



## RECOGNITION OF RELATIONSHIPS – INFORMATION SHEET

### Background

Defence has reviewed its policy for the recognition of relationships of ADF members and agreed to a more contemporary and equitable policy and process. The new Determination (Defence Determination 15/2016, [Dependants – amendment](#)) replaces DI (G) PERS 53-1 *Recognition of interdependent partnerships* on 1 July 2016.

There has been a fundamental shift in the philosophy surrounding the recognition of relationships in Defence. The determination standardises recognition requirements that are applied to married couples, de facto couples and those couples registered under State and Territory law (including same sex couples).

**Note:** If a member's relationship has already been recognised by Defence, and their partner has been recognised as a dependant (MWD or MWD(U)) they do not need to do anything. If a member has had their relationship recognised by Defence but has not been categorised as a MWD or MWD(U), they may apply to be recategorised, but will still be required to meet applicable eligibility criteria.

### Key messages

- Members in a registered relationship can now use their registration certificate to change their ADF personal data to reflect their relationship status.
- There are two steps required to gain access to benefits relating to MWD and MWD(U). The first is for the member to have their relationship recognised, and the second is to determine whether the member's partner is a dependant for the purposes of Defence benefits.
- Having a relationship recognised will not automatically trigger access to Defence benefits. This is determined by the dependency of the member's partner (i.e. they are living together at the member's posting location).
- For de facto couples, it is the member's responsibility to sign a statement declaring the existence of their relationship and provide evidence that supports their claim. Defence may then recognise that relationship. The decision maker should use their judgement when considering the evidence based on relevant legislative and policy requirements.



### Types of relationships

There are a range of relationships recognised by the Australian community. These include:

**Married:** A union of a man and woman to the exclusion of all others voluntarily entered into for life. A marriage certificate is evidence of this.

**Registered:** A relationship between two persons is registered under a prescribed law of a State or Territory. These relationships are currently recognised in the ACT, NSW, QLD, TAS and VIC. A State or Territory registration certificate is evidence of this.

**De facto:** A relationship between two persons that are a) not legally married to each other; b) not related by family; and c) have a relationship as a couple living together on a genuine domestic basis. Documents such as a rental agreement or mortgage deed are evidence of this. See 'Evidence of a de facto relationship' below.

### Administrative processes

In order to gain access to Defence benefits for having dependants, a two step process must be followed. To assist in understanding this process a [flow chart](#) can be found on the [Defence Pay and Conditions internet website](#), with additional information detailed below.

The difference between Step One and Step Two is that the first step involves recognising a couple's relationship, where Step Two involves assessing the degree of cohabitation at the member's posting locality in order to correctly categorise the member as MWD, MWD(U) or MWOD.

**Step One: Recognition of relationship:** The member is informing the organisation that they are in one of the three types of relationships outlined above.

Married and registered couples must complete *AD150 ADF Personal Data* and attach their marriage or registration certificate as evidence. Registered couples should select 'De facto' as their marital status<sup>1</sup>. De facto couples must complete the [Application for recognition of a de facto relationship](#)<sup>2</sup> form and attach a minimum of one piece of evidence that supports their claim that they live together on a genuine domestic basis. Living together on a genuine

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<sup>1</sup> This is due to current systems configurations; your marital status will be reflected as 'Common law' on PMKeyS.

<sup>2</sup> Completion of the *Application for recognition of a de facto relationship* form will only change marital status on PMKeyS. To update Primary Emergency Contact (PEC) or Next of Kin (NoK) in accordance with DI(G) PERS 11-4, web form AD150 is required.

domestic basis does not need to be in the posting location, nor does it need to be on a full time basis, to have the relationship recognised. This does not need to be on a full time basis. While it is not mandatory, the member may **choose** to provide more than one piece of evidence. The decision maker may use their knowledge and understanding of the member's circumstances to inform their decision making.

### Completing an application for recognition of a de facto relationship

The [Application for recognition of a de facto relationship](#) form requires the member to make a statement describing how they are living with their partner on a genuine domestic basis. Factors that may be taken into account by the decision maker are listed below<sup>3</sup>. The member may wish to address any or all of these factors in their statement and provide supporting evidence:

- Duration of the relationship;
- Nature and extent of their common existence;
- Whether a sexual relationship exists;
- The degree of financial dependence or interdependence, and any arrangements for financial support between them;
- Ownership, use and acquisition of their property;
- Degree of mutual commitment for a shared life;
- Care and support of children; and
- Reputation and public aspects of the relationship.

### Evidence of a de facto relationship

The following documents are examples of evidence that may be used to show that two people live together on a genuine domestic basis:

- Rental agreement, mortgage deed or land/property title in both names;
- Joint bank account;

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<sup>3</sup> These factors are taken directly from the [Acts Interpretation Act Part 2, Section 2F](#)

- Bills in both names (i.e. utility, phone, rates notice, home and contents insurance);
- A member's will indicating their partner as a primary beneficiary;
- Proof the member's partner has power of attorney or guardianship;
- Reciprocal life insurance policies; and
- Statutory declaration indicating or recognising the relationship between the member and partner, such as the knowledge of the relationship existing on a genuine domestic basis.

This is not a definitive or exhaustive list. Other forms of evidence can be used to support the statement of relationship, but if a decision maker reasonably believes that there is a need for more information, they can request additional information.

**Remember:**

- The process for recognising a relationship and recognising a dependant are separate.
- Members, their partners and anyone providing supporting documentation should be aware of the implications for providing false or misleading information:
  - Section 56 of the *Defence Force Discipline Act 1982* creates a military disciplinary offence for a false statement made in an application for a benefit.
  - Sections 137.1 and 137.2 of the *Criminal Code Act 1995* create offences for providing false or misleading information or documents.

**Step Two: Recognition for categorisation:** This step is aligned to Defence benefits. The member is applying to be categorised as a member with dependants. This is a separate process to recognising a relationship, and remains generally the same under the new policy. Information on this process can be found on the [Pay and Conditions](#) website.

### Information for decision makers

As a decision maker, what do I need to do differently?

For the most part, the changes are in how Defence recognises de facto couples. While recognition of married couples remains unchanged, couples in a registered relationship may now use their registration certificate in their application for a change in personal data (AD150). Couples in a

registered relationship should select the 'De facto'<sup>4</sup> marital status on the AD150 and attach their registration certificate.

When recognising different types of relationships, Defence has adopted a consistent approach. Defence will recognise the member's relationship at any time after the relationship has been established – married, registered or de facto.

For the recognition of a de facto relationship two primary changes have been made in policy to achieve this consistent approach.

- Members need to provide a minimum of one piece of evidence showing that they are living with a partner on a genuine domestic basis, rather than the four previously required. The member may choose to provide additional evidence, however it is not mandatory. The decision maker should use their judgement when considering the evidence based on relevant legislative and policy requirements; and
- A member and their de facto partner no longer need to be living together for more than 90 days before their relationship can be recognised, but they do need to be living together on a genuine domestic basis. This does not have to be at the member's posting location, or on a full time basis.

**Note:** Under the old system members in relationships less than 90 days could be recognised, just not at the unit level.

### Obligations under the new determination – recognition of de facto couples

In determining whether two people are a de facto couple, all the circumstances of their relationship are to be taken into account, including any or all of the factors listed in Section A of the form. The decision maker may use their knowledge and understanding of the member's circumstances to inform their decision making.

Once the member has declared that they are in a de facto relationship and provided evidence to support it, the decision maker should accept the member's claim. If the member's statement and/or evidence do not demonstrate that they are living with their partner on a genuine domestic basis, the decision maker may request further information and make a decision.

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<sup>4</sup> This is due to current systems configuration; your marital status will be reflected as 'Common law' on PMKeyS.

If any false or misleading information is provided, the member and their partner can be prosecuted under the *Defence Force Discipline Act 1982* or the *Criminal Code Act 1995*, respectively.

### Change in circumstances

A member is responsible for notifying Defence about a change in their personal circumstances. If the member's circumstances have changed and they are no longer in a recognised relationship, they must inform their Commanding Officer in writing within 14 days after it has happened or as soon as reasonably practicable.

Defence may change the member's benefits if it becomes aware of a change in their relationship status. This may occur in circumstances where the member has either provided false or incorrect information or has failed to inform Defence on changes to their relationship status.

### Points of Contact

To access more information, visit the Recognition of relationships and dependants page on the [Pay and Conditions website](#).

If **members** would like further information, or have any questions please contact your relevant Personnel Office.