



## Defence Determination 2004/50

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 23 December 2004

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

**1 Citation**

This Determination is Defence Determination 2004/50, Overseas conditions of service – amendment.

NOTE: This Determination commences on the day on which it is made: see *Defence Act 1903*, subsection 58B(4).

**2 Amendment**

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

**3 Paragraph 13.2.1.a (Member this Division does not apply to)**

*substitute*

- a. Members who hold the rank of Colonel or lower, travelling to, on or from a deployment.

**See:** [Clause 17.3.2](#) Class of air travel – warlike and non-warlike deployments

**4 Paragraph 13.2.1.c (Member this Division does not apply to)**

*substitute*

- c. Groups of members who hold the rank of Colonel or lower, travelling together by commercial air service on operations, exercises, training or to perform ceremonial duties. These groups are entitled to travel economy class.

**Example:** A class of members on an overseas study tour, or members of a ceremonial party or military band.

**Exception 1:** A member with the rank of Brigadier may choose to travel in business class.

**Exception 2:** The CDF may approve a higher class of travel for a class of members on an overseas study tour. The CDF must consider the costs and benefits of travel at the higher class, the members' rank, and the nature of the study tour.

**5 Clause 13.3.6.1 (Travel costs while living out)**

*omit*

A member who lives out during short-term duty overseas may use the travel card to pay travel costs during the period of duty. The table below sets out their entitlements.

*insert*

A member who lives out during short-term duty overseas may use the travel card to pay the travel costs set out in the table below.

**6 15.2.5 (Member this Part does not apply to)**

*substitute*

1. This Part does not apply to a member who is away from their posting location. Division 6 contains exceptions to this rule.

**See:** [Clause 15.2.30](#) Recreation leave

[Clause 15.2.31](#) Absence from posting location

[Clause 15.2.33](#) Members leaving posting location before their dependants

**See also:** [Clause 15.1.3](#) Member this Chapter does not apply to. Clause 15.1.3 outlines some other situations in which members are not entitled to overseas living allowance or any other long-term posting conditions.

2. This Part does not apply to a member while they are on a period of long service leave. This is because overseas living allowance is not a relevant allowance for the purpose of Chapter 8 Part 2.

## **7 Subclause 15.2.22.2 (Allowance if social security benefit lowered)**

*omit*

The member is entitled to an increase in their overseas living allowance by the amount that a relevant benefit is reduced. The member must meet both these conditions.

*insert*

The member is entitled to an amount equal to the reduction in the amount of any benefit listed under subclause 1, if they meet both these conditions.

## **8 Subclause 15.2.22.3 (Allowance if social security benefit lowered)**

*omit*

overseas living allowance under this clause

*insert*

amount under subclause 2

## **9 Subclause 15.2.22.4 (Allowance if social security benefit lowered)**

*substitute*

4. The member is entitled to continue receiving the additional amount under subclause 2, if all these conditions are met.

- a. They have been entitled to an additional amount under subclause 2.

- b. A parent of the child returns to Australia. Within three weeks, the parent applies for the social security benefit in relation to which they were entitled to the additional amount under subclause 2.

## **10 Clause 15.4.8 (Costs incurred under terms of occupancy)**

*substitute*

1. The Commonwealth is not a party to a private lease that the member enters into.

**Exception:** The Commonwealth may become a party to the lease by agreement in writing.

2. A member may be required under their lease to pay property taxes or make other council payments.
3. The member is entitled to be paid an amount equal to these costs.

## 11 **Clause 15.4.8 (Costs incurred under terms of occupancy)**

*insert after the clause*

### 15.4.8A **Dispute about damage to property**

1. Property leased by a member to live in at the post may be alleged to have been damaged. If this happens, a dispute may arise between the member and their landlord over the terms of the lease or return of the rental bond.
2. The CDF may pay the member an amount equal to the amount the member can show they had to pay for damage alleged to have been done to the property by them. The member must meet these conditions.

- a. The member did not breach the terms of the lease.
- b. The member did not cause damage to the property by their wrongful or negligent act.

**Example:** The member reported a faulty water heater but the landlord took no steps to fix it. The water heater flooded the home and damaged the carpet. The member had taken steps to prevent the damage and did not cause it.

**Non-example:** If the member failed to take steps to prevent their child from kicking holes in walls, then the member's negligence could be seen to have caused the damage.

- c. The member cannot get their bond or rent returned, or has been forced to pay an extra amount to fix the alleged damage.

## 12 **Subclause 15.5.10.2 (Ancillary services)**

*substitute*

2. An ancillary service includes an additional service not covered by Medicare, but covered by Medibank Private Extras in Australia. A list of examples is provided in the table below.

**Note:** As all dependants of members are required to obtain certificates of fitness before departure, the principle for recognising an ancillary service for reimbursement under this Part is that there is a clearly identified medical or dental need for it.

**See:** Chapter 14 Part 2 Division 2 Pre-departure certificate of fitness

<b>An ancillary service includes services like these...</b>	dental treatment that is medically necessary
	optical services
	<b>Example:</b> An eligible person requires a change of prescription lenses. The member would be entitled to be repaid for the costs incurred.
	physiotherapy
<b>and excludes services like these...</b>	ambulance transport
	cosmetic dental treatment
	<b>Example:</b> An eligible person wishes to have their teeth capped and existing amalgam fillings replaced with a synthetic type. This work would be for cosmetic reasons only. The member would not be entitled to repayment for the costs incurred.
	Cosmetic optical treatment
	<b>Example:</b> coloured contact lenses with no corrective property.

**13 Clause 16.4.8.(1) (Posting longer than the ordinary posting period)**

*omit*

The number of trips must be rounded up to the next whole number.

*substitute*

The number of trips must be rounded to the nearest whole number.

**14 Clause 16.4.9 (1) (Posting shorter than the ordinary posting period)**

*omit*

The number of trips is rounded up to the next whole number.

*substitute*

The number of trips must be rounded to the nearest whole number.

**15 Subclause 17.3.2.3 (Class of air travel – warlike and non-warlike deployments)**

*substitute*

3. If members travel by commercial air service, they are entitled to travel in the class that corresponds to their rank, as follows.

- a. For a member who holds the rank of Brigadier or higher — business class.
- b. For a member who holds the rank of Colonel or lower — economy class.

**Exception:** The CDF may authorise the member to travel business class. Approval may only be given if the CDF is satisfied that there are special circumstances that require the member to travel business class.

**16 Annex 17.9.A (Deployment allowance – operational areas)**

*substitute*

The Annex set out in the Attachment.

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**NOTE**

1. Defence Determination 2003/21 commenced on 1 August 2003 and has been amended by 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, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49.

**ATTACHMENT**

## Annex 17.9.A: Deployment allowance – operational areas

Item	Deployment	Operational area
1.	Multinational Force and Observers in the Sinai	Egypt between the east bank of the Suez Canal and the international boundary between Egypt and Israel established by the peace treaty between Egypt and Israel signed in Washington on 26 March 1979, and an adjoining area extending 5 km into Israel
2.	NATO Stabilisation Force	The land area of the Former Socialist Federal Republic of Yugoslavia
3.	UN Kosovo Force	Albania, Serbia and Montenegro and the Former Yugoslav Republic of Macedonia
4.	UN Mission of Support in East Timor	East Timor and the territorial sea of East Timor
5.	UN Mission in Ethiopia and Eritrea	Ethiopia and Eritrea
6.	UN Truce Supervision Organisation and UN Special Coordinator in the Occupied Territories	Egypt, Israel, Jordan, Lebanon and Syria
7.	ADF contribution in support of the Australian Government's Strengthened Assistance Framework Program to assist the Solomon Islands Government	The Solomon Islands and the territorial sea of the Solomon Islands

# EXPLANATORY STATEMENT

## Defence Determination 2004/50

This Determination amends Defence Determination 2003/21, Conditions of Service (the Principal Determination), made under section 58B of the *Defence Act 1903* (the Act).

The purpose of this Determination is to amend several sections of the Principal Determination which affect the overseas conditions of service for the ADF.

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

This Determination provides that the Determination commences on the day on which it is made, as provided by subsection 58B (4) of the Act.

Clause 2 specifies that the amendment is made to the Principal Determination, as amended.

Clauses 3 and 4 amend clause 13.2.1 to provide an entitlement to travel business class to members who hold the rank of Brigadier or higher, travelling with a deployment, on operations, exercises, training or to perform ceremonial duties. This change represents the actual practice currently followed in relation to senior officer travel.

Clause 5 inserts new words into subclause 13.3.6.1 of the Principal Determination to remove confusion about a limit placed on the time during which a member may use a travel card. The words “during the period of duty” have been removed. This is because while the words were originally intended to make clear that there should be a connection between travel expenses and duty, members became confused about whether they could use the card during those parts of their trip when they were technically not required to attend for duty, such as the evening meal. The removal of the phrase will assist in the administration and reconciliation of the travel card's use by removing any uncertainty about the time that the member was actually 'on duty' during the trip. This change does not permit members to use the travel card for costs that are not related to their duty travel.

Clause 6 substitutes clause 15.2.5 of the Principal Determination, which deals with members who are not eligible for overseas living allowance. A new subclause 15.2.5.2 is inserted to make clear that members who are not entitled to overseas living allowance while on a period of long service leave. This simply restates current policy in clearer words – Part 2 of Chapter 8 of the Principal Determination already has this effect.

Clause 7 amends subclause 15.2.22.1 of the Principal Determination. The subclause provides mechanism to ensure that members posted overseas do not lose social security benefits that they would be entitled to if they remained in Australia. The subclause provided that a member serving overseas could receive a corresponding increase in their overseas living allowance should they incur a reduction in a Commonwealth child support benefit. This has been amended to provide that the member is entitled to an amount representing the reduced benefit, payable separately to overseas living allowance.

Clauses 8 and 9 are consequential amendments to clause 15.2.22 due to the amendment introduced by clause 7. Clause 9 also makes a minor amendment to remove paragraph 15.2.22.4.c, which contained a circular reference to a future consideration, thus rendering the subclause administratively unworkable.

Clause 10 substitutes clause 15.4.8 of the Principal Determination, which relates to housing and accommodation for all personnel posted offshore. In some countries, members assume responsibility under their lease for payment of property taxes, rates and other council taxes related to the house they live in. This is not the situation in Australia. This change in the clause provides for members to receive a payment to help them cover these costs, should they arise.

Clause 11 inserts a new clause 15.4.8A into the Principal Determination. Australia has comprehensive regulations with respect to a tenant's rights, but this is not the situation in many other countries. There have been instances where members posted offshore have had difficulty in getting bond monies refunded to them at the end of their tenancy. This clause gives the CDF the discretion to pay the member an amount equal to that of the bond. The CDF must be satisfied that the member did not cause the damage to the property by their own wrongdoing or negligence.

Clause 12 substitutes subclause 15.5.10.2 of the Principal Determination, which describes ancillary services that may be reimbursed to a member posted overseas. The new subclause clearly distinguishes the type of services that may be reimbursed to a member as those for which there is an identified medical or dental need. This means that members who receive treatments that are purely cosmetic in nature do so at their own expense.

Clauses 13 and 14 amend subclauses 16.4.8.1 and 16.4.9.1 of the Principal Determination. The subclauses apply to members who are posted to an overseas location on what is called a "hardship" posting. These particular clauses set out how to calculate the number of relief or regional trips that a member may be entitled to, should their posting be longer or shorter than expected.

The original wording in both clauses instructed that, if the answer to the formula set out in the clause is not a whole number, then the answer should be rounded up to the next whole number. Put simply, this instruction meant that, if the answer after following the formula was 1.1, then the member would be entitled to 2 trips. The new wording instructs that all answers to the formula must be rounded out to the nearest whole number.

Clause 15 substitutes subclause 17.3.2.3 of the Principal Determination. This change is consistent with the amendments in clauses 3 and 4 that confer a business class travel entitlement on a member with the rank of Brigadier or higher.

Clause 16 substitutes a revised Annex 17.9.A of the Principal Determination. This change removes the Multinational Maritime Interception Force and the International Military Advisory and Training Team in Sierra Leone from the list of those operations for which deployment allowance may be payable. There are no longer any members on these operations and the Minister for Defence has officially closed them for the purpose of the *Veterans' Entitlements Act 1986*.

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