

EXPLANATORY STATEMENT

Defence (Employer Support Payment Scheme) Amendment Determination 2024 (No. 1)

This Determination amends Defence (Employer Support Payment Scheme) Determination 2023 (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*. These instruments are also subject to the interpretation principles in the AI Act.

This Determination amends the Principal Determination which provides a scheme which provides financial assistance to businesses that employ members of the Reserves who have been absent from their civilian workplace on defence service. The payment also provides an incentive to members of the Reserves who are self-employed to undertake defence service and provide capability to the Australian Defence Force (ADF).

Purpose

The purpose of this Determination is to do the following:

- To amend provisions relating to the review of a reviewable decision to reflect that the Administrative Review Tribunal has replaced the Administrative Appeals Tribunal.
- To amend provisions to change a position title within the Reserve and Cadet Support Division.
- Make technical amendments to the Principal Determination that amend typographical errors. These amendments do not alter the underlying policies, or the benefits that are currently provided.

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

A person may seek an internal review of reviewable decisions, as described in the Determination, or apply to the Administrative Review Tribunal for review of a decision made under Chapter 7 Part 3 of the Determination in connection with a Chief of Defence Force initiated review. A person may also make a complaint to the Commonwealth Ombudsman regarding the administration of decisions made under the Determination.

Consultation

Before this Determination was made, consultation was undertaken with the Directorate of Remuneration Operations, Headquarters Reserve and Cadet Support Division, and Defence Legal.

Approved by:

Matthew James Keogh
Minister for Defence Personnel

Authority:

Section 58B of the
Defence Act 1903

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Operational details

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

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

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.

Schedule—Employer Support Payment Scheme amendments

Items 1, 6, 7 and 9 amend a number of sections within the Principal Determination to reflect the name change of the position title of “Head Joint Support Services Division” to “Head Reserve and Cadet Support Division”.

Items 2 to 5 and 8 amend a number of sections within the Principal Determination to make technical amendments which amend typographical errors.

Items 10 to 13 amend a number of sections within the Principal Determination which relate to the review of a reviewable decision to reflect the name change of “the Administrative Appeals Tribunal” to “the Administrative Review Tribunal”.

Technical amendments made under this Schedule do not alter the underlying policies, or the benefits which are currently provided.

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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

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Human rights implications

Right to the enjoyment of just and favourable conditions of work

The protection of a person's right to remuneration engages Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 7 ensures just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

Assessment of compatibility

This Determination does not engage any of the applicable rights or freedoms as it makes technical amendments only and does not change the underlying policy.

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*.