

CANCELLED

RECOGNITION OF INTERDEPENDENT PARTNERSHIPS

INTRODUCTION

1. The Government has agreed to extend certain conditions of service entitlements to Australian Defence Force (ADF) members in interdependent relationships, including same sex couples. Accordingly, this instruction has been revised to detail the policy guidance for ADF members who wish to seek recognition of an interdependent partnership. Criteria for recognition of all other interdependent relationships are outlined in the *ADF Pay and Conditions Manual* (PACMAN).

2. A member seeking ADF recognition of an interdependent partnership must prove that their partner is a person who lives in a common household with the member in a bona fide, domestic, interdependent partnership, although not legally married to the member. Where the interdependent partnership is recognised by the appropriate Service authority, a member may be eligible for financial entitlements and conditions of service which apply to a member with dependants as defined in PACMAN.

AIM

3. The aim of this instruction is to detail the ADF policy on the recognition of interdependent partnerships and the administrative procedures that must be followed in relation to an application for recognition.

DEFINITIONS

4. For the purposes of this instruction the following definitions apply:

- a. **Approving Authority**—decisions made under this instruction may be made by a person who performs the duties of any of the following list of positions:
- (1) Commanding Officers (COs);
 - (2) Officer Commanding (OC) an independent sub-unit;
 - (3) Officers not below the rank of O-3 (Captain (Equivalent (E)) or Warrant Officer Class One (E)—for recruiting applicants only; and
 - (4) Director of Entitlements (DE) or delegate (for exceptional circumstances only).
- b. **Interdependent partner**—is a person who, regardless of gender, is living in a common household with the member in a bona fide, domestic, interdependent partnership, although not legally married to the member. This includes those previously recognised by the ADF under the previous Defence Instruction (General) PERS 53-1—*Recognition of de facto marriages*, as having a de facto marriage, and also allows for those now recognised on the basis that they are in an interdependent same sex partnership.
- c. **Common household**—means a home in which the member and their partner normally live and in which they have pooled a significant amount of their household possessions for joint use as a consequence of establishing the partnership. The term common household does not include Service provided living-in accommodation.
- d. **Permanent basis**—is when the member and their partner normally reside under the same roof, in the same locality, in a common household. Neither the member nor their partner is to be a member of another household. Specifically, for recognition purposes, the member and their partner are not to be living in separate localities, with the couple only spending time in the common household during weekends, holidays etc.

SCOPE

5. This instruction provides guidance on the recognition of interdependent partnerships for:
 - a. members of the Permanent Forces;
 - b. members of the Reserve Forces (other than Standby Reserves); and
 - c. a person to whom an offer of appointment or enlistment has been made for service in one of the elements shown in subparagraphs 5.a.–b. inclusive.
6. This instruction provides only for the recognition of interdependent partnerships for the purposes of providing benefits to eligible ADF personnel under the *Defence Act 1903*. The instruction does not confer rights or benefits under any other laws.

POLICY

Interdependent partnership criteria

7. Not every relationship is one that satisfies ADF requirements for a recognisable interdependent partnership. The core requirements to be met prior to the member completing both the application for recognition of an interdependent partnership in [annex A](#) and the Statutory Declaration, including the four items of documentary evidence, in [annex B](#), are that the member and their partner:
 - a. have lived together on a permanent basis, in a bona fide, domestic, interdependent partnership as per subparagraphs 4.b. and 4.d. for a period of not less than 90 continuous days; and
 - b. have maintained a common household as per subparagraph 4.c.
8. The Approving Authority may decide to recognise an interdependent partnership for a member and their partner who have not lived together for 90 continuous days, if they consider that the couple:
 - a. are temporarily separated because of Service exigencies or unforeseen circumstances;
 - b. lived together on a permanent basis, in a bona fide, domestic, interdependent partnership in a common household immediately before the member was formally notified of the event resulting in the separation;
 - c. continue to maintain their common household; and
 - d. commenced living together in the common household at least 90 days before the application for recognition of the interdependent partnership was submitted.
9. To receive ADF recognition of an interdependent partnership, a member, in addition to meeting the requirements in [paragraph 7.](#) or [8.](#), is required to provide the Approving Authority with:
 - a. a completed Application for Recognition of an Interdependent Partnership form (see [annex A](#));
 - b. a completed Statutory Declaration (see [annex B](#)) to attest that an interdependent partnership has been established and is supported by the existence of four items of documentary evidence, as detailed in [annex B](#); and
 - c. those four items of documentary evidence.
10. Applicants are reminded that it is an offence to wilfully make a false statement in a Statutory Declaration, and that there are civil penalties for doing so, including imprisonment for a term of four years. In addition, the ADF may take disciplinary or administrative action against a member, and/or require a member to repay any entitlements that they receive as a result of incorrect information provided in relation to their request for recognition of an interdependent partnership.

11. An application for recognition of an interdependent partnership is not to be approved where a member is in receipt of benefits or entitlements which are payable in respect of another spouse or partner.

Approval of an interdependent partnership

12. The burden of proving the existence of an interdependent partnership lies with the member, not the Service. Unless a member's request for recognition of an interdependent partnership is made in accordance with the procedures and guidelines in this instruction, the partnership will not be recognised.

13. There may be situations when, although an application does not meet the requirements of this instruction, exceptional circumstances exist which may warrant further consideration. In such cases, the application, along with a member's supporting statement and a recommendation by the member's CO, OC or recruiting officer is to be forwarded to DE or delegate (CP2-6-166) for consideration, with an information copy to Director Military Personnel Policy (DMPP) (R8-2-30).

14. Approving Authorities are reminded that the criteria applied in this instruction are the only criteria to be applied to a member seeking recognition of an interdependent partnership.

15. Approving Authorities should be mindful of the guidelines contained within chapter 5—'Decision-Maker's Guide on Defence Conditions of Service' in the *ADF Pay and Conditions Manual Technical and Administrative Explanations* (PACMATE). Accordingly, where an application for recognition of an interdependent partnership is not approved, the Approving Authority is to provide the member with an explanation of why it was rejected.

ADMINISTRATIVE PROCEDURES

Recruiting staff and applicants

16. Recruiting staff have the responsibility to ensure that new applicants for the Permanent or Reserve Forces are made aware of this instruction. Those wishing to apply for recognition of an interdependent partnership must complete their application, (including all documentary evidence) as soon as they accept an offer of appointment/enlistment. The completed pack, with supporting documentation, is to be returned to recruiting staff at the first available opportunity. This will allow the Approving Authority, as nominated in subparagraph 4a., sufficient time to consider the application and if approved, for administrative staff to arrange removals, housing and other entitlements. The effective date in such cases is to be the date of appointment/enlistment. A copy of the completed pack is to be placed on the applicant's recruiting dossier and forwarded to the gaining unit upon appointment/enlistment. The member's dependant status categorisation is to be annotated accordingly by recruiting staff.

Date of effect of recognition of an interdependent partnership

17. For the purposes of receiving conditions of service benefits applicable to a member with dependants, the effective date will be on and from the date on which the member signs the Statutory Declaration, except [paragraph 16](#).

Member or partner under 18 years of age

18. Where either partner is under 18 years of age at the time of application for recognition, the interdependent partnership is only to be recognised by the ADF if the person under 18 years of age has gained the written consent to the cohabitation from a parent or guardian, subject to any relevant legislation for the guardianship or protection of children in the State or Territory where the couple lives. The application cannot be approved where the age of either partner does not meet the age of consent in the relevant jurisdiction as per the table below.

19. As the age of consent differs between States and Territories, a Service member in a recognised interdependent partnership who is relocated to a jurisdiction where one or both of the partners is below the age of lawful consent (see table below) will not attract any benefits associated with member with dependants status. If the recognised partner remains in the locality where the lawful age of consent is met, the Service member may be eligible for benefits associated with member with

dependant (separated) status, providing they meet the requirements of PACMAN. Reunion travel taken at the expense of the Commonwealth should not be embarked upon to a jurisdiction where one or both of the partners do not meet the age of consent in that jurisdiction.

Minimum age of consent within each State and Territory							
NSW	ACT	QLD ^(a)	VIC	SA	WA	NT ^(a)	TAS
16	16	16	16	17	16	16	17

Note

(a) Age of consent for same sex relations is 18 years.

Processing of requests for recognition of interdependent partnerships where both partners are Australian Defence Force members

20. Applications for recognition of interdependent partnerships, where both partners are members of the ADF, are to be processed by the unit of the member who lodges the request. In all instances, only one member is to submit an application. Following consideration of the application, an information copy of the application and the Approving Authority's decision is to be forwarded by the unit to the CO/OC of the unit where the non-applying partner is serving. If the application is not approved, any future applications for recognition of the same partnership are to be submitted by the member who submitted the original application.

Applicant's responsibility once application is approved

21. Following approval of an application, the Approving Authority is to inform the member that it is the applicant's responsibility to submit either Form AA 157—*Application to Live In, Live Out and Categorisation*, or Form AD 291—*Application for Member with Dependants (Separated) (MWD(S)) Categorisation*, whichever is applicable.

Change in circumstances

22. An interdependent partnership will be taken to have ceased for the purposes of this instruction when the member no longer meets the definition of an interdependent partner, for example, the member and their partner marry or they cease to live with their interdependent partner on a bona fide, domestic basis, in a common household. The member must advise their Approving Authority, as nominated in subparagraph 4.a., in writing, of any changes or impending changes that will, or could affect, the continued recognition of their interdependent partnership. Additionally, a member must submit Form AA 157 as soon as practicable after the interdependent partnership ends.

23. If a recognised interdependent partnership has been deemed to have ceased, and the couple reunites and wish to have their interdependent partnership re-recognised, the member is to submit a new application and produce current documentary evidence to re-qualify as per paragraph 9. Where both partners are members of the ADF, the member who submitted the original application is to apply.

Note

Suggestions on how to improve this policy should be emailed to DPE.Feedback@defence.gov.au.

Annexes:

- A. [Application for recognition of an interdependent partnership](#)
- B. [Statutory Declaration for recognition of an interdependent partnership](#)

Sponsor: DGCMP (DMPP)

