



Defence (Housing Higher Contribution Scheme Benefit) Determination 2018 (No. 10)

I, FIONA LOUISE McSPEERIN, Assistant Secretary, People Policy and Employment Conditions, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 19 February 2018

Assistant Secretary
People Policy and Employment Conditions
Defence People Group

Contents

1 Name.....	1
2 Commencement	1
3 Authority	1
4 Higher contribution scheme benefit (13 March 2014 and 28 January 2015).....	1
5 Higher contribution scheme benefit (29 January 2015 and 10 February 2016).....	1
6 Higher contribution scheme benefit (29 January 2015 and 10 February 2016).....	1

1 Name

This instrument is the *Defence (Housing Higher Contribution Scheme Benefit) Determination 2018 (No. 10)*.

2 Commencement

This instrument commences on 8 March 2018.

3 Authority

This instrument is made under section 58B of the *Defence Act 1903*.

4 Higher contribution scheme benefit (13 March 2014 and 28 January 2015)

- (1) This section applies to a member to whom all of the following apply.
 - (a) The member paid a contribution under the higher contribution scheme between 13 March 2014 and 28 January 2015 inclusive, under section 7.5.44 of *Defence Determination 2005/15*, as in force at that time.
 - (b) The member paid a contribution for a Rent Band 3 or Amenity Group C property.
- (2) A member who paid a fortnightly contribution of \$796.56 for any period between the two dates specified in subsection 1 is entitled to a benefit of \$0.80 for every fortnight they paid the contribution.

5 Higher contribution scheme benefit (29 January 2015 and 10 February 2016)

- (1) This section applies to a member to whom all of the following apply.
 - (a) The member paid a contribution under the higher contribution scheme between 29 January 2015 and 10 February 2016 inclusive, under section 7.5.44 of *Defence Determination 2005/15*, as in force at that time.
 - (b) The member paid a contribution for a Rent Band 2 or Amenity Group B property.
- (2) A member who paid a fortnightly contribution of \$712.48 for a Rent Band 2 or Amenity Group B property for any period between the two dates in subsection 1 is entitled to a benefit of \$2.12 for every fortnight they paid the contribution.

6 Higher contribution scheme benefit (29 January 2015 and 10 February 2016)

- (1) This section applies to a member to whom all of the following apply.
 - (a) The member paid a contribution under the higher contribution scheme between 29 January 2015 and 10 February 2016 inclusive, under section 7.5.44 of *Defence Determination 2005/15*, as in force at that time.
 - (b) The member paid a contribution for a Rent Band 3 or Amenity Group C property.
- (2) A member who paid a fortnightly contribution of \$694.49 for a Rent Band 3 or Amenity Group C property for any period between the two dates specified in subsection 1 is entitled to a benefit of \$10.68 for every fortnight they paid the contribution.

EXPLANATORY STATEMENT

Defence (Housing Higher Contribution Scheme Benefit) Determination 2018 (No. 10)

This Determination is 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 legislative instruments subject to the *Legislation Act 2003*. These instruments are also subject to the interpretation principles in the AIA Act, as modified by section 58B of the Defence Act.

The purpose of this Determination is to make a payment to certain members of the Australian Defence Force (ADF) to reduce the amount of contributions paid for housing under the higher contribution scheme during 2014 and 2016.

A member with dependants could choose a property above their rank group eligibility under *Defence Determination 2005/15, Conditions of service*, as in force from time to time. The *Defence Determination 2005/15, Conditions of service* specified the amounts members were required to pay as their contribution for housing provided by the Defence Housing Australia. Different rates applied according to the member's rank and the grading of the property. Contributions for service residences were reviewed and adjusted annually based on independent assessment of the national average rent for Defence Housing Australia houses. During 2014 and 2016 there was an anomaly in the calculation of some of the contributions for housing. A payment under one section in this Determination will not preclude a payment being made to an eligible member under another section in this Determination.

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

Section 2 is the commencement provision for the Determination and includes a table setting out the details of the commencement of sections of the Determination. Column 1 of the table sets out the provisions in numbered items, column 2 sets out the commencement and column 3 sets out date/details. Information in column 3 does not form part of the Act, so information can subsequently be inserted in the column (or edited) in a published version of the Determination.

Section 3 provides that this instrument has authority under section 58B of the *Defence Act 1903*.

Section 4 applies to those members who made contributions under the Higher Contribution Scheme between 13 March 2014 and 28 January 2015, inclusive. The member must have paid a contribution for a Rent Band 3 or Amenity Group C property under *Defence Determination 2005/15, Conditions of service*, as amended by *Defence Determination 2014/5*, in the amount of \$796.56 per fortnight. An eligible member is entitled to a benefit of \$0.80 for every fortnight that the member made the specified contribution.

Section 5 applies to those members who made contributions under the Higher Contribution Scheme between 29 January 2015 and 10 February 2016, inclusive. The member must have paid a contribution of \$712.48 a fortnight for a Rent Band 2 or Amenity Group B property under *Defence Determination 2005/15, Conditions of service*, as amended by *Defence Determination 2014/68, Review of housing contributions and allowances – amendment*. An eligible member is entitled to a benefit of \$2.12 for every fortnight that the member made a contribution of \$712.48 for a Rent Band 2 or Amenity Group B property.

Section 6 applies to those members who made contributions under the Higher Contribution Scheme between 29 January 2015 and 10 February 2016, inclusive. The member must have paid a contribution of \$694.49 a fortnight for a Rent Band 3 or Amenity Group C property under *Defence Determination 2005/15, Conditions of service*, as amended by *Defence Determination 2014/68, Review of housing contributions and allowances – amendment*. An eligible member is entitled to a benefit of \$10.68 for every fortnight the member made a contribution of \$694.49 for a Rent Band 3 or Amenity Group C property.

Consultation

The Navy, Army, Air Force and Estate and Infrastructure Group were consulted in the development of this Determination. The rulemaker was satisfied that further external consultation was not required.

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 (Housing Higher Contribution Scheme) Determination 2018 (No. 10)

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 is the *Defence (Housing Higher Contribution Scheme) Determination 2018 (No. 10)*.

The purpose of this Determination is to make a payment to certain members of the Australian Defence Force (ADF) to reduce the amount of contributions paid for housing under the higher contribution scheme during 2014 and 2016 following an anomaly in the calculation of some of the contributions for housing.

Human rights implications

This Determination engages the following human right:

The person's right to an adequate standard of living engages article 11 of the International Covenant on Economic, Social and Cultural Rights. Article 11 ensures the realisation of this right, recognising to this effect the essential importance of an adequate standard of living. This includes housing.

Legitimate objective: Defence members are required to live in various posting locations throughout Australia. This could cause a member and their family financial hardship or low housing standards if they are required to live in a high cost rental location.

Reasonable, necessary and proportionate: The purpose of the Group Rent Scheme is to provide assistance with the cost of accommodation for a member and their family. Members are eligible to receive allowances which assist with the cost of accommodation at their posting location. The members are required to make contributions towards their subsidised accommodation, meals and utilities. The subsidy the Commonwealth provides is approximately 50% of the cost of these items. The rates are adjusted in-line with the Consumer Price Index and with the local rental markets to ensure that the member's contribution and allowances are reasonable and proportionate in relation to their posting location and yearly salary. This also helps maintain the value of the Commonwealth subsidy as a proportion of the costs. The benefit provided to members in this Determination assists members in maintaining their right to an adequate standard of living by providing members with financial assistance towards the cost of accommodation, and maintaining the value of the subsidy for food and utilities.

Conclusion

This Determination is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Fiona Louise McSpeerin, Assistant Secretary People Policy and Employment Conditions