

EXPLANATORY STATEMENT

Defence Determination, Force Commander, Multinational Force and Observers – supporting benefits Determination 2024

This Determination is made under section 58B of the *Defence Act 1903* (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* (Legislation Act). These instruments are also subject to the interpretation principles in the AI Act.

Purpose

The Multinational Force and Observers (MFO) is an international organisation that has peacekeeping responsibilities in the Sinai. The Force Commander of the MFO (FCMFO) has the responsibility of the international military contingents of the MFO, and maintains the good order of the MFO Force. In March 2024, a member of the Australian Defence Force (ADF) will commence a 2-year appointment as FCMFO. The member's appointment as FCMFO will provide the opportunity for Australia to positively affect the security environment in the Sinai.

Under the terms of the appointment the FCMFO is required to observe the principles of strict neutrality and can neither seek or receive operational instructions from the ADF. Consistent with this, their remuneration and appointment related expenses will be provided by the MFO. The ADF is not to provide any benefit that is, or may be reasonably construed as, a salary and/or an explicit appointment related benefit.

The purpose of this Determination is to provide additional assistance with the removal and storage of the member's and their partner's belongings and temporary accommodation within Australia before and after their relocation to Egypt.

Operational details

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

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

Before this Determination was made, the consultation was undertaken with the Multinational Force and Observers Headquarters. Extensive internal consultation was undertaken with Army, International Policy Division, Defence Legal and the Defence Tax Management Office.

Approved by:

Angus John Campbell

General

Chief of the Defence Force

Authority:

Section 58B of the
Defence Act 1903

**Defence Determination, Force Commander, Multinational Force and Observers – supporting
benefits Determination 2024**

Operational details

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

Section 2 provides the Determination commences on the day the instrument is registered.

Section 3 provides that the Determination ceases on 17 April 2026.

Section 4 provides that this instrument has authority under section 58B of the Defence Act.

Section 5 specifies that this Determination applies to the member who holds the employee identification number 8265382 ('the member'). The employee identification number is a unique number which enables Defence to recognise and ensure that the benefits provided under this Determination are specific to the relevant member.

Section 6 provides that during the effective period of this Determination, the member is not eligible for any benefit under Defence Determination 2016/19, *Conditions of service* (the Defence Determination), that has a similar purpose of a benefit provided under this Determination. This is to ensure that the member does not receive double benefits during the appointment. The Defence Determination is the determination that sets out the financial conditions of service for members of the ADF.

Section 7 provides an interpretation of terms that are used within this Determination.

Section 8 provides that the time the member holds the appointment is counted as effective service for salary increment advancement and accrual of long service leave purposes.

Section 9 provides that the member's dependant is required to obtain medical and dental certificates of fitness. These certificates aim to identify if there are any pre-existing conditions or illnesses that would require ongoing healthcare that is beyond the scope of routine prescription or general practitioner services. This section also provides that the member is eligible to be reimbursed any costs related to the medical and dental certificates of fitness, and for any inoculations, vaccinations and anti-malarial drugs that their dependant may need before they leave Australia for Egypt.

The requirement for the member's dependant to obtain medical and dental certificates before leaving Australia to accompany the member on the overseas appointment is to ensure that, if the dependant has any medical, dental, physical, mental or intellectual condition, there will be suitable facilities for the ongoing treatment and care of the dependant in the location. All information collected by Defence regarding the dependant's medical and dental health will be filed and managed in accordance with the *Privacy Act 1988* and the *Archives Act 1983*.

Section 10 provides for the removal of personal effects to Egypt and then on return to Australia which are not transported by the MFO. The personal effects which are removed under this Determination are limited to the amount which is not being removed to Egypt by the MFO. The section also provides for a removal of personal effects to Australia if the member's dependant returns to Australia early. Items removed under this section are limited to what will be removed under section 14.3.12 of the Defence Determination.

Section 11 provides for the removal and storage of the member's vehicles and furniture within Australia. The removal and storage is limited to the vehicles and furniture that are not removed and stored by the MFO. The member is also eligible for a removal of the stored items to the member's new housing benefit location when they return to Australia, or to the family benefit location where the dependant will live in Australia if they return to Australia before the member's appointment ceases.

Section 12 provides that if the member chooses to sell their furniture instead of putting it into storage, the member is eligible to be reimbursed the amount that has been considered reasonable by the decision maker, for any losses that were incurred on sale of the items.

Section 13 provides that the member is eligible for temporary accommodation before they leave Australia for Egypt and on return to Australia.

Section 14 provides that the member and their dependant are eligible for meal allowance and incidentals for each day they are in temporary accommodation provided under section 13.

Section 15 provide that the member must provide claims and receipts for reimbursement of eligible costs to the decision maker.

Section 16 provides that during the effective period of this Determination, the decision maker may approve additional benefits provided under Chapters 14 to 16 of the Defence Determination, had those chapters applied to the member had they been on long-term posting overseas. This provision allows the member and their dependant to manage unforeseen, exceptional and compassionate circumstances.

Section 17 provides that during the effective period of this Determination, the decision maker may approve benefits provided under the Defence Determination, if the member's dependant returns to Australia before the cessation date of this Determination. This section allows the decision maker to provide benefits to the member's dependant similar to those that the dependant would have been eligible for if the member was on an unaccompanied long-term posting overseas.

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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 Multinational Force and Observers (MFO) is an international organisation that has peacekeeping responsibilities in the Sinai. The Force Commander of the MFO (FCMFO) has the responsibility of the international military contingents of the MFO, and maintains the good order of the MFO Force. In March 2024, a member of the Australian Defence Force (ADF) will commence a 2-year appointment as FCMFO. The member's appointment as FCMFO will provide the opportunity for Australia to positively affect the security environment in the Sinai.

Under the terms of the appointment the FCMFO is required to observe the principles of strict neutrality and can neither seek or receive operational instructions from the ADF. Consistent with this, their remuneration and appointment related expenses will be provided by the MFO. The ADF is not to provide any benefit that is, or may be reasonably construed as, a salary and/or an explicit appointment related benefit.

The purpose of this Determination is to provide additional assistance with the removal and storage of the member's and their partner's belongings and temporary accommodation within Australia before and after their relocation to Egypt.

Human rights implications

Right to the protection and assistance to the family

The protection of a person's right to family protection and assistance engages Article 10 of the International Covenant on Economic, Social and Cultural Rights. Article 10 guarantees the widest possible protection and assistance be accorded to the family.

Assessment of compatibility

This Determination is compatible with human rights as it provides assistance with the costs associated with the relocation of the member and their dependant to and from Egypt beyond what is provided by the MFO. The Determination also enables the provision of benefits for the member's dependant that the member would not be eligible for if their dependant returns to Australia before the end of the member's appointment.

Conclusion

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