



# **Defence Determination, Conditions of service Amendment Determination 2024 (No. 4)**

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I, COLONEL KIRK LLOYD, Acting Assistant Secretary, People Policy and Employment Conditions, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 6 May 2024

COL Kirk Lloyd  
Acting Assistant Secretary  
People Policy and Employment Conditions  
Defence People Group

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## 1 Name

This instrument is the Defence Determination, Conditions of service Amendment Determination 2024 (No. 4).

## 2 Commencement

1. Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4.	The day the instrument is registered.	
2. Schedule 1 to 3	9 May 2024	

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Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

2. Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

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

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

# Schedule 1—Interpretation amendments

## *Defence Determination 2016/19, Conditions of service*

### **1 Paragraph 1.3.20.2.b**

Repeal the paragraph, substitute:

- b. The CDF is satisfied of all of the following.
  - i. That there is an appropriate recognised other person to care for the children.
  - ii. That the children are being cared for in a home maintained by the member, and that home is in the member’s previous housing benefit location.

**Note:** To avoid doubt, a member who occupied living-in accommodation in the previous housing benefit location was not maintaining the home.

### **2 Section 1.3.28 (heading)**

Omit “Service or compassionate”, substitute “Compassionate”.

### **3 Subsection 1.3.28.1**

Repeal the subsection, substitute:

- 1. Resident family is unaccompanied resident family if the CDF is satisfied that there are compassionate reasons to recognise them as unaccompanied resident family, having regard to the following.
  - a. The health and welfare of the member and their resident family.
  - b. Any other relevant matter.

### **4 Section 1.3.30**

Repeal the section, substitute:

#### **1.3.30 Who this subdivision applies to**

- 1. This subdivision applies to a member (the first member) who meets all of the following.
  - a. The member’s partner is also a member (the second member).
  - b. The first member has a different housing benefit location than the second member.
- 2. Despite subsection 1, this subdivision does not apply if both members occupy living-in accommodation.

### **5 Section 1.3.32 (heading)**

Omit “Member lives”, substitute “One member lives”.

**6 Section 1.3.32**

After “the member’s partner lives with the resident family (the second member)” insert “,”.

**7 Section 1.3.33 (heading)**

Omit “Members both”, insert “Both members”.

**8 Paragraph 1.3.33.b**

After “not nominated as having unaccompanied resident family”, insert “,”.

**9 After paragraph 1.3.33.b**

Insert:

**Note:** Rules for nomination are set out in section 1.3.34.

**10 After section 1.3.33**

Insert:

**1.3.33A Dual serving member – One member occupies living-in accommodation**

If the member (the first member) occupies living-in accommodation and the other member (the second member) lives out, the following apply.

- a. The first member is unaccompanied resident family of the second member.
- b. The second member is accompanied resident family of the first member.

**Note:** The second member remains accompanied resident family of the first member under section 1.3.31 if the second member is required to live in temporarily for service reasons.

**11 Subsection 1.3.36.2**

Omit “A person”, substitute “Subject to section 1.3.38, a person”.

**12 Subsection 1.3.37.1**

Omit “means any of the following”, substitute “means a person who lives with the member or their resident family and who is any of the following.”.

**13 After subsection 1.3.37.2**

Insert:

3. Despite subsection 1, an adult child is not required to live with the member or their resident family if sections 1.3.19 or 1.3.29 applied prior to the person turning 21 years old.

## 14 Section 1.3.38

Repeal the section, substitute:

### 1.3.38 CDF recognised partner

1. **CDF recognised partner** means a person who the CDF is satisfied would be recognised as being in a de facto relationship with the member if they were living together.  
**Note:** De facto relationship is defined in section 1.3.39.
2. A member must use the approved form to apply for recognition of a CDF recognised partner relationship.
3. An application may be approved in relation to a period immediately preceding the application date.

## 15 Subsection 1.3.39.1

Repeal the subsection, substitute:

1. **De facto relationship** means a relationship between two persons who are both at least 18 years of age, and the CDF considers the relationship meets section 2F of the *Acts Interpretation Act 1901*.

## 16 Paragraph 1.3.39.3.c

Repeal the paragraph, substitute:

- c. A circumstance where the CDF is satisfied that the member and their partner usually live together but are separated temporarily.

## 17 Amendments of listed provisions – repeals

Repeal the following provisions.

- a. Subparagraph 1.3.26.a.iv.
- b. Subparagraph 1.3.37.1.d.ii.
- c. Subparagraph 1.3.37.1.d.iii.
- d. Paragraph 1.3.39.3.a.

# Schedule 2—Domestic amendments

## *Defence Determination 2016/19, Conditions of service*

### **1 Section 1.3.1**

Insert:

**Dental officer** has the same meaning given in section A.1.12 of DFRT Determination No. 2 of 2017, *Salaries*.

### **2 Section 2.2.8**

Repeal the section, substitute:

#### **2.2.8 Transition absence**

1. This section does not apply to a member of the Reserves, other than a member of the Reserves on continuous full-time service.
2. Subject to subsection 3, a member is eligible for 25 transition absence days to attend the following activities if the CDF is satisfied that service requirements can be met while the member is absent.
  - a. Defence Force transition program activities.
  - b. Employment related activities.
  - c. Career transition training or education courses.
  - d. Transition related administrative activities.
3. A transition absence under subsection 2 is limited by the following.
  - a. The absences must not exceed a cumulative lifetime total of 25 days.
  - b. A member may not be granted more than 5 days in total of transition absence for transition related administrative activities.
4. Transition absence can only be taken in full days.
5. If a member has been granted a period of transition absence for a career transition training activity and one of the following occurs, the unused transition absence days are not debited from the member's transition absence credits.
  - a. The training activity finishes early.
  - b. The training activity is cancelled.

### **3 Section 2.2.9 (heading)**

Omit "approved", substitute "transition".

**4 Paragraph 2.3.22.1.a**

Omit “subsections 2 and 3”, substitute “subsection 2”.

**5 Subsection 4.4.32.2**

Repeal the subsection, substitute:

2. If the member does not return directly to Australia immediately after service in Antarctica, payment of the allowance ends at 2359 on one of the following days.
  - a. If the member takes recreation leave after duty in Antarctica — the last day they are eligible for Antarctic allowance under section 4.4.35.

**Note:** Section 4.4.35 provides the period a member is eligible to continue to receive Antarctic allowance when they are granted a period of recreation leave after duty in Antarctica.
  - b. If the member does not take recreation leave after duty in Antarctica — the last day they serve in Antarctica.

**6 Section 4.5.4**

Repeal the section, substitute:

**4.5.4 Meal allowance not payable**

1. Meal allowance is not payable for a meal period when any of the following conditions are met.
  - a. The member is eligible for travelling allowance or use of the Defence travel card.
  - b. The Commonwealth makes a meal available to the member.
  - c. Subject to subsection 2, a meal is included in the fare for a journey or is otherwise provided by the transport operator.
2. An in-flight meal on a commercial aircraft does not count as a meal for purpose of this Part.

**7 Chapter 4 Part 8 Division 1**

Repeal the division.

**8 Paragraph 4.8.29.c**

Repeal the paragraph, substitute:

- c. If the member is required to be fit for operational deployment — they are Army Individual Readiness Notice (AIRN) compliant on the day the expense is incurred.

**9 Section 4.9.4**

Omit “The definitions apply in this Division.”, substitute “In this Division the following apply.”.



**10 Paragraph 5.3.2.a (exception)**

Repeal the exception.

**11 Section 5.3.2A**

Repeal the section, substitute:

**5.3.2A Member this Part does not apply to**

This Part does not apply to a member who meets any of the following.

- a. They are on a form of unpaid leave.
- b. They are on a flexible service determination during their nonworking period.

**12 After section 5.4.21**

Add:

**5.4.21A Member this Division does not apply to**

This Division does not apply to a member during periods when they perform any of the following kinds of service.

- a. Warlike service.
- b. Non-warlike service.
- c. Foreign service, as defined by section 23AG (7) of the *Income Tax Assessment Act 1936*, which could reasonably be expected to be exempt from tax under sub-section 23AG of the *Income Tax Assessment Act 1936*.

**Note:** To qualify for the tax exemption, a member must be engaged in foreign service for a continuous period of not less than 91 days.

**13 Subsection 5.4.22.1 (exception)**

Repeal the exception.

**14 Paragraph 5.4.38.1.b**

Repeal the paragraph, substitute:

- b. The United Nations, and they are not being remunerated by the ADF.

**Note:** Chapter 12 Part 4 Division 2 provides the conditions of service for members undertaking a period of service with the United Nations and receiving remuneration from the ADF.

**15 Subsection 5.4.43.3 (exception)**

Repeal the exception.

**16 After subsection 5.4.43.3**

Insert:

4. Despite subsection 3, the member's leave is to be a payment for the full amount of their accrued leave credit and purchased recreation leave credit if any of the following apply.
  - a. The member's offer of employment with the new agency is withdrawn.
  - b. The Commonwealth entity does not agree to the transfer.

**17 Section 5.5.13 (exception)**

Repeal the exception, substitute:

**Note:** Section 5.5.16 provides how overlapping prior service is treated if a member has recognised prior service with two different employers at the same time.

**18 Section 5.6.4 (note)**

Omit "taken to be".

**19 Section 5.6.23**

Repeal the section, substitute:

**5.6.23 Purpose**

This Division provides the period a member must be away from duty due to pregnancy.

**Note:** Division 4 provides the effect being on leave without pay has on required absence and maternity leave.

**20 Subsection 7.3.31.5**

Repeal the subsection, substitute:

5. In this section the following apply.

**Auctioneer** means a person registered or licensed under relevant State or Territory laws to conduct business as an auctioneer.

**Professional fees and disbursements** means fees that meet both of the following.

- a. They are fees for work performed by a solicitor, land broker or conveyancer connected with a purchase or sale, and related disbursements that include any of the following.
  - i. Fees for a valuation, pest inspection, building inspection, survey or similar.

- ii. Fees that are incurred by the solicitor, land broker or conveyancer on behalf of a member or eligible person.
  - iii. Mandatory fees imposed by relevant State or Territory local authorities.
- b. They are not fees for arranging or negotiating a mortgage.

**21 Subsection 7.3.31.6**

Repeal the subsection.

**22 Section 7.7.10**

Repeal the section, substitute:

**7.7.10 Rent paid in advance**

A member who accepts an offer for accommodation under this Part and pays rent in advance to secure the home is eligible for the reimbursement of the lesser of the actual rent paid or their rent ceiling for the home for the following periods.

- a. If the member's furniture or effects are in transit or delivery is delayed for a reason not caused by the member's own actions — 6 weeks.
- b. In any other circumstance — 3 weeks.

**23 After section 7.8.40**

Add:

**7.8.40A Member this Division does not apply to**

A member who accepts an offer of accommodation under Chapter 7 Part 7 of this Determination is not eligible for benefits under this Division.

**24 Subsection 8.6.6.3**

Repeal the subsection, substitute:

3. In this section the following apply.

**Care or therapy services** means any of the following.

- a. Respite care.
- b. Personal care.
- c. Therapy services.
- d. An Early Intervention Program.

**Early Intervention Program** means a program run by a government organisation, accredited non-government organisation or accredited private provider that provides assistance to promote the development of preschool aged children with special needs.

**25 Subsection 9.6.12.1**

Repeal the subsection, substitute:

1. A member recalled to duty from recreation leave or long service leave is on duty between the following days.
  - a. The day they depart from the leave location.
  - b. The day they return to the duty location.

# Schedule 3—Overseas miscellaneous amendments

## *Defence Determination 2016/19, Conditions of service*

### 1 At the end of section 13.2.11

Insert:

**Note:** A member approved recreation leave under Chapter 5 Part 4 may take the leave during or at the end of a journey in conjunction with a rest period. Time spent on a rest period is not to be deducted from recreation leave credits.

### 2 Section 13.2.12

Repeal the section.

### 3 Subsection 13.3.6.4

Omit “taken to hold” substitute, “eligible for benefits at”.

### 4 Section 14.2.4

Omit “JHSA” wherever occurring, substitute “JHC”.

### 5 Subsection 14.2.4.2

Repeal the subsection, substitute:

2. Certificates must be provided by doctors and dentists authorised by Defence who meet all of the following.

a. They must be informed that the examinations are required for travelling to and living at the posting location.

b. They must provide a results report to the Joint Health Command (JHC) for approval.

**Note 1:** The provisions of the *Privacy Act 1988* apply to the certificates under this section as set out in section 1.2.6.

**Note 2:** The certificates are to be provided to the JHC for review and to advise the Overseas Administration Team of approval or further action required.

**Note 3:** The certificates are to be filed and kept by the JHC as Official: Sensitive, Personal privacy//Health Information.

### 6 Subsection 14.2.4.3

Repeal the subsection.

### 7 Subsection 14.2.4.6

Omit “been recognised as a dependant with special needs under this Determination,”, substitute “special needs recognised under section 1.3.6,”.

**8 Section 14.3.13**

Repeal the section, substitute:

**14.3.13 Benefits if enlisted overseas**

1. A member appointed or enlisted outside Australia for service in Australia is eligible for the following assistance with travel and removal to Australia for themselves and their dependants.
  - a. Air travel at Defence expense as provided under Part 4 Division 1.
  - b. Rest periods as provided under Part 4 Division 3.
  - c. Removal of a reasonable amount of personal effects and household items, including furniture, to the housing benefit location in Australia.
  - d. Travel costs, including accommodation costs for authorised rest periods, for the period of travel to Australia.
  - e. Accommodation costs if it is necessary to spend a night in temporary accommodation before departure and on arrival in Australia.
  - f. Temporary accommodation allowance and rent allowance at the initial housing benefit location in Australia.
  - g. Reimbursement of any medical or migration processing fees.
  - h. Baggage benefits as provided under Part 4 Division 2.
2. A member whose dependants make their first Australian home in a family benefit location, is eligible for the following benefits for their family.
  - a. Temporary accommodation allowance for the dependants in the family benefit location.
  - b. Rent allowance or a Service residence for the dependants in the family benefit location.
  - c. Removal of a reasonable amount of the dependant's personal effects to the family benefit location.
3. In this section, **dependant** may include a person who would be recognised as a **child** under section 1.3.35.

**9 Subsection 14.4.15.8 (note)**

Repeal the note, substitute:

**Note:** A member approved recreation leave under Chapter 5 Part 4 may take the leave during or at the end of a journey in conjunction with a rest period. Time spent on a rest period is not to be deducted from recreation leave credits.

**10 Subsection 15.3.21.5**

Omit "taken to be", substitute "are".

**11 Subsection 15.3.39.5**

Omit “2”, substitute “4”.

**12 Subsection 15.4.24.2**

Omit “taken”.

**13 Subsection 15.5.4.2**

Omit “is taken to include”, substitute “includes”.

**14 Paragraph 15.5.4.2.a**

Repeal the paragraph, substitute:

- a. A dependent who is less than 21 years old, regardless of how long they have lived with the member at the overseas posting location.