

# EXPLANATORY STATEMENT

## Defence (Individual benefits) Determination (No. 2) 2025

This Determination is 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.

### Purpose

The purpose of this Determination is to provide payment to a member to reconcile housing contributions as a result of unique personal circumstances and Service requirements.

### Operational details

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

### Incorporation by reference

The Determination makes references to sections of the *Defence Determination 2016/19, Conditions of service*. This Instrument is incorporated into this Determination as in force from time to time.

### Retrospective application

The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

### 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 made and actions taken under this Determination may be subject to inquiry under the ADF redress of grievance system provided under Part 7 of the Defence Regulation. Also, a person may make a complaint to the Defence Force Ombudsman.

### Consultation

Before this Determination was made, the consultation was undertaken with Military Personal Branch. The rule maker was satisfied that further consultation was not required.

**Approved by:**

**Sarah Kate McGregor**

Acting Deputy General

People Policy and Employment Conditions

**Authority:**

Section 58B of the

*Defence Act 1903*

***Defence (Individual benefits) Determination (No. 2) 2025***

***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 the instrument is registered.

Section 3 provides that this instrument has authority under section 58B of the Defence Act.

Section 4 provides that the purpose of this Determination is to provide payment to a member to reconcile housing contributions as a result of unique personal circumstances and Service requirements.

Section 5 provides the following definitions:

- Defence Determination as meaning the *Defence Determination 2016/19, Conditions of service*, as in force from time to time; and
- Housing contribution period as meaning the period between 1 December 2024 and 2 February 2025, inclusive.

Section 6 provides that the Determination applies to the member holding the employee identification number 8235645.

Section 7 provides that the member is to be paid the amount calculated using the provided formula for each day in the housing contribution period. The formula provides the amount payable is the housing contribution the member paid under Chapter 7 of the Defence Determination, less the amount provided by subsection 7.4.27.2 table item 1 of the Defence Determination, divided by 14. The outcome of the calculation provides the amount payable to the member for each day in the housing contribution period.

Section 8 provides when the Determination is revoked.

***Defence (Individual benefits) Determination (No. 2) 2025***

***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 purpose of this Determination is to provide payment to a member to reconcile housing contributions as a result of unique personal circumstances and Service requirements.

**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 is compatible with human rights as it promotes the right to the enjoyment of just and favourable conditions of work by providing a member payment to reconcile their housing contributions during a period of unique personal circumstances and Service requirements.

**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*.