



## Defence Determination 2004/24

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

Dated 29 June 2004

S J PARR  
Director General  
Personnel Policy and Employment Conditions  
Defence Personnel Executive

**1 Name of Determination**

This Determination is Defence Determination 2004/24, Commencement of the *Military Rehabilitation and Compensation Act 2004* – consequential amendments.

**2 Date of effect**

This Determination commences on 1 July 2004.

**3 Amendment**

Defence Determination 2003/21, Conditions of Service, as amended,<sup>1</sup> is amended as set out in this Determination.

**4 Division 2 of Part 5 of Chapter 9 (Additional military compensation)**

*insert at the beginning*

**9.5.1A Limited application of benefits under this Division**

- (1) This Division applies only to injuries suffered by a member after 10 June 1997 and before 1 July 2004, and which resulted in the death or severe impairment of the member.
- (2) This Division does not apply to any injury for which a member is entitled to compensation under the *Military Rehabilitation and Compensation Act 2004*.

**5 Clause 9.5.2 (Definitions)**

*add at the end*

*The Secretary* means the Secretary of the Department of Veterans' Affairs.

**6 Subclause 9.5.3 (4) (Some aspects of dependency)**

*omit*

was born alive after than time

*insert*

was born alive after that time

**7 Paragraph 9.5.5 (1) (a) (Entitlement to an additional death benefit)**

*substitute*

- (a) the member died, or dies, as a result of an injury suffered on or after 10 June 1997 but before 1 July 2004; and

**8 Paragraph 9.5.8 (1) (a) (Entitlement to a severe injury adjustment)**

*substitute*

- (a) on or after 10 June 1997 but before 1 July 2004, suffered a severe injury in relation to service in respect of which SRC compensation is payable; and

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**NOTE**

1. Defence Determination 2003/21 as amended to date. For previous amendments see Note to Defence Determination 2004/1 and see also Defence Determinations 2004/1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23.

# EXPLANATORY STATEMENT

## Defence Determination 2004/24

This Determination amends Defence Determination 2003/21, Conditions of Service (the Principal Determination), made under section 58B of the *Defence Act 1903* (the Act). Chapter 9 of the Principal Determination sets out provisions dealing with compensation and benefits on termination, illness or death for members of the Australian Defence Force (ADF).

The main purpose of this Determination is to provide for the consequences of the commencement of the *Military Rehabilitation and Compensation Act 2004* (MRC Act) on 1 July 2004. The MRC Act will supersede and consolidate the compensation scheme which currently applies to serving members (the former scheme).

The former scheme consisted of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) and the *Military Compensation Act 1994*, augmented by delegated legislation in the Principal Determination. This delegated legislation deals specifically with additional death benefits and severe injury adjustments and is set out in Chapter 9, Part 5, Division 2 of the Principal Determination.

The new scheme, which will come into effect on 1 July 2004, will be contained entirely within the MRC Act and will be applied to injuries suffered (and death resulting from injuries suffered) after the commencement of the MRC Act on that day. The new scheme is to be administered by the Minister for Veterans' Affairs.

However, the former scheme will continue to apply to members who are severely impaired or die as a result of injuries suffered before 1 July 2004 and compensable under the former scheme.

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

Clause 2 provides that the Determination takes effect on 1 July 2004 in order to co-incide with the commencement of the MRC Act.

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

Clauses 4 to 8 amend the provisions dealing with additional military compensation. These provisions refer to a common commencement date of 10 June 1997 as the time at which these provisions came into effect, as set out in Defence Determination 1998/3 of 9 February 1998.

Clause 4 inserts a new clause which limits the entitlements under this Division of the Principal Determination to those injuries suffered on or after 10 June 1997, but before 1 July 2004, which result in death or severe impairment. It also provides that the Division does not apply to an injury which is compensable under the MRC Act.

For the purposes of various existing discretions in these provisions, clause 5 inserts a definition of 'the Secretary' as being the Secretary of the Department of Veterans' Affairs, in accord with management of the functions set out in the MRC Act.

Clause 6 corrects a typographical error.

Clause 7 limits entitlement to additional death benefit to situations where death results from injuries suffered on or after 10 June 1997 but before the commencement of the MRC Act on 1 July 2004.

Clause 8 limits entitlement to severe injury adjustment to severe injuries suffered after 10 June 1997 but before the commencement of the MRC Act.

Authority: Section 58B of the  
*Defence Act 1903*