



DEFENCE INSTRUCTIONS (GENERAL)

Department of Defence
CANBERRA ACT 2600

22 September 2000

Defence Instruction (General) PERS 25–6 is issued pursuant to section 9A of the *Defence Act 1903*.

A handwritten signature in black ink, appearing to read 'Allan Hawke', is positioned above the printed name and title.

ALLAN HAWKE
Secretary

A handwritten signature in black ink, appearing to read 'C.A. Barrie', is positioned above the printed name and title.

C.A. BARRIE
Admiral, RAN
Chief of the Defence Force

LIST B—ISSUE NO PERS B/24/2000

New instruction

PERS 25–6 *Conflict of Interest and Acceptance of Offers of Gifts and Hospitality*

Single Service filing instructions

This Instruction should be filed as:

1. NAVY PERS 16–14
2. ARMY PERS 49–4
3. AIR FORCE PERS 29–27

CONFLICT OF INTEREST AND ACCEPTANCE OF OFFERS OF GIFTS AND HOSPITALITY

INTRODUCTION

1. Everyone in Defence is responsible under the *Financial Management and Accountability Act 1997* (FMA Act) for the manner in which they use resources. Australian Defence Force (ADF) members and Australian Public Service (APS) employees have a legal duty to act efficiently, effectively and ethically when making decisions involving Commonwealth resources. Personal interests must not be allowed to affect their decisions. In addition to the FMA Act, APS employees are also accountable under the *Public Service Act 1999* in relation to these matters.

2. ADF members and APS employees are expected to understand and abide by the guiding principles that underpin Defence's ethical standards in the use of resources. These principles require ADF members and APS employees to:

- a. behave with honesty, integrity, care and diligence and avoid conflicts of interest;
- b. show respect for the law and a proper regard for others;
- c. uphold the duties and responsibilities of their public roles; and
- d. protect, to the best of their ability, Defence resources, property, and information within their custody.

AIM

3. This instruction provides guidance to all ADF members and APS employees on conflicts of interest and the acceptance of gifts and hospitality. It consolidates, elaborates on, and updates, other guidance (see [annex A](#)).

CONFLICT OF INTEREST

4. 'Conflict of interest' refers to any situation where there is, or may appear to be, a conflict between your personal interests and your public duties and responsibilities.

5. Defence expects that you will not take advantage of your position to obtain a benefit for yourselves, your relatives and friends or others. Where offers are made of gifts which are of more than nominal value, or where the receipt of even a nominal gift would give rise to a perceived conflict of interest, the gift should be politely refused and the reason for the refusal explained.

6. An open and honest response will not diminish good working relationships between Defence and industry or other agencies. It is also an opportunity for ADF members and APS employees to emphasise responsibilities and set a good example. The following questions may help you in making a judgment concerning conflicts of interest:

- a. Would any action place you in an apparent or perceived conflict of interest from the perspective of other personnel, contractors or the public?
- b. Could others use the receipt of the benefit as evidence that you have been the subject of improper influence?
- c. Could work colleagues become concerned about, or resentful of, the 'perks' you appear to enjoy in your job as a result of your acceptance of benefits?
- d. Could any action be justified to the Minister, parliamentary committees, public forums or in response to questions by a journalist?
- e. How does the receipt of the benefit advance Defence's business interests?

7. Conflicts of interest can take many forms, but for clarity are grouped and addressed in this instruction in the following ways:

- a. gifts, hospitality, travel and accommodation;
- b. holding interests or investments in companies, or their competitors, doing business with Defence;
- c. post separation employment; and
- d. sponsorship by private sector companies.

GIFTS AND HOSPITALITY

8. Rules on gifts and hospitality (including travel and accommodation) are designed to protect the interests of all concerned with Defence business. You must never solicit gifts, benefits or hospitality for yourself or any other person or group, or give the appearance of a conflict of interest with your official duties and responsibilities. Although Defence instructions (see list in [annex A](#)) allow for activities such as working meals, you are reminded to be careful that participation does not lead to a perception of undue influence, preferential treatment or an unfair competitive advantage.

9. The onus of responsibility is on you to use sound judgment in making decisions that affect Defence's ability to maintain its capacity and reputation for independence, fairness and natural justice. You should review the situation carefully from perspectives other than your own, and assure yourself that your conduct does not give rise to an actual or perceived conflict of interest. This is particularly important during a tendering process, but conflicts also may arise at any time during management of contracts, so each case should be considered separately on its merits.

10. Offers of benefits of the following kind that **could give rise to the reality or appearance of conflicts of interest** should not be accepted:

- a. tickets to major sporting, social or cultural events, or lottery-style promotions;
- b. free or concessional travel or accommodation;
- c. social functions, particularly interstate functions, unless associated with official duty (Division Head/Two-Star approval must be sought and offers of 'free' travel or accommodation must not be accepted);
- d. free or concessional travel for partners, relatives or friends; and
- e. benefits to you in your capacity as a member or office bearer in mess-related sporting bodies.

11. Behaviour that could be interpreted as having accepted some favour or preferential treatment could lead to action being taken against the person concerned. There are associated actions that are also clearly inappropriate, and which arise from ADF members and APS employees making improper use of their position. Examples include the manipulation of meeting times to coincide with interstate social events or the exertion of influence on other personnel to support a claim for travel, or the funding of activities that are not in the public interest.

12. *Chief Executive Instructions* (volume 2, part 7, chapter 6—'Gifting and Receiving Gifts of Public Property') provides policy directions on receiving gifts. Gifts (other than of nominal value) received by ADF members and APS employees in the course of their duties are to be regarded as Defence property and must be recorded in an appropriate gift register immediately upon receipt and disposed of in accordance with Defence policy. Gifts are not to be retained for the personal benefit of the recipient.

DISCLOSURE OF INTERESTS

13. ADF members and APS employees must disclose any private interest, pecuniary or otherwise, **that might conflict, or appear to conflict, with their official duties** and take reasonable steps to avoid them. Defence Instruction (General) (DI(G)) PERS 25-3—*Disclosure of Interests of Members of the Australian Defence Force* offers procedural guidance for ADF members on issues of disclosure. The policy embedded in this instruction is designed to protect:

- a. the Commonwealth's financial interests;
- b. security of sensitive information;
- c. confidentiality of commercial information; and
- d. impartiality in decision making.

14. APS employees can find additional guidance in the *Defence Workplace Relations Manual* (DWRM), part 20 (to be reissued as part 18).

15. All Senior Executive Service employees and Chiefs of Division (including personnel acting in positions for more than three months) are required to document and lodge any interests they have **which conflict with, or which may be seen to conflict with, their public duty**. A statement of interests is a written statement of a person's private interests, covering those of that person's immediate family to the extent that they are aware of these interests and permission to disclose them has been given by the owning party. The statements are required to be updated annually or when a change of interests occurs. The Secretary will take measures to ensure both the security of the statements and the protection of the employee's privacy consistent with the law.

POST SEPARATION EMPLOYMENT

16. Government procedures require all personnel to make application for approval to take up post separation employment where there might be any question of a conflict of interest, including by giving firms an unfair competitive advantage in contests for government business. While the policy does not seek to hinder mobility in employment opportunities between the public and private sectors, Defence is required to ensure that such activities:

- a. are not detrimental to Defence interests,
- b. do not give the proposed new employer an unfair advantage, and
- c. do not give rise to perceptions of conflict of interest.

17. ADF members may obtain guidance on the procedures to be followed for notification of post separation employment in DI(G) PERS 25-4—*Notification of Post Separation Employment*.

18. In relation to civilian employment, the Public Service Code of Conduct requires that APS employees must:

- a. disclose, and take reasonable steps to avoid, any conflict of interest (actual or apparent) in connection with Public Service employment; and
- b. not make improper use of confidential information, or the employee's duties, status, power or authority, in order to gain, seek to gain, a benefit or advantage for the employee or for any other person.

19. DWRM, part 20, chapter 4—'Policy and Procedures concerning Breaches of the Australian Public Service Code of Conduct' (to be reissued as part 18, chapter 2—'Breaches of the APS Code of Conduct' offers advice on how to deal with suspected breaches of the Code of Conduct. APS employees may obtain guidance on the procedures to be followed for notification of post separation employment in DWRM, part 25, chapter 1—'Applications for Approval to engage in Post Separation Employment' (to be reissued as part 22, chapter 6—'Post Separation Employment').

PRIVATE SECTOR SPONSORSHIP

20. Private sector sponsorship of such things as Defence conferences, symposiums, social and sporting club activities and activities of a charitable or public benevolent nature are part of the Defence culture. Generally there should be no concern about the type of sponsorship identified in this paragraph except where:

- a. approaches to private sector organisations could be perceived as an attempt to exert pressure to provide donations and where a refusal could be seen as prejudicing relations with Defence,
- b. the provision of sponsorship could be seen as giving some organisations preferential access or status with Defence, or
- c. there could be a real or apparent conflict of interest.

21. Where these circumstances exist, private sector sponsorship should not be sought nor accepted. Executives and commanders are to review sponsorship arrangements regularly or at least once a year to ensure that sponsorship arrangements conform with this, and other relevant instructions.

PROMULGATION

22. This instruction is to be given the widest dissemination, including to employees in defence industry and contractors for their information.

23. Personnel encountering situations that do not comply with this instruction may contact, or be referred for advice to:

Director Fraud Control Policy and Ethics
 General Investigations and Review Branch
 Inspector-General Division
 NCC-B1-08
 Department of Defence
 CANBERRA ACT 2600
 Telephone: (02) 6266 9201
 Facsimile: (02) 6266 8177

or

Director Civilian Personnel Management Policies
 Personnel Policy and Employment Conditions Branch
 Defence Personnel Executive
 R4-1-041
 Department of Defence
 CANBERRA ACT 2600
 Telephone: (02) 6266 7519
 Facsimile: (02) 6265 4453

Annex:

- A. [Defence instructions and guidelines on the ethical use of resources](#)

Sponsors: Inspector-General and HDPE

DEFENCE INSTRUCTIONS AND GUIDELINES ON THE ETHICAL USE OF RESOURCES

Defence Workplace Relations Manual

part 20, chapter 2—'Outside Employment While working in the Australian Public Service' (to be reissued as part 18, chapter 4)

part 20, chapter 4—'Policy and Procedures concerning Breaches of the Australian Public Service Code of Conduct (to be reissued as part 18, chapter 2)

part 25, chapter 1—'Applications for approval to engage in Post Separation Employment' (to be reissued as part 22, chapter 6)

Circular Memoranda

DCM 42/95—*Guidelines on Acceptance of Offers of Free Travel and Accommodation*

DCM 16/96—*Defence Travel Arrangements—Airline Lounge Membership*

CM 25/97—*Guidelines on Frequent Flyer Schemes*

CM 48/97—*Defence Whistleblower Scheme*

CM 53/98—*Guidance on Conflict of Interest Issues for Defence Personnel*

Departmental Finance Instructions

DFI 3/95—*Australian Government Credit Card*

DFI 10/91—*Misuse of the Australian Government Credit Card and Cabcharge*

Defence Instructions (General)

DI(G) PERS 25-1—*Public Duty and Private Interest—Guidelines for Members of the Defence Force*

DI(G) PERS 25-2—*Employment and Voluntary Activities of Australian Defence Force Members in Off-duty Hours*

DI(G) PERS 25-3—*Disclosure of Interests of Members of the Australian Defence Force*

DI(G) PERS 25-4—*Notification of Post Separation Employment*

DI(G) FIN 12-1—*The Control of Fraud in Defence and the Recovery of Public Moneys*

Chief Executive Instructions

part 1, chapter 1—'Fraud Control in Defence'

part 6, chapter 3—'Official Hospitality and Working Meals'

part 7, chapter 6—'Gifting and Receiving Gifts of Public Property'

Industry Statement

1998 *Defence and Industry—An Ethical Relationship*