



Defence (Early return of members from post) Determination 2021

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

Dated 16 September 2021

Fiona Louise McSpeerin
Assistant Secretary
People Policy and Employment Conditions
Defence People Group

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1 Name

This instrument is the *Defence (Early return of members from post) Determination 2021*.

2 Commencement

This instrument commences on the day of registration.

3 Authority

This instrument is made under section 58B of the *Defence Act 1903*.

4 Definitions

In this instrument:

accompanied member has the same meaning given in section 12.3.2 of the Defence Determination.

decision maker means a person holding, or performing the functions of any of the following positions within the Department of Defence.

- (a) To make any decision under this Determination, any of the following
 - (i) Deputy Secretary Defence People
 - (ii) First Assistant Secretary People Services.
 - (iii) Assistant Secretary Human Resource Services.
- (b) To make a decision to approve a benefit or set an amount under this Determination, a person not below WO2(E)/APS 5 who is authorised to manage Defence personnel administration at the overseas post.

Defence Determination means the Defence Determination 2016/19, Conditions of service, as in force from time to time.

dependant has the same meaning given in section 12.3.5 of the Defence Determination.

long-term posting overseas has the same meaning given in section 12.3.9 of the Defence Determination.

member means a member posted to Cherbourg, France on a long-term posting overseas.

unaccompanied member has the same meaning given in section 12.3.20 of the Defence Determination.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Temporary accommodation

- (1) A member is eligible for temporary accommodation for the following people.
 - (a) The member.
 - (b) The member's dependants who accompanied the long-term posting overseas.
 - (c) The member's dependants who remained in Australia while the member was on the long-term posting overseas.
- (2) Temporary accommodation commences on the day they complete mandatory quarantine on return to Australia and ends on the earlier of the following days.
 - (a) The 14th day after occupying the temporary accommodation.
 - (b) The day the member occupies permanent accommodation.
- (2) Temporary accommodation means accommodation that meets the standard provided in section 7.5.23 of the Defence Determination.

7 Temporary accommodation – meals

- (1) The member is eligible for a meal allowance for the following people who occupy temporary accommodation provided under section 6.
 - (a) The member.
 - (b) The member's dependants that accompanied the long-term posting overseas.
 - (c) The member's dependants who remained in Australia while the member was on the long-term posting overseas.
- (2) Meal allowance means the amount that would be payable to the member under section 7.5.24 of the Defence Determination.

8 Additional temporary accommodation costs

- (1) A member is eligible for additional temporary accommodation costs if they are not able to occupy permanent accommodation on or before the end of temporary accommodation benefits provided under section 6.
- (2) Eligibility for additional temporary accommodation cost is for the period between the following days.
 - (a) The day temporary accommodation under section 6 ceases.
 - (b) The earlier of the following days.
 - (i) The day the member occupies permanent accommodation.
 - (ii) The day set by the decision maker.
- (3) Additional temporary accommodation costs means one of the following.
 - (a) If the member has returned to Australia on their own or with a partner — \$163 for each day of the period in subsection 2.
 - (b) If the member has returned to Australia with one or two children who are dependants — \$198 for each day of the period in subsection 2.
 - (b) If the member has returned to Australia with 3 or more children who are dependants — \$274 for day of the period in subsection 2.

9 Early return from post payment

- (1) A member is eligible for an early return from post payment.
- (2) The early return from post payment for a member whose posting was expected to last at least 3 years and has the number of months specified in an item in column A of the table in section 1 of Schedule 1 before their posting is expected to end is one of the following:
 - (a) If the member is an accompanied member the rate specified in column B of the same item.
 - (b) If the member is an unaccompanied member the rate specified in column C of the same item.
- (3) The early return from post payment for a member whose posting was expected to last less than 3 years and has the number of months specified in an item in column A of the table in section 2 of Schedule 1 before their posting is expected to end is one of the following:
 - (a) If the member is an accompanied member the rate specified in column B of the same item.
 - (b) If the member is an unaccompanied member the rate specified in column C of the same item.

10 Additional early return from post payment

- (1) A member is eligible for an additional early return from post payment if all of the following apply.
 - (a) The member has suffered a financial loss or incurred an expense.
 - (b) The decision maker is satisfied that the financial loss suffered or expense incurred is as a result of the early return from post.
 - (c) The total of the financial loss or an expense is greater than the early return from post payment.
- (2) Before making a decision under subsection 1, the decision maker must consider all of the following.
 - (a) The length of time given to the member to leave the posting location.
 - (b) The time remaining on the member's posting.
 - (c) If the loss or expensed incurred by the member that would have reduced had the member not returned to Australia early from the posting location.
 - (d) Any other factor relevant to the member's posting.
- (3) Additional early return from post payment is an amount set by the decision maker that is not greater than the amount calculated using the following formula.

$$Max = A - B$$

Where:

A is the amount of the financial loss.

B is the early return from post payment payable to the member under section 9.

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- (4) For the purpose of this section, a financial loss does not include a loss of salary or benefits the member would have continued to receive had the early return from post not occurred.

Schedule 1—Rates of early return from post payment

1 Posting of three years or more

Item	Column A Number of months remaining	Column B Accompanied member	Column C Unaccompanied member
1	35 or more	\$12,986	\$7,791
2	32 to 34	\$11,808	\$7,082
3	29 to 31	\$10,629	\$6,373
4	26 to 28	\$9,446	\$5,666
5	23 to 25	\$8,268	\$4,957
6	20 to 22	\$7,089	\$4,250
7	17 to 19	\$5,911	\$3,541
8	14 to 16	\$4,730	\$2,833
9	11 to 13	\$3,549	\$2,125
10	8 to 10	\$2,370	\$1,416
11	4 to 7	\$1,191	\$707
12	0 to 3	NIL	NIL

2 Posting of less than three years

Item	Column A Number of months remaining	Column B Accompanied member	Column C Unaccompanied member
1	23 to 24	\$12,986	\$7,791
2	20 to 22	\$11,130	\$6,679
3	17 to 19	\$9,276	\$5,567
4	14 to 16	\$7,424	\$4,456
5	11 to 13	\$5,567	\$3,343
6	8 to 10	\$3,712	\$2,232
7	4 to 7	\$1,856	\$1,122
8	0 to 3	NIL	NIL

Schedule 2—Consequential amendments

Defence Determination 2016/19, Conditions of service

1 Paragraph 14.6.17.2.b (Losses if Commonwealth withdraws from posting)

After paragraph 14.6.17.2.b, insert:

- c. The member is eligible for benefits under Defence (Early return of members from post) Determination 2021.

2 Subsection 15.3.13.2 (Time periods for reunions)

After subsection 15.3.13.2, insert:

3. This section does not apply to a member eligible for benefits under Defence (Early return of members from post) Determination 2021.