



Defence Determination 2001/18

I, BRENDAN JOHN SARGEANT, Director General Personnel Policy and Employment Conditions, Defence Personnel Executive, make this Determination under section 58B of the *Defence Act 1903*.

Dated 28 June 2001

B. J. SARGEANT
Director General
Personnel Policy and Employment Conditions
Defence Personnel Executive

1 **Citation**

This Determination is Defence Determination 2001/18, Housing assistance (Defence Determination 2000/1 – Amendment).

[NOTE: This Determination commences on the day on which it is made: see *Defence Act 1903*, subsection 58B(4).]

2 **Amendment**

Defence Determination 2000/1, Conditions of Service, as amended,¹ is amended as set out in this Determination.

3 **Commencement**

Clause 7 of this Determination commences on 1 July 2001.

[NOTE: The remaining provisions of this Determination commence on the day on which it is made: see *Defence Act 1903*, subsection 58B(4).]

4 **Clause 4.7.2 (Definitions), definition of *home***

substitute

home means a dwelling in Australia, including a flat or other dwelling forming part of a building, but not including a caravan or mobile home, in which an equal or controlling interest is owned or is being purchased by one, or a combination, of the following:

- (a) the member;
- (b) a dependant of the member;
- (c) a private company, trust or similar organisation in which the member or a dependant of the member holds an equal or controlling interest alone or in combination.

5 **Subclause 4.7.4 (1) (Assistance or reimbursement if interest held by another person)**

omit

a person who is not an eligible person holds a registered proprietary interest

insert

a person (other than a dependant of the member) holds a registered proprietary interest

6 **Clause 4.7.4 (Assistance or reimbursement if interest held by another person)**

add at the end

For example: If 4 members who are eligible persons each hold a one-quarter registered proprietary interest in a home purchased under Division 2 or 3, or sold under Division 3, the members' entitlement would be a quarter of the amount of assistance or reimbursement otherwise payable for the sale of the home.

7 Subclause 4.7.5 (1) (Assistance for initial purchase of home)

omit

\$11,400

insert

\$12,440

8 Paragraph 4.7.6 (1) (b) (Repayment)

omit

within the relevant period

insert

within the relevant period, for a reason other than a Service reason

9 Paragraph 4.7.6 (2) (b) (Repayment)

substitute

- (b) for a home purchased in a new locality of posting after the member receives notice of the posting and before the member begins duty in the new locality — 1 month after the day the member begins that duty; and
- (c) otherwise — 1 month after the date of settlement.

10 Clause 7.1.1 (Definitions), definition of *lease period*

omit

11 Clause 7.1.1 (Definitions), definition of *suitable accommodation*

before paragraph (a), insert

- (aa) for a member with dependants under Division 2 who is not accompanied by his or her dependants — appropriate living-in accommodation, a suitable service residence, the member's suitable own home or a dwelling for which the member is entitled to rent allowance; and

12 Clause 7.1.1 (Definitions), paragraph (a) of definition of *suitable accommodation*

omit

for a member with dependants

insert

for any other member with dependants

13 Paragraph 7.1.2 (1) (a) (Suitable own home)

substitute

- (a) the home is subject to a residential tenancy agreement that was signed before the member was notified in writing of the posting, and the member makes reasonable efforts to obtain vacant possession of the home as soon as possible after being notified of that posting; or

14 Paragraph 7.1.22 (3) (a) (Application)

omit

a normal entry recruit (other than an officer) undergoing initial recruit training

insert

an initial recruit trainee

15 Subclause 7.1.24 (3) (Contribution for utilities)

omit

a member without dependants

insert

an initial recruit trainee or a member without dependants

16 Subclause 7.1.27 (1) (Interpretation), definition of *specified contribution*

substitute

specified contribution, for a service residence, means:

- (a) for a member with dependants — the amount of contribution mentioned in Part 3 of Schedule 9 for the member's rank group; or
- (b) for a member without dependants — an amount equal to the amount mentioned in Part 7 of Schedule 9 that would have applied to the member if the residence was a rented dwelling.

17 Subclause 7.1.28 (1) (Eligibility for service residence)

substitute

- (1) A member is eligible for a service residence at the member's locality of posting if:
- (a) for a member with dependants — the member does not own a suitable own home at the locality; or
- (b) for a member without dependants — the member is entitled to rent allowance, and a service residence is available that is not required for a member with dependants.

18 Paragraph 7.1.32 (2) (a) (Continued entitlement to rent allowance if suitable accommodation available)

omit

in a circumstance or factor taken into account under subclause 7.1.4 (2)

insert

in a circumstance under clause 7.1.4

19 Paragraph 7.1.47 (1) (a) (Rent contribution)

omit

the contribution mentioned in column 4 of Part 3 of Schedule 9 for the member's rank group

insert

the sum of:

- (i) the contribution mentioned in Part 3 of Schedule 9 for the member's rank group; and
- (ii) any payment the member receives from another person for living in the member's dwelling

20 Paragraph 7.2.3 (1) (b) (Contribution for meals not payable)

omit

hours.

insert

hours; or

21 After paragraph 7.2.3 (1) (b) (Contribution for meals not payable)

add

- (c) the member is entitled to travelling allowance, other than travelling allowance for a relevant short journey period; or
- (d) the member is living under field conditions or on a seagoing ship.

22 Subclause 7.2.3 (2) (Contribution for meals not payable)

omit

A member sharing living-in accommodation,

insert

An initial recruit trainee or a member sharing living-in accommodation,

NOTE

1. Defence Determination 2000/1 as amended to date. For previous amendments see Note to Defence Determination 2001/1 and see also Determinations 2001/1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17. The Determination has also been amended by Determination No. 3 of 2001 made under section 58H.

EXPLANATORY STATEMENT

Defence Determination 2001/18

Defence Determination 2000/1, Conditions of Service (“the Principal Determination”), made under section 58B of the *Defence Act 1903*, includes provisions dealing with housing assistance and related matters.

This Determination amends provisions dealing with:

- the payment of financial assistance for the initial purchase of a home by a member, and the reimbursement of expenses on the sale of a home or subsequent purchase of another home; and
- the provision of housing and related assistance to members who do not own a home in the locality of posting.

Part 7 of Chapter 4 of the Principal Determination authorises the payment of assistance for the initial purchase of a home by a member, and the reimbursement of expenses on the sale of a home or subsequent purchase of another home. This Determination makes the following amendments to that Part.

- Clause 4.7.2 defines various terms used in that Part. The amendment to the definition of *home* ensures that financial assistance to buy and sell properties is only available where the member has an equal or controlling interest in the property in question.
- Clause 4.7.4 provides that the amount of assistance or reimbursement that is payable is to be worked out proportionately in accordance with the registered proprietary interest in the home held by the eligible person. However, prior to this Determination, clause 4.7.4 only dealt with the situation where an interest is held in the home by a person who is not eligible for the assistance or reimbursement. The amendments to clause 4.7.4 ensure that the proportional calculation also applies where another member holds an interest in the home.
- Clause 4.7.5 sets out the amount of assistance for the initial purchase of a home. The amendment to clause 4.7.5 increases the amount of this assistance from \$11,400 to \$12,440. This represents a 9.1% increase, which is based on the movement of the relevant housing component of the Consumer Price Index in the period since 1 July 2000.
- Clause 4.7.6 provides that, if assistance for the initial purchase of a home is paid but the purchase of the home does not proceed for any reason, or an eligible person does not occupy the home within the specified period, the member must repay the assistance to the Commonwealth. The amendment to paragraph 4.7.6 (1) (b) ensures that the member will not have to repay the amount where the occupation does not occur for a service reason. The other amendment to clause 4.7.6 (which inserts a new paragraph (2) (b)) provides that a member has 1 month after beginning duty in a new locality of posting to occupy a home purchased in that locality after the member received notice of the posting but before the member began duty in the locality. This will ensure that members in this situation do not have to occupy the home within the 1 month of settlement which would otherwise apply

under this provision, and avoid problems that could arise because of delayed postings if the 1 month of settlement rule applied to them.

Chapter 7 of the Principal Determination authorises the provision of housing and related assistance to members who do not own a home in the locality of posting. This Determination makes the following amendments to that Chapter.

- The amendments to clause 7.1.1, which sets out certain definitions, omit an obsolete definition that no longer applies to any provision, and amend the definition of *suitable accommodation*. The amendment to the definition of *suitable accommodation* ensures that a member with dependants who is not accompanied by his or her dependants will only be entitled to receive temporary accommodation allowance if there is no appropriate living-in accommodation (such as barrack accommodation) available at the locality.
- Clause 7.1.2 provides that a member's own home at the member's locality of posting is taken to be a suitable own home for housing assistance purposes unless a specified exception applies. Prior to this Determination, one of the exceptions was where the home was subject to a lease agreement that includes a release clause of 3 months or less signed before the member was notified in writing of the posting, and the member made reasonable efforts to obtain vacant possession of the home as soon as possible after being notified of the posting. The amendment to clause 7.1.2 replaces this exception with a more general exception because of the decline in the use of release clauses under State and Territory tenancy legislation. The new exception provides that the home is not a suitable home if it is subject to a residential tenancy agreement that was signed before the member was notified in writing of the posting and the member makes reasonable efforts to obtain vacant possession of the home as soon as possible after being notified of that posting.
- The amendment to clause 7.1.22, which deals with the application of living-in accommodation, is consequential on the amendment to clause 7.1.24. It ensures consistency of expressions used in the Principal Determination.
- Clause 7.1.24 provides that a member is not required to pay a contribution for utilities for any period the member is living under field conditions or on a seagoing ship or during which a contribution for living-in accommodation is not payable. However, subclause 7.1.24 (3) then went on to provide that (notwithstanding the previous statement) a member without dependants who is not required to pay any contribution for living-in accommodation because the member is simply sharing with 3 or more other persons must pay a contribution for utilities. The amendment to this subclause provides that this same requirement to pay a contribution for utilities also applies to members who are not required to pay any contribution for living-in accommodation because they are simply initial recruit trainees.
- Clauses 7.1.27 and 7.1.28 deal with the provision of service residences (houses) to members. Prior to this Determination, this assistance was only available to a member with dependants. Members without dependants ordinarily receive rent allowance if appropriate living-in accommodation is unavailable. The amendments to clauses 7.1.27 and 7.1.28 provide that a member without dependants is eligible for a service residence if the member is entitled to rent allowance (because living-in accommodation is unavailable) and a surplus service residence is available at the locality which is not required for a member with dependants. A member without dependants who occupies a service residence will pay a contribution equal to the amount the member would have paid if he or she were in receipt of rent allowance.

- The amendment to clause 7.1.32, which deals with the continued entitlement to rent allowance if suitable accommodation becomes available, is a minor drafting correction.
- Clause 7.1.47 provides for a rent contribution that is taken into account in calculating the payment of rent allowance. The amendment to clause 7.1.47 ensures that this rent contribution takes account of the contribution specified for the member's rank group plus any payment the member receives from another person for residing at that rented accommodation which is made available to the member at public expense.
- Subclause 7.2.3 (1) provides for the situations where a contribution for meals is not required. These include where a contribution for living-in accommodation is not payable, or where a member is absent on leave for more than 72 hours. The amendments to this subclause add 2 further grounds where a contribution for meals is not payable. These are where the member is entitled to travelling allowance (other than part-day travelling allowance) or where the member is living under field conditions or on a seagoing ship.
- Subclause 7.2.3 (2) provides that a member sharing living-in accommodation who is not required to pay any contribution for that accommodation must pay a contribution for meals, notwithstanding the statement in subclause 7.2.3 (1) that a contribution for meals is not required where a contribution for living-in accommodation is not payable. The amendment to this subclause provides that this same requirement to pay a contribution for meals also applies to members who are not required to pay any contribution for living-in accommodation because they are simply initial recruit trainees.

The increase in the assistance under clause 4.7.5 will commence on 1 July 2001. The remaining provisions of this Determination commence on the day on which it is made, as provided by subsection 58B(4) of the *Defence Act 1903*.

Authority: Section 58B of the
Defence Act 1903