the cost of the accommodation.

3. Education assistance – USA

1. This section applies to a member who meets the all of the following.
 - a. The member incurred a cost for tuition services provided to a school age dependant in their posting location overseas between 1 August 2020 and the commencement of this Schedule.
 - b. The member would have been eligible to receive a benefit under section 14A.1.21A of the Principal Determination had it been in force at the time.
2. The member is eligible for the benefits they would have received had section 14A.1.21A of the Principal Determination applied.

4. Overseas reunion travel

1. This section applies to a member who meets the all of the following.
 - a. The member received a benefit under 15.3.14 of the Principal Determination for a person, including themselves, to travel between 1 September 2020 and the commencement of this Schedule.
 - b. The member would have been eligible to receive a benefit under section 15.3.14A of had it been in force at the time.
2. The member is eligible for the benefits they would have received had section 15.3.14A of the Principal Determination applied.