



Defence Determination 2005/14

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 20 May 2005

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

1 Citation

This Determination is Defence Determination 2005/14, Conditions of service – repeal, savings and transitional.

2 Commencement

This Determination commences on 31 May 2005.

3 Repeal of Defence Determination 2003/21

Defence Determination 2003/21, Conditions of Service, as amended,¹ is repealed.

Note: The repeal of a determination does not affect its previous operation, or anything validly done under it. Nor does the repeal affect any right, privilege, obligation or liability acquired, accrued or incurred under the determination before its repeal: see section 8 and paragraph 46 (1) (a) of the *Acts Interpretation Act 1901*.

4 Transitional and savings

1. In this clause:

CDF means the Chief of the Defence Force.

commencement day means 31 May 2005.

former Determination means any of these Determinations.

- a. Defence Determination 2000/1, Conditions of Service, as preserved from 1 August 2003 by Defence Determination 2003/22, Conditions of service – repeal and transitional arrangements.
- b. Defence Determination 2003/21, Conditions of Service, as in force immediately before the commencement day.

new Determination means Defence Determination 2005/15, Conditions of Service, which commences on 31 May 2005.

2. If, before the commencement day, a person complied with conditions for an entitlement or contribution under any of the former Determinations:

- a. the person is taken to comply with the eligibility conditions set out in the new Determination, as in force on or after the commencement day, in order to qualify for an entitlement or incur an obligation in relation to a contribution for the corresponding allowance or reimbursement under the new Determination; and
- b. any related approval, authority, instruction or direction is taken to have been given, issued or granted under, and for the purposes of, the new Determination.

3. A reference to the CDF in the new Determination, in relation to a power or function, is taken to include a reference to a person authorised by the CDF to exercise a similar power or function under a former Determination, if all of these conditions are met.

- a. The CDF was authorised to exercise a power or a function in a provision of the former Determination.
- b. The CDF authorised another person to exercise the power or function on their behalf.

- c. The authorised person did so exercise the power or function.
- 4. Nothing in this Determination preserves or maintains the monetary amount or value of a person's entitlements or liabilities under a former Determination after the commencement day.
- 5. After the commencement day, the monetary amount or value of a person's entitlements or liabilities is provided for by the new Determination, as in force on or after that day.
- 6. Nothing in this Determination is taken to preserve or maintain a person's entitlements or liabilities after the commencement day if there is a subsequent change of circumstances of the person, or their dependants, that would end or vary the entitlement or liability.

Note:

- 1. Defence Determination 2003/21, as amended to date. For previous amendments see Note to Defence Determination 2005/1, and see also Defence Determinations 2005/1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

EXPLANATORY STATEMENT

Defence Determination 2005/14

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

The purpose of this Determination is to provide a scheme of transitional and savings provisions that will preserve accrued rights and liabilities under the former Principal Determination. The provisions also allow for eligibility that started under the former Principal Determination to continue, where applicable, under Defence Determination 2005/15, Conditions of Service (the new Principal Determination).

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

Clause 2 provides for this Determination to commence on 31 May 2005, the same day as the new Principal Determination.

Clause 3 repeals the redundant former Principal Determination.

Clause 4 sets out the transitional and savings provisions in relation to the commencement of the new Principal Determination, as follows:

- Subclause 4 (1) defines certain terms used in the transitional and savings provisions. Both the former Principal Determination and its predecessor, Defence Determination 2000/1, Conditions of Service, are referred to. The reason for this is that for some benefits eligibility may arise under one determination, and continue to exist by reason of a transitional or saving provision through successive determinations. Listing the Principal Determinations in this way makes that intention clear to persons researching the source of the entitlement.
- Subclause 4 (2) provides that a person is taken to comply with eligibility conditions under the new Principal Determination if the person complied with the eligibility conditions for a corresponding entitlement or liability under the former Principal Determination. Any approval exercised under the former Principal Determination is also taken to be exercised under the new Principal Determination.
- Subclause 4 (3) maintains the authority and status of decisions made by persons whom the Chief of the Defence Force (CDF) authorised to exercise similar powers for and on behalf of the CDF in relation to discretions under the former Principal Determination.
- Subclauses 4 (4) and (5) make it clear that this Determination does not preserve or maintain the monetary amount or value of a person's former entitlement if the amount or value is subsequently changed by an amendment to the new Principal Determination.
- Subclause 4 (6) states that these provisions do not preserve or maintain the person's entitlement or liability if there is a subsequent change of the circumstances of the person or their dependants that would end or vary the person's entitlement or liability.

Authority: Section 58B of the
Defence Act 1903