

EXPLANATORY STATEMENT

Defence Determination, Conditions of service Amendment (Miscellaneous amendments) Determination 2021 (No. 16)

This Determination amends Defence Determination 2016/19, Conditions of service (the Principal Determination), made under section 58B of the *Defence Act 1903* 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* (Legislation Act). These instruments are also subject to the interpretation principles in the AI Act.

This Determination amends the Principal Determination which provides benefits for members of the Australian Defence Force (ADF) and their families as a part of the member's conditions of service. The Principal Determination provides a range of benefits that recognise the unique nature of military service and the obligation and limitations that military service places on members and their families. Members undertake service in both the domestic and overseas environments, including on deployments. Specific benefits are provided for each environment.

Purpose

The purpose of this Determination is to make a number of technical amendments that do not alter the underlying policies, or the benefits which are currently provided. This includes the removal of information that is non-legislative in nature and does not need to be determined.

Operational details

Details of the operation of the Determination are provided at annex A.

Retrospectivity and incorporation by reference

For the purpose of adopting Defence Force Remuneration Tribunal (DFRT) determinations, being instruments other than a legislative instrument, section 58B(1A) of the Defence Act provides a contrary intention to section 14(2) of the Legislation Act. Section 58B(1A) of the Defence Act permits DFRT determinations, as in force from time to time, being adopted in this determination in accordance with section 14(1)(b) of the Legislation Act.

The Determination makes references to sections of the *Defence Regulation 2016* (the Defence Regulation), the *Antarctic Marine Living Resources Conservation Act 1981*, the *Defence (Inquiry) Regulations 2018* and the *Long Service Leave (Commonwealth Employees) Act 1976*. These Instruments are incorporated into the Determination as in force from time to time. Section 1.2.5A of the Principal Determination specifies that a reference to an Act of Parliament or a legislative instrument to which section 14(3) of the AI Act applies are incorporated as in force from time to time, unless otherwise stated.

Human rights compatibility

The statement of compatibility under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* for this Determination is at annex B.

Review options

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 the changes made by this Schedule are technical in nature and external consultation was not required.

Approved by:

Fiona Louise McSpeerin
Assistant Secretary
People Policy and Employment Conditions

Authority:

Section 58B of the
Defence Act 1903

***Defence Determination, Conditions of service Amendment (Miscellaneous amendments)
Determination 2021 (No. 16)***

Operational details

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

Section 2 provides the following commencement dates:

- Sections 1 to 5 of the Determination and anything in the Determination not elsewhere covered by the table commences on the day after the instrument is registered.
- Schedules 1 to 7 of the Determination commence on a day to be fixed by Assistant Secretary People Policy and Employment Conditions by notifiable instrument. 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.

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.

Section 5 is an application provision which sets out terms that are used in Schedules 1 to 6 of this Determination.

Schedule 1—Miscellaneous amendments – Chapter 2

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Sections 1, 2 and 7 omit sections 2.0.1, 2.1.1 and 2.3.1, respectively, from the Principal Determination which provide overviews of Chapter 2 and Chapter 2 Part 1. These overviews are non-legislative in nature and do not need to be determined.

Section 3 omits the title of Chapter 2 Part 1 Division 1 from the Principal Determination. This Division title is not required as there is only one Division in the Part.

Section 4 amends section 2.1.3 of the Principal Determination which provides the purpose of Chapter 2 Part 1 Division 1. The section has been amended to clarify that the purpose statement applies to Chapter 2 Part 1 consequential to the change made by section 3 of this Schedule.

Sections 5 and 6 omit Chapter 2 Part 1 Divisions 2 and 3, respectively, from the Principal Determination. These Divisions are placeholders for information that is non-legislative in nature and do not need to be determined.

Section 9 amends paragraph 2.3.5.1.a of the Principal Determination which provides that when a member's service is terminated because of redundancy the member is entitled to the payment of an amount of salary and allowances for each completed year recognised for long service leave. This section has been amended to include a reference to the long service leave provisions under Chapter 5 Part 5.

Section 15 omits section 2.3.19 from the Principal Determination. The section provided a list of references in the *Defence Force Retirement and Death Benefits Act 1973*, these references are non-legislative in nature and do not need to be determined.

Sections 18 and 19 amend subsection 2.3.27.1 of the Principal Determination which provides the benefits that may be approved during transition when a member's service is terminated because of redundancy. The subsection has been amended to include references to the rules provided under Chapters 6 and 7.

Schedule 2—Miscellaneous amendments – Chapter 3

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Section 1 omits section 3.0.1 from the Principal Determination which provides an overview of Chapter 3. This overview is non-legislative in nature and does not need to be determined.

Sections 2, 38 and 66 omit Chapter 3 Part 1, Chapter 3 Part 3 and Annex 3.5.A, respectively, from the Principal Determination. These Parts and Annex are placeholders for information that is determined under DFRT Determination No. 2 of 2017, *Salaries*, or is non-legislative in nature and do not need to be determined.

Section 9 omits and substitutes subsection 3.2.23.1 of the Principal Determination which provides the definition of 'relevant military salary' which is used in section 3.2.23. The subsection has been remade using contemporary drafting standards.

Section 15 amends section 3.2.29 of the Principal Determination which provides that Chapter 3 Part 2 Division 3 does not apply to a member who is paid a specialist rate of salary. This section has been amended to include references to the Divisions 4 and 4A which apply to these members.

Section 26 inserts a new subsection 3.2.47Q.3 into the Principal Determination which provides that a member of the Air Force who has their rank reduced under the Defence Regulation holds the Officer Aviation increment they held before the reduction. This new subsection is currently a note provided under subsection 3.2.47Q.2 which has been omitted by this section.

Section 29 amends section 3.2.50 of the Principal Determination to remove the word 'otherwise' from the rule. The word may cause confusion for the reader and is not required.

Section 31 inserts a new paragraph 3.2.51.g into the Principal Determination which provides that Chapter 3 Part 2 Division 5 does not apply to an other rank member on appointment and commissioning. This paragraph is currently a note provided under section 3.2.48 which has been removed by section 29 of this Schedule.

Sections 39 and 42 omit and substitute sections 3.4.1 and 3.5.1, respectively, of the Principal Determination which provide overviews of Chapter 3 Part 4 and Part 5. The sections have been amended to provide a purpose statement for the Parts.

Chapter 41 inserts a new Division 1 title after the Chapter 3 Part 5 title of the Principal Determination. This new Division provides the general provisions which relate to the Part.

Section 44 amends subparagraph 3.5.7.c.ii of the Principal Determination to include a reference to paragraph 23(2)(b) of the Defence Regulation.

Section 46 inserts a new subsection 3.5.8.1A into the Principal Determination which provides that a determined period of service under subsection 3.5.8.1 must not include any past periods of service. This provision is currently a note under paragraph 3.5.8.1.b which has been omitted by this section.

Section 49 amends subsection 3.5.8.2 of the Principal Determination which provides who may offer a bonus to a member under Chapter 3 Part 5 Division 2. The subsection has been amended to remove the word 'positions' from the subsection, the word is not required.

Section 50 omits and substitutes paragraph 3.5.12.2.b of the Principal Determination which provides that a member is to receive a pro rata amount of the bonus under Chapter 3 Part 5 Division 2 when they transfer to another bonus scheme. The paragraph has been remade using contemporary drafting standards to clarify the calculation of the pro rata payment.

Section 52 omits and substitutes subsection 3.5.14D.1 of the Principal Determination which provides that a member of the Reserves may be offered a Reserve capability payment when they meet specified criteria. The subsection has been remade to write a note into the rule using contemporary drafting standards.

Section 54 omits and substitutes subsection 3.5.141.2 of the Principal Determination which provides that the CDF may extend the period a member can serve to be eligible for payment of the Reserve capability completion bonus. The subsection has been amended to write a note into the rule.

Section 64 inserts a new subsection 3.5.72.4 into the Principal Determination. The new subsection provides the formula for the calculation of a repayment amount of a Navy retention bonus amount when the member does not complete the required period of service for reasons specified in subsection 3.5.72.3. This calculation is currently provided under section 3.5.73 which has been omitted by section 65 of this Schedule.

Section 65 omits section 3.5.73 from the Principal Determination which provides the calculation method for a pro rata repayment of a Navy retention bonus. This section has been included in section 3.5.72 by section 64 of this Schedule.

Section 67 amends the title of section 3.6.1 of the Principal Determination which provides an overview of Chapter 3 Part 6. The section title has been amended to replace 'overview' with 'purpose' to better reflect the content of the section.

Section 75 inserts a new subsection 3.6.8.3 into the Principal Determination which provides that if a member who receives a retention bonus under Chapter 3 Part 5 and does not complete their agreed period of service for the deliberately differentiated offer, may be required to repay an amount of the retention bonus. This provision is currently a note under subsection 3.6.8.2 which has been omitted by this section.

Schedule 3—Miscellaneous amendments – Chapter 4

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Sections 1, 4 and 15 omit sections 4.0.1, 4.8.1 and 4.9.1, respectively, from the Principal Determination which provide overviews of Parts and Divisions in Chapter 4. These overviews are non-legislative in nature and do not need to be determined.

Sections 2 and 3 omit Chapter 4 Part 2 and Part 3, respectively, from the Principal Determination. These Parts are placeholders for information that is determined under DFRT Determinations and do not need to be determined.

Section 7 omits and substitutes section 4.8.18 of the Principal Determination which provides the method for calculating the amount of refresher training assistance payable to a member or former member who served as a medical or dental officer. The section has been remade using contemporary drafting standards to clarify the calculation method.

Sections 17, 19 to 22 amend sections 4.9.4 and 4.9.6 of the Principal Determination to omit '*Defence (Inquiry) Regulations 1985*' and replace it with '*Defence (Inquiry) Regulations 2018*' and to omit 'Court of Inquiry' and replace it with 'Commission of Inquiry'.

Section 27 omits and substitutes subsection 4.9.16.6 of the Principal Determination which provides the method for calculating a repayment amount of health support allowance when the member ceases to be insured for the purpose of the allowance. The paragraph has been remade using contemporary drafting standards to clarify the calculation of the pro rata payment.

Schedule 4—Miscellaneous amendments – Chapter 5

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Sections 1, 18, 56, 133 and 156 omit a number of sections from the Principal Determination which provide overviews of Parts and Divisions in Chapter 5. These overviews are non-legislative in nature and do not need to be determined.

Section 2 amends the title of Chapter 5 Part 1 of the Principal Determination. The Part title has been amended to replace 'overview' with 'general provisions' to better reflect the content of the Part.

Section 7 amends subsection 5.3.5.3 of the Principal Determination which provides the number of days absence a member may have on recommendation from a health professional. The 'related information' provided in the subsection has been amended to make it a legislative note.

Section 19 amends the title of Chapter 5 Part 4 Division 2 of the Principal Determination. The Division title has been amended to better reflect the content of the Division.

Section 22 omits and substitutes section 5.4.10 of the Principal Determination which provides definitions for terms used in Chapter 5 Part 4 Division 3. The section has been amended using contemporary drafting standards.

Sections 25, 26, 28, 29 and 30 amend sections 5.4.13, 5.4.14, 5.4.15 and 5.4.16 of the Principal Determination which provide the conditions for additional recreation leave for different types of service. The sections have been amended to include references to DFRT Determination No. 11 of 2013, *ADF allowances*.

Section 34 amends subsection 5.4.22.5 of the Principal Determination which provides that the amount of recreation leave that a member may purchase is reduced if certain conditions are met. The subsection is being amended to provide that the subsection is subject to the rule in subsection 5.4.22.4 which provides that the maximum amount of recreation leave credits a member may purchase in a financial year. This condition is currently a note under subsection 5.4.22.5 which is being removed by section 35 of this Schedule.

Section 37 omits and substitutes subsection 5.4.25.3 of the Principal Determination which provides the method of calculating the amount of purchased recreation leave is credited to a member each fortnight. The subsection has been remade using contemporary drafting standards.

Section 42 omits and substitutes subsection 5.4.31.2 of the Principal Determination which provides that there are time limits that apply when taking recreation leave. This subsection has been amended to provide that the time limits are set out in section 5.4.34.

Section 44 omits and substitutes subsection 5.4.33A.1 of the Principal Determination which provides that a member's leave credits are reduced by the number of days of recreation leave that is granted. The subsection has been amended to provide that the leave credits can also be reduced by any part days of recreation leave that is granted. This provision is currently in a note which has been omitted by this section.

Section 46 omits and substitutes subsection 5.4.34.1 of the Principal Determination which provides that a member's recreation leave credits in excess of 90 days expires on the lapsing date. The subsection has been remade to remove reference to leave credits that accrued up to 30 June 2016 as this provision is no longer required.

Section 50 omits and substitutes subsection 5.4.36.3 of the Principal Determination which provides that special arrangements apply to the payment of higher duties allowance during a period of recreation leave. The subsection has been amended to include a reference to section 4.1.7 which provides the rule for the payment of higher duties allowance during leave.

Section 51 amends subsection 5.4.37.2 of the Principal Determination which provides that a member may be eligible for an allowance under section 5.1.2A during a period of recreation leave. The paragraph has been amended to provide that the allowances the member may be eligible for are provided under subsection 5.4.37.1.

Section 54 omits and substitutes section 5.4.41 of the Principal Determination which provides the members who are eligible for the payment of transfer of recreation leave credits under Chapter 5 Part 4 Division 8. The section has been remade to include a member who has died as eligible under the Division. This provision is currently a note which has been omitted by this section.

Section 57 omits section 5.5.2 from the Principal Determination which provides the purpose of Chapter 5 Part 5. This section has been remade by section 58 of this Schedule.

Section 58 omits and substitutes the title of Chapter 5 Part 5 Division 1 of the Principal Determination and inserts a new subsection 5.5.1. The Division title change better reflects the content of the Division. The new subsection 5.5.1 provides a purpose statement for the long service leave provisions under Chapter 5

Part 5. This purpose statement is currently provided under section 5.5.2 which has been omitted by section 57 of this Schedule.

Section 60 omits and substitutes section 5.5.5 of the Principal Determination which provides definitions for terms used in Chapter 5 Part 5. The section has been remade using contemporary drafting standards.

Section 62 amends subsection 5.5.6.3 of the Principal Determination which provides the meaning of 'month' for the purpose of long service leave. The subsection has been amended to remove information that is not required.

Section 65 amends paragraph 5.5.8.2.b of the Principal Determination which provides that long service leave credits are credited to the member for every year of accrued service after the initial 10 years of service. The paragraph is being amended to omit 'every year' with 'each full year' to ensure that the correct terminology is used.

Section 69 amends subsection 5.5.14.1 of the Principal Determination which provides the Reserve service which counts towards long service leave. The subsection has been amended to provide that this provision is subject to subsection 15.5.15.2. This condition is currently provided in a note under subsection 5.5.14.1 which has been omitted by section 69 of this Schedule.

Section 73 omits and substitutes subsection 5.5.15.1 of the Principal Determination which provides that a period of prior service counted as service under the *Long Service Leave Act 1976* is accrued service for the purpose of Chapter 5 Part 5. The subsection has been remade using contemporary drafting standards. A new subsection 5.5.15.1A has been inserted to provide the periods of service that are not recognised as prior service under the Part. This provision was previously provided under subsection 5.5.15.1 and as a note under the same subsection.

Section 78 omits and substitutes paragraph 5.5.18.c of the Principal Determination which provides that a period of more than one day when a member is not eligible for salary or allowances under the *Defence Force Regulations 1952* is not accrued service for the purpose of Chapter 5 Part 5. The paragraph has been remade to provide that any period that the member is not entitled to salary under Chapter 1 Part 7 is not accrued service.

Section 81 omits and substitutes section 5.5.25 of the Principal Determination which provides the members who are not eligible for payment instead of long service leave under Chapter 5 Part 5 Division 5. The section has been remade using contemporary drafting standards.

Section 90 omits subsection 5.6.7.1 from the Principal Determination which provides that the definition of termination is provided in section 5.6.4. This subsection is information only and does not need to be determined.

Section 94 omits and substitutes subsection 5.6.9.2 of the Principal Determination which provides that a member who has been granted maternity leave may also be eligible to parental leave. The subsection has been remade using contemporary drafting standards.

Sections 97 and 98 amend section 5.6.12 of the Principal Determination which provides an overview of maternity leave. Section 97 amends the title of the section from 'overview' to 'purpose'. Section 98 remakes subsection 5.6.12.1 using contemporary drafting standards.

Section 107 amends subsection 5.6.21.3 of the Principal Determination which provides that if a member has resumed duty after a period of maternity the member is not eligible for further maternity leave if the additional leave is after a period set out in subsection 5.6.21.2. The subsection has been amended to clarify that the member may be eligible for parental leave under Chapter 5 Part 7.

Section 109 omits section 5.6.22 from the Principal Determination which provides examples of how maternity leave may be taken. This section is non-legislative in nature and does not need to be determined.

Section 123 omits and substitutes section 5.8.2 of the Principal Determination which provides definitions for terms used in Chapter 5 Part 8. The section has been remade using contemporary drafting standards.

Section 124 omits and substitutes subsection 5.8.4.3 of the Principal Determination which provides the method for calculating war service leave credits. The subsection has been remade using contemporary drafting standards.

Sections 126 and 127 amend section 5.8.6 of the Principal Determination which provides the effect of warlike service on leave accrual. Section 126 remakes subsection 5.8.6.2 using contemporary drafting standards. Section 127 amends subsection 5.6.8.3 to insert a reference to recreation leave into the rule.

Section 134 amends the title of Chapter 5 Part 9 Division 1 of the Principal Determination. The title has been amended from 'introduction' to 'general provisions' to better reflect the content of the Division.

Section 135 omits section 5.9.9 from the Principal Determination which provides definitions used for compassionate leave. The terms which have been defined in section 5.9.9, 'serious illness' and 'very serious illness', are defined in sections 1.3.72 and 1.3.78 and this section is not required.

Section 139 omits and substitutes subsection 5.9.17.1 of the Principal Determination which provides the types of travel a member must undertake to be eligible for travelling leave. The subsection has been remade using contemporary drafting standards.

Section 148 omits and substitutes paragraph 5.10.6.3.a of the Principal Determination which provides a condition which must be considered when approving an allowance to be payable during leave without pay. This paragraph has been remade using contemporary drafting standards.

Section 151 omits and substitutes subsection 5.10.7.1 of the Principal Determination which provides that periods of leave without pay does not count as qualifying service for specific benefits. The subsection has been remade using contemporary drafting standards.

Section 155 omits Annex 5.10.A from the Principal Determination which provides a list of benefits which pay be payable during a period of leave without pay. This Annex is information only as the rules are provided in the benefits.

Section 160 inserts a new subsection 5.11.6.3 into the Principal Determination which provides that before a member is granted a period of short absence from duty when they have been granted a period of additional recreation leave, conditions provided under section 5.11.5 must also be met. This provision is currently provided under a see note in subsection 5.11.6.2 which has been omitted by this section.

Section 169 amends paragraph 5.13.1.a of the Principal Determination which provides that a member may be provided assistance with cots when they are recalled from a period of approved leave. The paragraph has been amended to specify that they must be recalled from a period of leave for operational reasons. This additional criteria is currently provided in a note which has been omitted by section 168 of this Schedule.

Section 171 omits section 5.13.3 from the Principal Determination which provides a reference table for benefits provided in Chapter 5 Part 13. This section is non-legislative in nature and does not need to be determined.

Section 178 omits and substitutes subsection 5.13.9.1 of the Principal Determination which provides that a member will be recredited with any unused leave when they are recalled from a period of leave. The subsection has been remade using contemporary drafting standards.

Schedule 5—Miscellaneous amendments – Chapter 6

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Section 1 omits and substitutes section 6.0.1 of the Principal Determination which provides the overview statement of Chapter 6. The overview statement has been omitted and a new Part 1A with a purpose statement for the Part has been inserted. The Part provides general provisions for relocations which apply to the entire chapter.

Sections 2 and 4 amend section 6.0.3 of the Principal Determination which provides the definitions used in Chapter 6. Section 2 amends the title of the section to update the section reference number to reflect the new Part where the section is located. Section 4 amends the definition of "suitable own home" to omit a see note and incorporate it into the definition.

Sections 5 and 26 omit section 6.1.1 and section 6.5.1, respectively, from the Principal Determination which provide overviews of Chapter 6 Part 1 and Chapter 6 Part 5. These overviews are non-legislative in nature and do not need to be determined.

Section 17 omits and substitutes section 6.2.2 of the Principle Determination which provides that a member who chooses to sell their furniture and effects instead of having them stored is eligible for a reimbursement if they make a loss on the sale. The section has been remade to provide clarity of the benefit for the reader.

Section 21 amends subsection 6.2.4.3 of the Principal Determination which provides who is eligible for a reimbursement on the loss on sale of a private vehicle. The section omits 2 notes which are non-legislative in nature and inserts a new subsection 6.2.4.4 which provides that when a member's adult dependant is also a member, only one member is eligible to receive the benefit under the section.

Section 25 omits Chapter 6 Part 3 which provides members with cost of travel for removal purposes. The Part has been omitted as it directs users to the benefits provided under Chapter 9 Part 2 Division 3 and does not need to be determined.

Section 27 omits and substitutes the title of Chapter 6 Part 5 Division 1 of the Principal Determination to better reflect the content of the Division.

Section 28 omits and substitutes section 6.5.4 of the Principle Determination which provides the circumstances in which a member is eligible for a removal. The section has been remade into 2 sections to better structure the provisions and the changes are as follows.

- Section 6.5.4 provides that if a member who is not eligible for a removal under specified Divisions, the member is eligible for a removal if they CDF is satisfied that the member or their dependants meet certain conditions. This rule is currently provided in subsections 6.5.4.1 and 6.5.4.2.
- Section 6.5.4A provides that a member of the Reserves is eligible for a removal when they begin or cease a period of continuous full-time service. This rule is currently provided under subsection 6.5.4.3.
- The remaining provisions have been omitted as they are non-legislative in nature and do not need to be determined.

Sections 29 and 30 amends section 6.5.5 of the Principal Determination which provides when a member is not eligible for removal at Commonwealth expense.

- Paragraph 6.6.5.c has been amended to change the reference to 'However, they may be eligible for a removal if Service reasons require them to relocate' to 'unless the member's Service require them to relocate' to reflect contemporary drafting standards.
- Paragraph 6.5.5.d has been amended to include a reference to section 1.3.55 which provides the rule to revoke an extended posting location.

Section 32 inserts a new subsection 6.5.6.3 after subsection 6.5.6.2 of the Principal Determination. The new subsection provides that a removal of the member's furniture and effects under subparagraph 6.5.6.2.b.ii does not include the dependant's furniture and effects. This information was previously provided under a note which has been removed by section 31 of this Determination.

Sections 34, 42, 54, 63, 76, 78, 83, 91, 94, 97 and 103 a number of sections in the Principal Determination to change references to 'describe' to 'sets out' to ensure the correct terminology is used consistently.

Section 38 amends subsection 6.5.14.1 of the Principal Determination which provides that a member may be reimbursed reasonable labour costs for technical help in a move. The section has been amended to clarify that a single member is eligible for the benefit under the section and not every member is eligible.

Section 46 omits and substitutes subsection 6.5.20.1 of the Principal Determination which provides a removal benefit for a member's dependants to a personal location. The subsection has been split into 2 subsections: subsection 6.5.20.1 provides that the dependants are eligible for a removal to a personal location if the member is posted to a remote location for 6 months or more. Subsection 6.5.20.1A provides a limitation on the removal under subsection 6.5.20.1.

Section 75 omits and substitutes section 6.5.49 of the Principal Determination which provides a removal of vehicles when a member ceases continuous full-time service. The section has been amended to

provide that the removal of vehicles is the same as a removal on posting under section 6.5.40 of the Principal Determination.

Section 80 omits and substitutes subsection 6.5.52.2 of the Principal Determination which provides that a member ceases to be eligible for storage at Commonwealth expense when they reject an offer of a suitable Service residence. The subsection has been amended to clarify the provision and to ensure the correct terminology is used consistently.

Sections 106 and 107 amend section 6.6.3 of the Principal Determination which provides a member with reimbursement of costs if their posting is cancelled. The amendments remake subsections 6.6.3.1 and 6.6.3.2 to provide clarity for the reader.

Schedule 6—Miscellaneous amendments – Chapter 7

Any section not listed for this Schedule omits examples, non-examples, notes, see notes, related information, relevant information and authorities from the Principal Determination. This information is non-legislative in nature and does not need to be determined.

Sections 1 and 262 omit sections 7.0.1 and 7.9.1, respectively, from the Principal Determination which provide overviews of Chapter 7 and Chapter 7 Part 9. These overviews are non-legislative in nature and do not need to be determined.

Section 2 omits section 7.0.3 of the Principal Determination which provides that definitions used in Chapter 7 can be found in Part 1 Division 3. The section is non-legislative in nature and does not need to be determined.

Section 3 omits and substitutes section 7.1.1 of the Principal Determination which provides an overview of Chapter 7 Part 1. The section has been amended to provide a purpose statement for Chapter 7.

Section 4 omits section 7.1.2 of the Principal Determination which explains why members get housing assistance. The information provided under this section has been included in section 7.1.1 as amended by section 3 of this Schedule.

Sections 8 to 10 amend section 7.1.14 of the Principal Determination which provides the definitions used in Chapter 7. The section has been amended to provide that a number of terms have the same meaning as provided under other sections of the Principal Determination.

Section 12 amends table item 2 of section 7.1.15 of the Principal Determination which provides what the posting location is for a member with dependants. The table item has been amended to include a reference to the removals provisions.

Sections 14, 43 and 141 amend subsection 7.1.16A.2, paragraph 7.3.16.3.a and paragraph 7.5.7.a, respectively, of the Principal Determination. The provisions have been amended to ensure the correct terminology is used consistently.

Section 15 omits and substitutes paragraph 7.1.19.1.b of the Principal Determination which provides that a member is eligible for a house hunting trip when they are eligible for a full removal. The paragraph is being amended to include a reference to the removals provisions.

Section 18 omits section 7.1.26 of the Principal Determination which provides that a member who has a dependant with special needs may be eligible for a house hunting trip. The section is information only and does not need to be determined as section 8.6.7 of the Principal Determination provides this rule.

Section 25 omits and substitutes paragraph 7.2.5.1.c of the Principal Determination which provides the calculation method for the number of bedrooms a suitable own home needs. Paragraph 7.2.5.1.c has been amended to provide that one of the criteria for a suitable own home is that it has the minimum prescribed number of bedrooms. A new subsection 7.5.5.1A has been inserted to set out how the minimum prescribed number of bedrooms under paragraph 7.2.5.1.c is worked out.

Section 27 amends paragraph 7.2.6.4.a of the Principal Determination which provides that if a member purchases a home using a defence benefit in a greater posting location, the home is taken to be a suitable own home. The paragraph has been amended to include a reference to section 1.3.55 where the rule for the approval of a greater posting location is provided.

Sections 36, 57 and 133 amend the titles of sections 7.3.1, 7.4.1 and 7.5.1 of the Principle Determination which provide overview statements for Chapter 7 Part 3, Part 4 and Part 5. The titles have been amended to change them to purpose statements.

Section 62 omits section 7.4.6 from the Principal Determination which provides a guide to provisions relating to living in accommodation. The information in this section is non-legislative in nature and does not need to be determined.

Section 82 omits section 7.4.22 of the Principal Determination which provides that a member who purchase a suitable own home is not eligible to choose to live in. The section is information only and does not need to be determined as section 7.4.9 of the Principal Determination provides this rule.

Section 135 amends the table in section 7.5.3 of the Principal Determination which sets out the definitions that apply in Chapter 7 Part 5. The table is amended to change 'described in subsection 7.5.6.3' to 'eligible for a benefit under subsection 7.5.6.3'.

Section 139 omits and substitutes subsection 7.5.6.2 of the Principal Determination provides a dependant of a deceased member temporary accommodation allowance if the dependant is eligible for a removal. The subsection has been amended to include a reference to section 7.5.10 which provides the eligibility for the dependants on the death of the member.

Section 144 omits and substitutes paragraph 7.5.10.2.b of the Principal Determination which provides that a dependant of a deceased member is to pay a contribution if the dependant stays in temporary accommodation as part of a removal. The paragraph has been amended to include a reference to section 7.5.29.

Section 159 omits and substitutes section 7.6.1 of the Principal Determination which provides an overview of Chapter 7 Part 6. The section inserts a new Division 1 title into Part 6 to provide a Division which contains general provisions which are used throughout the Part. It also substitutes section 7.6.1 to provide a purpose statement of the Part.

Section 160 omits the Division title of Chapter 7 Part 6 Division 1 of the Principal Determination which has been replaced by section 159 of this Schedule.

Section 179 omits and substitutes section 7.6.56 of the Principal Determination which provides that a member may be eligible for rent allowance if there is no suitable Service residence available. The section has been amended to include a reference to the rent allowance provisions under Chapter 7 Part 8.

Section 248 inserts a new subsection 7.9.10.1A into the Principal Determination. Section 7.9.10 provides the eligibility and rate of food allowance. The new subsection 7.9.10.1A provides that a member with dependants (unaccompanied) is not eligible for food allowance when the member is paying the fortnightly meal charge. This new provision is currently an exception which is being removed by this section.

Section 251 amends subsection 7.10.4.1 of the Principal Determination which provides that a member eligible for assistance under section 7.10.3 is eligible for the reimbursement of certain costs relating to utilities. The subsection is amended to change 'described by section 7.10.3 is eligible for the reimbursement of these' to 'eligible for assistance under section 7.10.3 is eligible for the reimbursement of the following' to ensure the correct terminology is used consistently.

Section 252 amends subsection 7.10.4.3 of the Principal Determination which provides that section 7.10.4 (eligible member – reimbursement for utilities) does not apply to a member who lives in one of the Service residences listed in section 7.10.8. The subsection is amended to change 'one of the Service residences described in' to 'a Service residence listed in' to ensure the correct terminology is used consistently.

Schedule 7—Miscellaneous amendments

Section 1 omits Annex 3.5.1 from the Principal Determination. The Annex provides the approved form which was to be used to offer and accept an Army – targeted rank and employment category completion bonus. This information has been removed as the bonus it relates to no longer exists.

Section 2 amends section 4.8.15 of the Principal Determination which provides the definition of refresher training course for the purpose refresher training assistance for medical or dental officers. The definition has been amended to remove a duplicate decision point which is also provided under section 4.8.17 of the Principal Determination.

The following sections redraft various sections within the Principal Determination to reflect contemporary drafting standards, and in some instances to remove information which is non-legislative and administrative in nature:

- Section 3 omits and substitutes section 5.4.23 which provides that a member's supervisor can approve the purchase of recreation leave, and includes what the supervisor must consider in making the decision to approve the request.
- Section 4 omits and substitutes subsection 5.11.1.3 which forms part of section 5.11.1 of the Principal Determination which provides an overview of the Chapter 5 Part 11 (short absence).
- Section 5 omits and substitutes section 9.3.52 which provides the circumstances in which a member can be approved compassionate travel to visit someone with a serious or very serious illness, or who has died.
- Section 6 to 12 amend sections 9.3.53, 9.3.54, 9.3.55, 9.3.57, 9.3.57 and 9.3.60 respectively. These sections provide compassionate leave travel benefits relating to a members spouse or partner. The sections are amended to remove references to 'spouse'.
- Section 13 amends section 9.5.9 which provides the travel period for a member who is required to travel on Defence business. Subsection 9.5.9.2 which provides when a travel period starts and ends has been omitted and substituted.
- Section 14 amends section 9.5.11 which provides the travel period for a member who is required to travel to a new posting location. Subsection 9.5.11.2 which provides when a travel period starts and ends has been omitted and substituted.
- Section 15 amends section 9.5.12 which provides the travel period for a member who is required to travel on ceasing continuous full-time service. Subsection 9.5.12.3 which provides when a travel period starts and ends has been omitted and substituted.
- Section 16 omits and substitutes section 11.3.2 which provides the payment of leave and entitlements to a member's dependant or legal personal representative when a member, including a member of the reserves, dies.
- Section 18 amends section 17.7.23 which provides relief out-of-country fare assistance for members who are deployed overseas. Subsection 17.7.23.2 which provides the number of relief out-of-country travel fare assistance trips a member is eligible for has been omitted and substituted.

Section 17 amends section 16.4.14 of the Principal Determination which provides that the Director Military Conditions and Housing Policy can decide that a leave centre, for the purpose of assisted leave travel, is unsuitable and subsequently substitute the leave centre for one that is comparable in cost and facilities. Reference to "Military Conditions and Housing Policy" have been omitted and substituted with "Overseas and Housing Policy" to reflect change in position titles.

***Defence Determination, Conditions of service Amendment (Miscellaneous amendments)
Determination 2021 (No. 16)***

Statement of Compatibility with Human Rights

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

Overview of the Determination

The purpose of this Determination is to make a number of technical amendments that do not alter the underlying policies, or the benefits which are currently provided. This includes the removal of information that is non-legislative in nature and does not need to be determined.

Human rights implications

This Determination is technical in nature and does not engage any of the applicable rights or freedoms.

Conclusion

This Determination is compatible with human rights as it does not raise any human rights issues.

Fiona Louise McSpeerin, Assistant Secretary People Policy and Employment Conditions