



Australian Government
Department of Defence

DEFENCE INSTRUCTIONS (GENERAL)

Department of Defence
CANBERRA ACT 2600

1 December 2005

Amendments to Defence Instruction (General) PERS 53-1 are issued pursuant to section 9A of the *Defence Act 1903*.

ALAN HENDERSON, PSM
Acting Secretary

A.G. HOUSTON, AO, AFC
Air Chief Marshal
Chief of the Defence Force

LIST B—ISSUE NO PERS B/19/2005

Revised instruction

PERS 53-1 *Recognition of interdependent partnerships*
AMDT NO 1
Complete Revision

Single Service filing instructions

This instruction should be filed as:

1. NAVY PERS 16-15
2. ARMY PERS 117-2
3. AIR FORCE PERS 29-28

Cancellation

DI(G) PERS 53-1 ISSUE NO PERS B/5/2002 of 20 MAR 2002 is cancelled.

Note

This amendment incorporates a title change.

RECOGNITION OF INTERDEPENDENT PARTNERSHIPS

INTRODUCTION

1. The Government has agreed to extend certain conditions of service entitlements to Australian Defence Force (ADF) members in interdependent relationships, including same sex couples. Accordingly, this instruction has been revised to detail the policy guidance for ADF members who wish to seek recognition of an interdependent partnership. Criteria for recognition of all other interdependent relationships are outlined in the *ADF Pay and Conditions Manual* (PACMAN).

2. A member seeking ADF recognition of an interdependent partnership must prove that their partner is a person who lives in a common household with the member in a bona fide, domestic, interdependent partnership, although not legally married to the member. Where the interdependent partnership is recognised by the appropriate Service authority, a member may be eligible for financial entitlements and conditions of service which apply to a member with dependants as defined in PACMAN.

AIM

3. The aim of this instruction is to detail the ADF policy on the recognition of interdependent partnerships and the administrative procedures that must be followed in relation to an application for recognition.

DEFINITIONS

4. For the purposes of this instruction the following definitions apply:

- a. **Approving Authority**—decisions made under this instruction may be made by a person who performs the duties of any of the following list of positions:
 - (1) Commanding Officers (COs);
 - (2) Officer Commanding (OC) an independent sub-unit;
 - (3) Officers not below the rank of O-3 (Captain (Equivalent (E)) or Warrant Officer Class One (E)—for recruiting applicants only; and
 - (4) Director of Entitlements (DE) or delegate (for exceptional circumstances only).
- b. **Interdependent partner**—is a person who, regardless of gender, is living in a common household with the member in a bona fide, domestic, interdependent partnership, although not legally married to the member. This includes those previously recognised by the ADF under the previous Defence Instruction (General) PERS 53-1—*Recognition of de facto marriages*, as having a de facto marriage, and also allows for those now recognised on the basis that they are in an interdependent same sex partnership.
- c. **Common household**—means a home in which the member and their partner normally live and in which they have pooled a significant amount of their household possessions for joint use as a consequence of establishing the partnership. The term common household does not include Service provided living-in accommodation.
- d. **Permanent basis**—is when the member and their partner normally reside under the same roof, in the same locality, in a common household. Neither the member nor their partner is to be a member of another household. Specifically, for recognition purposes, the member and their partner are not to be living in separate localities, with the couple only spending time in the common household during weekends, holidays etc.

SCOPE

5. This instruction provides guidance on the recognition of interdependent partnerships for:
 - a. members of the Permanent Forces;
 - b. members of the Reserve Forces (other than Standby Reserves); and
 - c. a person to whom an offer of appointment or enlistment has been made for service in one of the elements shown in subparagraphs 5.a.–b. inclusive.
6. This instruction provides only for the recognition of interdependent partnerships for the purposes of providing benefits to eligible ADF personnel under the *Defence Act 1903*. The instruction does not confer rights or benefits under any other laws.

POLICY

Interdependent partnership criteria

7. Not every relationship is one that satisfies ADF requirements for a recognisable interdependent partnership. The core requirements to be met prior to the member completing both the application for recognition of an interdependent partnership in [annex A](#) and the Statutory Declaration, including the four items of documentary evidence, in [annex B](#), are that the member and their partner:
 - a. have lived together on a permanent basis, in a bona fide, domestic, interdependent partnership as per subparagraphs 4.b. and 4.d. for a period of not less than 90 continuous days; and
 - b. have maintained a common household as per subparagraph 4.c.
8. The Approving Authority may decide to recognise an interdependent partnership for a member and their partner who have not lived together for 90 continuous days, if they consider that the couple:
 - a. are temporarily separated because of Service exigencies or unforeseen circumstances;
 - b. lived together on a permanent basis, in a bona fide, domestic, interdependent partnership in a common household immediately before the member was formally notified of the event resulting in the separation;
 - c. continue to maintain their common household; and
 - d. commenced living together in the common household at least 90 days before the application for recognition of the interdependent partnership was submitted.
9. To receive ADF recognition of an interdependent partnership, a member, in addition to meeting the requirements in [paragraph 7.](#) or [8.](#), is required to provide the Approving Authority with:
 - a. a completed Application for Recognition of an Interdependent Partnership form (see [annex A](#));
 - b. a completed Statutory Declaration (see [annex B](#)) to attest that an interdependent partnership has been established and is supported by the existence of four items of documentary evidence, as detailed in [annex B](#); and
 - c. those four items of documentary evidence.
10. Applicants are reminded that it is an offence to wilfully make a false statement in a Statutory Declaration, and that there are civil penalties for doing so, including imprisonment for a term of four years. In addition, the ADF may take disciplinary or administrative action against a member, and/or require a member to repay any entitlements that they receive as a result of incorrect information provided in relation to their request for recognition of an interdependent partnership.

11. An application for recognition of an interdependent partnership is not to be approved where a member is in receipt of benefits or entitlements which are payable in respect of another spouse or partner.

Approval of an interdependent partnership

12. The burden of proving the existence of an interdependent partnership lies with the member, not the Service. Unless a member's request for recognition of an interdependent partnership is made in accordance with the procedures and guidelines in this instruction, the partnership will not be recognised.

13. There may be situations when, although an application does not meet the requirements of this instruction, exceptional circumstances exist which may warrant further consideration. In such cases, the application, along with a member's supporting statement and a recommendation by the member's CO, OC or recruiting officer is to be forwarded to DE or delegate (CP2-6-166) for consideration, with an information copy to Director Military Personnel Policy (DMPP) (R8-2-30).

14. Approving Authorities are reminded that the criteria applied in this instruction are the only criteria to be applied to a member seeking recognition of an interdependent partnership.

15. Approving Authorities should be mindful of the guidelines contained within chapter 5—'Decision-Maker's Guide on Defence Conditions of Service' in the *ADF Pay and Conditions Manual Technical and Administrative Explanations* (PACMATE). Accordingly, where an application for recognition of an interdependent partnership is not approved, the Approving Authority is to provide the member with an explanation of why it was rejected.

ADMINISTRATIVE PROCEDURES

Recruiting staff and applicants

16. Recruiting staff have the responsibility to ensure that new applicants for the Permanent or Reserve Forces are made aware of this instruction. Those wishing to apply for recognition of an interdependent partnership must complete their application, (including all documentary evidence) as soon as they accept an offer of appointment/enlistment. The completed pack, with supporting documentation, is to be returned to recruiting staff at the first available opportunity. This will allow the Approving Authority, as nominated in subparagraph 4a., sufficient time to consider the application and if approved, for administrative staff to arrange removals, housing and other entitlements. The effective date in such cases is to be the date of appointment/enlistment. A copy of the completed pack is to be placed on the applicant's recruiting dossier and forwarded to the gaining unit upon appointment/enlistment. The member's dependant status categorisation is to be annotated accordingly by recruiting staff.

Date of effect of recognition of an interdependent partnership

17. For the purposes of receiving conditions of service benefits applicable to a member with dependants, the effective date will be on and from the date on which the member signs the Statutory Declaration, except [paragraph 16](#).

Member or partner under 18 years of age

18. Where either partner is under 18 years of age at the time of application for recognition, the interdependent partnership is only to be recognised by the ADF if the person under 18 years of age has gained the written consent to the cohabitation from a parent or guardian, subject to any relevant legislation for the guardianship or protection of children in the State or Territory where the couple lives. The application cannot be approved where the age of either partner does not meet the age of consent in the relevant jurisdiction as per the table below.

19. As the age of consent differs between States and Territories, a Service member in a recognised interdependent partnership who is relocated to a jurisdiction where one or both of the partners is below the age of lawful consent (see table below) will not attract any benefits associated with member with dependants status. If the recognised partner remains in the locality where the lawful age of consent is met, the Service member may be eligible for benefits associated with member with

dependant (separated) status, providing they meet the requirements of PACMAN. Reunion travel taken at the expense of the Commonwealth should not be embarked upon to a jurisdiction where one or both of the partners do not meet the age of consent in that jurisdiction.

Minimum age of consent within each State and Territory							
NSW	ACT	QLD ^(a)	VIC	SA	WA	NT ^(a)	TAS
16	16	16	16	17	16	16	17

Note

(a) Age of consent for same sex relations is 18 years.

Processing of requests for recognition of interdependent partnerships where both partners are Australian Defence Force members

20. Applications for recognition of interdependent partnerships, where both partners are members of the ADF, are to be processed by the unit of the member who lodges the request. In all instances, only one member is to submit an application. Following consideration of the application, an information copy of the application and the Approving Authority's decision is to be forwarded by the unit to the CO/OC of the unit where the non-applying partner is serving. If the application is not approved, any future applications for recognition of the same partnership are to be submitted by the member who submitted the original application.

Applicant's responsibility once application is approved

21. Following approval of an application, the Approving Authority is to inform the member that it is the applicant's responsibility to submit either Form AA 157—*Application to Live In, Live Out and Categorisation*, or Form AD 291—*Application for Member with Dependants (Separated) (MWD(S)) Categorisation*, whichever is applicable.

Change in circumstances

22. An interdependent partnership will be taken to have ceased for the purposes of this instruction when the member no longer meets the definition of an interdependent partner, for example, the member and their partner marry or they cease to live with their interdependent partner on a bona fide, domestic basis, in a common household. The member must advise their Approving Authority, as nominated in subparagraph 4.a., in writing, of any changes or impending changes that will, or could affect, the continued recognition of their interdependent partnership. Additionally, a member must submit Form AA 157 as soon as practicable after the interdependent partnership ends.

23. If a recognised interdependent partnership has been deemed to have ceased, and the couple reunites and wish to have their interdependent partnership re-recognised, the member is to submit a new application and produce current documentary evidence to re-qualify as per [paragraph 9](#). Where both partners are members of the ADF, the member who submitted the original application is to apply.

Note

Suggestions on how to improve this policy should be emailed to DPE.Feedback@defence.gov.au.

Annexes:

- A. [Application for recognition of an interdependent partnership](#)
- B. [Statutory Declaration for recognition of an interdependent partnership](#)

Sponsor: DGCMP (DMPP)

APPLICATION FOR RECOGNITION OF AN INTERDEPENDENT PARTNERSHIP

PE 357
Revised Dec 2005

STAFF-IN-CONFIDENCE *(After first entry)*

Department of Defence

Application for Recognition of an Interdependent Partnership

Applicant's details				
Employee ID	Rank	Given name(s)	Family name	
Date of birth	Service	Unit or ship		
Permanent residential address				
Partner's details <i>(Complete applicable fields)</i>				
Employee ID	Rank	Given name(s)	Family name	
Date of birth	Service	Unit or ship		
Permanent residential address				
<p>I hereby apply for recognition of an interdependent partnership between myself and my partner, whose details are listed above.</p> <p>I have attached the required four items of documentary evidence and the Statutory Declaration to this application. Should this application be approved, I understand I must advise my Approving Authority <i>(as nominated in subparagraph 4(a) of DI(G) PERS 53-1)</i> in writing of any changes or impending changes that will or could affect the continued recognition of this interdependent partnership.</p>				
Signature of member		Printed name	Date	
<p>I acknowledge that my partner has applied for recognition of our interdependent partnership, and that if approved, may affect any benefits for which I am currently in receipt of <i>(eg Centrelink payments)</i>.</p>				
Signature of interdependent partner		Printed name	Date	
Approving authority				
The interdependent partnership between			Printed name	
and			Printed name	
			Date	
<input type="checkbox"/> Is approved with effect from				
<input type="checkbox"/> Is not approved				
Signature	Printed name	Rank	Appointment	Date

Stock No 7530-66-126-8737

STAFF-IN-CONFIDENCE *(After first entry)*

STATUTORY DECLARATION FOR RECOGNITION OF AN INTERDEPENDENT PARTNERSHIP

STAFF-IN-CONFIDENCE *(After first entry)*

Recognition of Interdependent Partnership

COMMONWEALTH OF AUSTRALIA

STATUTORY DECLARATION

Statutory Declarations Act 1959

(1) Insert the name, address and occupation of person making the declaration

I, _____

make the following declaration under the *Statutory Declarations Act 1959*:

(2) Set out matter declared to in numbered paragraphs

- (1) I have read and understood DI(G) PERS 53-1, *Recognition of Interdependent Partnerships*.
2. I understand that if I wilfully make a false statement in a statutory declaration I may be subject to disciplinary or administrative action. In addition, the ADF may require me to repay any entitlements that I have received as a result of incorrect information I have provided in relation to my request for recognition of an interdependent partnership.
3. That my partner _____ (full name) is a person who lives with me as per the requirements of DI(G) PERS 53-1, and, although not legally married to me, has lived with me since _____ (insert date).
4. That, as indicated, I have provided four separate items of documentary evidence, from the alternatives listed below:
 - Evidence of a will or life assurance policy which nominates your partner as principal beneficiary, or co-beneficiary with children.
 - If your partner was, before beginning to live with you, in receipt of a Commonwealth pension or benefit from which they may be excluded by law, evidence that your partner has notified the relevant agency.
 - Evidence that you have enrolled your partner in a health insurance scheme, or arranged to pay the Medicare levy because of his or her changed domestic status.
 - You have named your partner as a person to be notified for Service purposes.
 - Statutory declarations from next of kin or close relatives stating that they have regarded you and your partner as
 - interdependent partners for a minimum period of 90 days, and giving any other information that they may consider appropriate.
 - If your partner has no independent income, evidence of regular financial support by you for a minimum period of 90 days.
 - Evidence that you as a couple regularly operate, a joint account.
 - If you and your partner live in rented accommodation, either evidence that both names appear on the lease, or a statement from the landlord or agent declaring that he or she rented the premises at your address to a couple
 - (rather than two singles or one person). If the accommodation is leased through the Defence Housing Authority, evidence that you have applied for an additional person to reside with you, and the subsequent approval. These documents must show a commencement date of a minimum period of 90 days prior to the application.
 - Documents to show that you and your partner have purchased or are purchasing as joint owners, valuable property.
 - Evidence of a recognised partnership from other Government agencies.
 - One partner has changed his or her name by deed poll, or informally calls himself or herself by the name of the other partner (as shown by any documents which refer to him or her as Mr or Mrs "X").
 - A copy of a birth certificate of any children of the union.
 - Evidence of any financial arrangements for sums in excess of \$1000 which you and your partner may have agreed between you (eg personal loan, payment of one or other's debts, guarantor of loan).
 - Evidence that you or your partner has given the other partner access to their personal bank account(s) for bill paying purposes or power of attorney during any separation.
 - Evidence of either one household bill in joint names, or two separate household bills, one in each partner's name.
5. That I will advise my Approving Authority in writing of any changes or impending changes that will or could affect the continued recognition of my interdependent partnership.

STAFF-IN-CONFIDENCE *(After first entry)*

STAFF-IN-CONFIDENCE (After first entry)

Statutory Declaration made by:

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under Section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

(3) Signature of person making the declaration

(3) _____

(4) Place
(5) Day
(6) Month and year

Declared at (4) _____ on (5) _____ of (6) _____

(7) Signature of person before whom the declaration is made (see over)

Before me,
(7) _____

(8) Full name, qualification and address of person before whom the declaration is made (in printed letters)

(8) _____

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of four years - see Section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the Criminal Code applies to all offences against the *Statutory Declarations Act 1959* - see Section 5A of the *Statutory Declarations Act 1959*.

STAFF-IN-CONFIDENCE (After first entry)

STAFF-IN-CONFIDENCE *(After first entry)*

A statutory declaration under the *Statutory Declarations Act 1959* may be made before -

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
Bailiff

Bank officer with five or more continuous years of service

Building society officer with five or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with five or more years of continuous service

Employee of the Australian Trade Commission who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
- (c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3(d) of the *Consular Fees Act 1955*; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with five or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Employee of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with five or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public

Permanent employee of the Australian Postal Corporation with five or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
 - (b) a State or Territory or a State or Territory authority; or
 - (c) a local government authority;
- with five or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution

STAFF-IN-CONFIDENCE *(After first entry)*