



Defence Determination 2009/66

I, PETER ARTHUR ELLIS BAVINGTON, Acting Director General Personnel Policy and Employment Conditions, make this Determination under section 58B of the *Defence Act 1903*.

Dated 2 October 2009

P A E BAVINGTON
Acting Director General
Personnel Policy and Employment Conditions
People Strategies and Policy Group

1 Citation

This Determination is Defence Determination 2009/66, Hardship allowance – amendment.

2 Commencement

1. Clauses 6 and 10 of this Determination are taken to commence on 30 September 2009.
2. The rest of this Determination commences on 1 October 2009.

3 Amendment

Defence Determination 2005/15, Conditions of Service, as amended,¹ is amended as set out in this Determination.

4 Paragraph 16.2.3.3.a (Qualifying period)

omit

5 Paragraph 16.2.3.3.b (Qualifying period)

omit

6 Subclause 16.2.3.3 (Qualifying period)

insert at the end

4. Despite subclause 1, a member assigned for short-term duty with either of the following peacetime operations is required to serve a 24-hour qualifying period before becoming eligible for hardship allowance.
 - a. OPERATION SAMOA ASSIST.

7 Paragraph 16.2.3.4.a (Qualifying period)

insert at the end

- b. OPERATION PADANG ASSIST.

8 Part 1 of Annex 16.A (Hardship post conditions of service for specific posting locations), table item 10A

omit

9 Part 1 of Annex 16.A (Hardship post conditions of service for specific posting locations), table item 10B

substitute

10B.	Indonesia –Island of Sumatra	–	–	–	–	–	10	G
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10 Part 1 of Annex 16.A (Hardship post conditions of service for specific posting locations), table item 26

substitute

26.	Samoa	24	Australia 1	Auckland 1	8	Yes ¹	10	F
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NOTE

1. Defence Determination 2005/15 commenced on 31 May 2005. For previous amendments see Note to Defence Determination 2009/1 and see also Defence Determinations 2009/2, 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, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65.

EXPLANATORY STATEMENT

Defence Determination 2009/66

This Determination amends Defence Determination 2005/15, Conditions of Service (the Principal Determination), made under section 58B of the *Defence Act 1903* (the Act). Chapter 16 of the Principal Determination sets out provisions dealing with hardship conditions of service for members of the Australian Defence Force (ADF) on short-term duty or long-term posting overseas.

The purpose of this Determination is to establish a package of hardship conditions applicable to members performing duty in the region of the Pacific around the nation of Samoa, and the Indonesian island of Sumatra. Members of the ADF who are assigned for short-term duty either with the peacetime operations known as OPERATION SAMOA ASSIST or OPERATION PADANG ASSIST will be working in Samoa or Sumatra and the surrounding areas to provide emergency disaster relief and reconstruction in the areas affected by the natural disasters of 30 September 2009.

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

Clause 2 of this Determination provides that the Determination commences on two dates. Clauses 6 and 10 relate to OPERATION SAMOA ASSIST, and are taken to commence on 30 September 2009. The remainder of the Determination commences on 1 October 2009. These dates reflect the dates the Chief of the Defence Force approved the commencement of emergency disaster relief work by members of the ADF.

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

Clauses 4 and 5 omit paragraphs 16.2.3.3.a and 16.2.3.3.b from the Principal Determination. These paragraphs included OPERATION SUMATRA ASSIST and OPERATION SUMATRA ASSIST PHASE II, respectively, in the list of operations that were exempt from the requirement to serve for 28 days before hardship allowance was payable. OPERATION PADANG ASSIST has replaced these operations.

Clause 6 amends clause 16.2.3 of the Principal Determination to provide that members assigned for duty on OPERATION SAMOA ASSIST are able to receive hardship allowance after 24-hours of duty in the location, rather than waiting for the 28-day qualifying period to run.

Clause 7 inserts paragraph 16.2.3.4.b into the Principal Determination, to add OPERATION PADANG ASSIST to the list of operations that require a 24-hours of duty qualifying period in the location before hardship allowance is payable, rather than waiting for the 28-day qualifying period to run.

Clause 8 omits Item 10A from the table at Part 1 of Annex 16.A of the Principal Determination. The Item formerly listed Aceh Province in Indonesia in the list of hardship post conditions of service. The Item is redundant with the change made in clause 9 of this Determination.

Clause 9 substitutes item 10B of the table at Part 1 of Annex 16.A of the Principal Determination. This provides that a member deployed to Sumatra attracts hardship allowance based on the highest hardship grade, G. This higher rate of allowance is due to the high level of damage to local infrastructure following the earthquake. Working conditions for members are expected to be more challenging than those to be experienced in Samoa.

Clause 10 substitutes item 26 of the table at Part 1 of Annex 16.A of the Principal Determination. This provides that a member posted or deployed to Samoa attracts hardship allowance based on the second highest hardship grade, F. This rate of allowance is due to the high level of damage to local infrastructure following the tsunami.

The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

Authority: Section 58B of the
Defence Act 1903