

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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

 (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** | **Colum 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** | **Colum 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. |