

# EXPLANATORY STATEMENT

## Defence (Location allowance) Determination 2021

This Determination is made under section 58B of the *Defence Act 1903* (the Defence Act) and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (AI Act).

Determinations made under section 58B of the Defence Act are disallowable legislative instruments subject to the *Legislation Act 2003*. These instruments are also subject to the interpretation principles in the AI Act.

The Determination makes references to sections of Defence Determination 2016/19, *Conditions of service*, which are incorporated into this Determination as in force immediately before the commencement of this Determination. Defence Determination 2016/19, *Conditions of service*, is a legislative instrument made under section 58B of the Defence Act.

The purpose of this Determination is to provide a transitional provision so that members who performed duty in Greece or Romania are eligible for hardship location benefits for duty performed since 12 August 2020, and to repeal Schedule 3 of Defence Determination, Conditions of service Amendment Determination 2021 (No. 1) in full.

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

Section 2 provides that this instrument commences on the day after registration.

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

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### Schedule 1—Location allowance – Greece and Romania

Section 1 defines ‘the Defence Determination’ as being Defence Determination 2016/19, Conditions of service, which is incorporated into this Schedule as in force immediately before the commencement of this Determination.

Section 2 is a provides eligibility for hardship location benefits under Chapter 16 Part 2A of the Defence Determination for members who performed duty in Greece or Romania between 12 August 2020 and the commencement of this Determination as though Annex 16.B of the Defence Determination was in force at the time.

### Schedule 2—Repeals

Section 1 repeals Defence Determination, Conditions of service Amendment Determination 2021 (No. 1), Schedule 3 in full.

Decisions that are made under the Principal Determination, as amended by this Determination, may be subject to inquiry under the ADF redress of grievance system provided under Part 7 of the *Defence Regulation 2016*. Also, a person may make a complaint to the Defence Force Ombudsman

### Consultation

The rule maker was satisfied that external consultation was not required.

**Authority:** Section 58B of the  
*Defence Act 1903*

# Statement of Compatibility with Human Rights

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

## ***Defence (Location allowance) Determination 2021***

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

### **Overview of the Determination**

The purpose of this Determination is to provide a transitional provision so that members who performed duty in Greece or Romania are eligible for hardship location benefits for duty performed since 12 August 2020.

### **Human rights implications**

*Right to the enjoyment of just and favourable conditions of work*

The protection of a person's right to remuneration engages Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 7 guarantees just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

This Determination advances human rights by providing additional assistance to a member performing duty in Greece or Romania that goes beyond assistance provided for normal overseas conditions of service so that the member and their dependants are compensated for the difficulties or hardships they can experience while performing duty in a hardship location

### **Conclusion**

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

COL Kirk Lloyd, Acting Assistant Secretary People Policy and Employment Conditions