Defence Determination 2014/2, Leave credits and travel – amendment

I, CHRISTON SCOTT CHAMLEY, Acting Director General People Policy and Employment Conditions, make this Determination under section 58B of the Defence Act 1903.

Dated 5 January 2014

Acting Director General
People Policy and Employment Conditions
Defence People Group
1 Citation

1. This Determination is Defence Determination 2014/2, Leave credits and travel – amendment.
2. This Determination may also be cited as Defence Determination 2014/2.

2 Commencement

This Determination commences on the date of signature.

3 Amendment

Defence Determination 2005/15, Conditions of Service, as amended,¹ is amended as set out in this Determination.

4 Clause 5.6.3 (War service leave credit)

substitute

5.6.3 War service leave credit

1. A member may accrue war service leave credit for any day they perform warlike service in an operational area.
2. Credit accrues at the rate of 18 days a year, on a pro rata basis. It is processed at the end of each fortnightly pay period, calculated using the method in subclause 3.
3. The amount of a war service leave credit for a fortnightly pay period is calculated using the following table.

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Count the number of combined full days and part days the member spent in an operational area while on warlike service during a fortnightly pay period.</td>
</tr>
<tr>
<td></td>
<td>In this Step, count the following as full days in the operational area.</td>
</tr>
<tr>
<td></td>
<td>a. Any part days at the beginning or end of the period.</td>
</tr>
<tr>
<td></td>
<td>b. Any days where the member is absent from the operational area for only part of the day.</td>
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<tr>
<td></td>
<td>Do not count any days when the member is absent from the operational area for the full day.</td>
</tr>
<tr>
<td>2.</td>
<td>Divide the outcome of Step 1 by 365.</td>
</tr>
<tr>
<td>3.</td>
<td>Multiply the outcome of Step 2 by 18 days.</td>
</tr>
<tr>
<td>4.</td>
<td>Round the outcome of Step 3 to the nearest two decimal places.</td>
</tr>
</tbody>
</table>
The outcome of Step 4 is the number of days of war service leave the member is to be credited for a fortnightly pay period.

**Example:**

A pay period begins on Thursday 9 October and ends Wednesday 23 October. A member spends from midday 17 October to midday 26 October in an operational area on a warlike deployment.

**Step 1** The member spent 10 days in the operational area, 7 of which were during the pay period. The other 3 days will be credited in the next pay period.

The part day on 17 October is counted as a whole day.

**Step 2** 7 divided by 365 = 0.01918

**Step 3** 0.06301 multiplied by 18 days = 0.34521 days

**Step 4** 0.34521 days rounded is 0.35 days

**Step 5** The member may be credited with 0.35 days of war service leave.

**Note:** War service leave credits are calculated by the PMKeyS personnel management system.

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5. **Paragraph 9.4.38.1.c (Schemes A and B – spouse or interdependent partner is a Defence APS employee)**

*omit under the Defence Enterprise Collective Agreement 2009.*

*insert as an APS employed by the Department of Defence.*

6. **Paragraph 9.4.38.1.c (Schemes A and B – spouse or interdependent partner is a Defence APS employee), Note**

*substitute*

**Note:** The Defence APS employee's workplace agreement may provide for assisted leave fares allowance for Defence APS employees and their dependants. Assisted leave fares allowance may also provide for travel from remote locations.

7. **Subclause 15.2.8.4 (Post indexes), note**

*omit*

Directorate of Service Conditions and Housing Policy

*insert*

Directorate of Military Conditions and Housing Policy
8 Subclause 15.5.17.1 (Travel for child to accompany a parent)

substitute

1. The CDF may approve the travel of a child to accompany a parent if the parent has had travel approved under clauses 15.5.15 or 15.5.16.

NOTE

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2014/1 and amendments made by Defence Determination 2014/1.
EXPLANATORY STATEMENT

Defence Determination 2014/2

This Determination amends Defence Determination 2005/15, Conditions of service (the Principal Determination), made under section 58B of the Defence Act 1903 (the Defence Act) and in accordance with subsection 33(3) of the Acts Interpretation Act 1901 (AIA Act). Determinations made under section 58B of the Defence Act are disallowable non-legislative instruments and are subject to the interpretation principles in the AIA Act, as modified by section 58B of the Defence Act.

This Determination amends the following chapters of the Principal Determination.

- Chapter 5, which sets out provisions dealing with leave.
- Chapter 9, which sets out provisions dealing with ADF travel in Australia.
- Chapter 15, which sets out provisions dealing with members overseas on a long-term posting.

This Determination has the following purposes.

- To clarify the method in which war service leave credits are accrued.
- To update a reference to the department's workplace agreement.
- To update a reference to a directorate that has undergone a name change.
- To remove repetition in a subclause which provides the eligibility conditions for a child to accompany a parent during travel.

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

Clause 2 of this Determination provides that the Determination commences on the date it is signed.

Clause 3 specifies that the amendment is made to the Principal Determination, as amended.

Clause 4 substitutes Clause 5.6.3 of the Principal Determination, which provides the process and method for calculating warlike leave credits for warlike service in an operational area. Clause 4 amends the subclause to ensure that the leave accrues on a pro-rata basis and is processed fortnightly in alignment with fortnightly pay periods.

Clauses 5 and 6 amend paragraph 9.4.38.1.c of the Principal Determination. The paragraph and accompanying note refer to a superseded workplace agreement. Clauses 5 and 6 amend the paragraph and its note so it is inclusive of both Senior Executive Service and non-Senior Executive Service employees who work in Defence.

Clause 7 amends the note in subclause 15.2.8.4 of the Principal Determination, which provides a reference to the directorate that varies post indexes for members on overseas posting. The directorate has undergone a name change. Clause 7 amends the note to refer to the newly named directorate.

Clause 8 substitutes subclause 15.5.17.1 of the Principal Determination, which provides the eligibility conditions for a child to accompany a parent during travel. The amendment simplifies the subclause removing some repetition.

Criteria are provided for the exercise of discretions under the Principal Determination, as amended by this Determination. Adverse decisions are subject to merits review by means of appeal to the Defence Force Ombudsman.

Authority: Section 58B of the Defence Act 1903
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence Determination 2014/2, Leave credits and travel – amendment.

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Determination

This Determination amends Defence Determination 2005/15, Conditions of Service. The purpose of the Determination is as follows.

- To clarify the method in which war service leave credits are accrued.
- To clarify the amount of rent allowance payable by the Commonwealth to the member.
- To update a reference to the Department's workplace agreement.
- To remove repetition in a subclause which provides the eligibility conditions for a child to accompany a parent during travel.

Human rights implications

Right to the enjoyment of just and favourable conditions of work

Article 7 the International Covenant on Economic, Social and Cultural Rights guarantees the right to just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

This Determination protects this right by simplifying policy to assist people to better understand and apply benefits, and so they are able to better assess the relative fairness and adequacy of their benefits.

Conclusion

This Determination is compatible with human rights because it advances the protection of human rights.

Christon Scott Chamley, Acting Director General People Policy and Employment Conditions