Defence (Chief of the Defence Force) (Service Obligation Debts) Determination 2016

Defence Regulation 2016

I, Air Chief Marshal Mark Binskin, AC, Chief of Defence Force, make this Determination using the powers vested in me under section 25 of Defence Regulation 2016 (the Regulation).

Dated this 29th day of September 2016

MD Binskin, AC
Air Chief Marshal
Chief of the Defence Force
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1 **Name of instrument**

This determination is the Chief of the Defence Force Determination on service obligation debts.

2 **Authority**

This determination is made under section 25 of the *Defence Regulation 2016* (the Regulation).

3 **Commencement**

This determination commences on 1 October 2016. The *Defence Force Regulation 1952* and the *Defence (Personnel) Regulations 1952* continue to apply in relation to an application made, or a process begun, under those regulations before their repeal.

4 **Definitions**

1. **Effective service** is service in the Permanent Forces that counts towards completion of a period of **covered service**. Effective service does not include periods during which the member is: absent without leave; in detention, custody or imprisoned; or suspended from duty under the *Defence Force Discipline Act 1982* or the Regulation. A period of leave without pay longer than 21 days is not effective service. Service rendered under a flexible service determination, or part-time leave (including long service leave, maternity leave and parental leave), is calculated as effective service on a pro rata basis (for example, only half of a period of long service leave at half pay will be counted as effective service).

2. **Expected duration of the event** is the length of time it typically takes to complete a particular training course or courses associated with a period of covered service, as notified to the member before the period of covered service begins.

5 **Covered service**

1. For the purposes of section 25 of the Regulation, a member's **covered service** is:

   (a) any relevant **return of service** period which starts on the date the event commences and ends on the day the member has completed total periods of effective service equal to the **return of service** period; and

   (b) any relevant **initial minimum period of service** which starts on the day of appointment or enlistment, and ends on the day the member has completed total periods of effective service equal to the initial minimum period of service.

2. A period of covered service may be applied to a member or class of members by:

   (a) person holding a delegation under sections 12(4), 13(2), 17(2) or 18(2) of the Regulation, consistent with any instructions or limitations specified in the delegation instrument; or

   (b) by a person otherwise authorised as a matter of command discretion, consistent with any instructions or limitations specified in the authorisation.
Note 1: A member must be notified of the covered period of service before it starts in accordance with section 25(3)(b) of the Regulation.

Note 2: If more than one period of covered service applies in relation to a member, each period of covered service is to be determined separately, although they may be served at the same time.

Note 3: If a period of covered service is associated with a member’s appointment, enlistment, promotion, transfer, or change of period of service, it should also be a condition of the appointment, enlistment, promotion, transfer or change under subsections 12(4), 13(2), 15(2), 17(2) or 18(2) of the Regulation. However, failure to explicitly describe a period of covered service as a condition of appointment, enlistment, promotion, transfer or change of period of service does not mean that the period of covered service does not have effect, provided the member has been notified of the period of covered service before it starts.

6 Determination under paragraph 25(3)(a) - Initial obligation amount

1. The initial obligation amount for a period of covered service is the sum of the event costs and the other costs.

2. The event costs consist of direct costs associated with the event and are not to include any component of salary, allowances, superannuation, leave or housing costs. Where direct costs have not been calculated, the event costs are as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>For a member with an annualised event cost that is described as…</th>
<th>The event costs are this amount multiplied by the expected duration of the event (in years) notified to the member before the period of covered service begins…</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Very Low</td>
<td>$10,000</td>
</tr>
<tr>
<td>2.</td>
<td>Low</td>
<td>$25,000</td>
</tr>
<tr>
<td>3.</td>
<td>Medium</td>
<td>$50,000</td>
</tr>
<tr>
<td>4.</td>
<td>High</td>
<td>$75,000</td>
</tr>
<tr>
<td>5.</td>
<td>Very High</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

3. The other costs are an aggregate of any of the following additional amounts relevant to a member’s period of covered service:

(a) if the member is to be removed to Australia at Commonwealth expense -- the estimated cost of removal of the member’s household (including but not limited to costs associated with transport, freight, visas).

(b) if the member is to be provided Commonwealth assistance with the costs of travel to attend an event -- the estimated costs of the travel assistance (noting that the actual costs will be calculated at the time of travel in accordance with the relevant determination under section 58B Defence Act 1903).

Note 4: A member must be notified of the initial obligation amount before the period of covered service begins. Failure to notify a member of this amount at this time may mean that it cannot be recovered.
7  Determination under paragraph 25(4)(a) - service debt calculation method

1. The *service debt calculation method* for a member with a period of covered service is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>For a member whose service period ends...</th>
<th>the member's service obligation debt is calculated using this method...</th>
</tr>
</thead>
</table>
| 1.   | earlier than the expected duration of the event associated with the period of covered service (where item 4 does not apply) | 1. Find the number of days in the period that starts on the first day of the covered service and ends on the day the member's period of service ends.  
2. Divide the outcome of step 1 by the number of days in the expected duration of the event.  
3. Multiply the outcome of step 2 by the member's *initial obligation amount*. The result is their *service obligation debt*. |
| 2.   | later than the expected duration of the event associated with the period of covered service, but before the member has actually completed the event | Find the member's *initial obligation amount*. Their *service obligation debt* is that same amount. |
| 3.   | on the day that the event associated with the period of covered is completed | Find the member's *initial obligation amount*. Their *service obligation debt* is that same amount. |
| 4.   | after the day the event associated with the period of covered service is completed | 1. Find the number of days of effective service since the member completed the event.  
2. Find the number of days actually taken to complete the event.  
3. Subtract the outcome of step 2 from the total number of days in the period of covered service.  
4. Divide the outcome of step 1 by outcome of step 3.  
5. Multiply the outcome of step 4 by the member's *initial obligation amount*.  
6. Subtract the outcome of step 5 from the *initial obligation amount*.  
The result is their *service obligation debt*. |
| 5.   | before the end of a period of covered service that is not associated with an event | 1. Find the number of days of effective service since the member started their *covered service*.  
2. Divide the outcome of step 1 by the total number of days in the period of covered service.  
3. Multiply the outcome of step 2 by the member's *initial obligation amount*.  
4. Subtract the outcome of step 3 from the member's *initial obligation amount*.  
The result is their *service obligation debt*. |
| 6.   | before the end of a period of covered service which has a grace period | 1. Go to the relevant line in a delegate's Schedule to see whether or not the period of covered service is subject to a grace period.  
2. Does the member's service end before the end of the grace period?  
3. If the answer to step 2 is 'Yes', the member has no *service obligation debt*. |
7. and more than one period of covered service is incomplete, then the member’s service debt calculation method requires these additional steps

<table>
<thead>
<tr>
<th>obligation debt.</th>
</tr>
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<tbody>
<tr>
<td>4. If the answer to step 2 is ‘No’, then refer to items 1-5.</td>
</tr>
</tbody>
</table>

1. Perform the service debt calculation in table item 1-6 for each of the incomplete periods of covered service.
2. Add together the resulting amounts.
3. The total is the member’s service obligation debt.

**Note 5:** If a member’s service ends before the beginning of a period of covered service, or after the end of a period of covered service, there is no service obligation debt associated with that period of covered service.

**Note 6:** A member’s period of covered service may, include a period where their service obligation debt neither accrues nor acquires. Throughout this period, a member’s service obligation debt is the amount that would otherwise be calculated immediately before this period commenced.

**Note 7:** Where a member requires additional time to complete an event, an additional covered period of service and initial obligation amount may be imposed. In these circumstances, the service debt calculation method and covered period of service may be tailored by a person delegated powers under section 25 of the Regulation. The underpinning principle in making this determination is that the aggregate debt and covered period of service for the two obligations should be similar to that which would have been imposed originally had the true length of required training been evident beforehand. For example a student undertaking a three year degree that is subsequently approved a further 12 months of sponsored study should have an aggregate obligation similar to that of a student who is studying a four year degree.

**Note 8:** Where a member concludes training or course/s significantly quicker than originally intended (eg six months or earlier for a three year degree), the delegate may, at his or her discretion, approve the reduction of a covered period of service.

**Note 9:** A member must be notified of the service debt calculation method before the period of covered service begins. Failure to notify a member of the method at this time may mean that money cannot be recovered under section 25 of the Regulation.

**Note 9:** The debt calculated under this section may be waived in whole or in part under subsection 25(6) of the Regulation.