Defence Determination 2011/43, Eligibility for increment advancement – amendment

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

Dated 22 September 2011

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

1. This Determination is Defence Determination 2011/43, Eligibility for increment advancement – amendment.

2. This Determination may also be cited as Defence Determination 2011/43.

2 Commencement

This Determination commences on 1 October 2011.

3 Amendment

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

4 Clause 3.2.15 (Working out when Reserve salary must be paid)

substitute

3.2.15 Working out when Reserve salary must be paid

1. Salary may be paid to a Reserve member every 14 days (a fortnight).

2. A Commanding Officer may approve a salary payment outside of the regular pay cycle, if the Reserve member can demonstrate exceptional circumstances or hardship.

5 Subclause 3.2.21.2 (Recognition of service in the Reserves)

substitute

2. The CDF must consider the nature and period of the previous service, having regard to any relevant matters set out in Division 3 or Division 4.

See:
Division 3, Increments
Division 4, Specialist Officer – increment and competency arrangements

Example: A Captain in the Reserve Force has six years of effective Reserve service and transfers to the Permanent Force. The CDF considers the member’s period and nature of service, and decides that it is equivalent to three years of continuous full-time service. The CDF could decide to place the member on the third salary increment for Captain in the pay schedules.

6 Subclause 3.2.21.3 (Recognition of service in the Reserves)

omit
7 Clause 3.2.24 (Purpose)

*after clause 3.2.24, insert*

3.2.24A Member this Division does not apply to

This Division does not apply to a member who is paid a specialist rate of salary.

*See:* Division 4, Specialist Officer – increment and competency arrangements, sets out advancement through ranks and competency arrangements for a specialist officer.

8 Clause 3.2.25 (Increment advancement)

*substitute*

3.2.25 Increment advancement

1. A member is to be given an additional increment of salary if all of the following conditions are met.
   a. The member's rate of salary is below the top increment for the member's rank.
   b. The member ordinarily carries out duties at the standard of competence for the member's rank, experience, pay grade and employment category (including any applicable classification).

   **Exception:** Senior officers eligible to be paid salary under Schedule B.1 of DFRT Determination 15 of 2008, do not need to meet the employment category condition in this paragraph.

   c. The member has met a time period condition set out in subclause 2.

2. To satisfy paragraph 1.c, the member must meet one of the following time period conditions since their most recent appointment, enlistment, last promotion, or last increment advancement date.

   **Note:** Time periods are one of the conditions that must be met for a member to qualify for an increment of salary.

   a. The member has completed 12 months of continuous full-time service.
   b. The member has completed 100 days of service made up of any of the following performed in any pattern or order.
      i. Days of paid Reserve service.
      ii. Days of continuous full-time service.
      iii. Days served under the United Nations.

   *See:* Chapter 12 Part 4 clause 12.4.6, Period of contract counts as service

   **Note:** This paragraph can apply to a member who transfers to or from the Reserve Force.

   c. The member has completed a period of 24 consecutive months during which the member has met the requirements set for the member under regulation 100 of *Defence (Personnel) Regulations 2002.*
**Exception:** This exception applies to an Air Force member described as a Band 4 in the Deputy Chief of Air Force Directive that determines the requirements under regulation 100 of the *Defence (Personnel) Regulations 2002*. The member must complete a minimum 20 days of service a year during the 24 month period.

d. The member has met all of the following conditions.

i. The member has met the requirements under regulation 100 of *Defence (Personnel) Regulations 2002* in a 12 month period.

ii. The member has met the requirements set for the member under regulation 100 of *Defence (Personnel) Regulations 2002* in another 12 month period.

iii. The periods described in subparagraphs i. and ii. must not overlap or be separated by more than 12 months.

iv. Neither period has previously been used to award an increment to the member.

**Exception:** This exception applies to an Air Force member described as a Band 4 in the Deputy Chief of Air Force Directive that determines the requirements under regulation 100 of the *Defence (Personnel) Regulations 2002*. The member must complete a minimum 20 days of service a year during each 12 month period.

**Note:** If a member has a break in service approved under subclause 4, the end date for their increment time period is deferred by the length of the approved break.

**Related Information:**
1. For members of Navy, the Chief of Navy Directive that determines the requirements under regulation 100 of the *Defence (Personnel) Regulations 2002*.
2. For members of Army, the Deputy Chief of Army Directive that determines the requirements under regulation 100 of the *Defence (Personnel) Regulations 2002*.
3. For members of Air Force, the Deputy Chief of Air Force Directive that determines the requirements under regulation 100 of the *Defence (Personnel) Regulations 2002*.
4. Chapter 5 Part 8 Division 2 clause 5.8.16, Effect on salary increments, provides that part-time leave without pay counts as service for increment purposes on a pro rata basis.

3. This subclause applies to a Reserve member. The following table is to be used for the purpose of administering time period conditions under subclause 2.

<table>
<thead>
<tr>
<th>Item</th>
<th>If a member...</th>
<th>then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>performs a period of duty for six hours or more</td>
<td>that period will be counted as a day for the purposes of subclause 2.</td>
</tr>
<tr>
<td>2.</td>
<td>performs duty for a part day</td>
<td>that time can be combined with other part days. The total will count towards the time period conditions set out in subclause 2. <strong>See:</strong> Division 1 clause 3.2.11, Working out a day for Reserve service</td>
</tr>
<tr>
<td>3.</td>
<td>is taken to be attending for duty under clause 3.2.13</td>
<td>that period of duty will count towards the time period conditions set out in subclause 2.</td>
</tr>
<tr>
<td>4.</td>
<td>is taken to be attending for duty in special circumstances under clause 3.2.13A</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>performs a period of continuous full-time service</td>
<td>each of those days will count as a day towards the time period conditions set out in subclause 2. <strong>Note:</strong> To remove doubt, one day of continuous full-time service does not count as two days of Reserve service.</td>
</tr>
</tbody>
</table>
4. A Service Chief may decide that a prolonged break can extend the member’s increment time period beyond what is outlined in subclause 2. The following table sets out the effect on the member’s increment time period.

<table>
<thead>
<tr>
<th>Item</th>
<th>If the Service Chief...</th>
<th>then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>decides the prolonged break extends the member’s increment time period</td>
<td>the day on which the member may become eligible for an increment is deferred by the period of the break.</td>
</tr>
<tr>
<td>2.</td>
<td>decides that the prolonged break does not extend the member’s increment time period</td>
<td>the member must meet the increment time period condition that is relevant to their circumstances in subclause 2.</td>
</tr>
</tbody>
</table>

**Example 1:** Permanent Force member has a prolonged break due to parental leave (without pay).

**Example 2:** Reserve member has a prolonged break due to family commitments or civilian job commitments.

**Non-example:** Reserve member is not offered service or training days.

5. For the purposes of subclause 6, a member’s **increment anniversary date** is the day that is 12 months after the member’s most recent appointment, enlistment, promotion or last increment advancement date.

6. The day on which an increment of salary is to be given to the member is set out below.

<table>
<thead>
<tr>
<th>Item</th>
<th>If the member meets conditions under paragraph...</th>
<th>then the increment of salary is to be given...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>3.2.25.2.a</td>
<td>on the member’s increment anniversary date.</td>
</tr>
</tbody>
</table>
| 2.   | 3.2.25.2.b | on the earlier of the following days.  
 i. The member’s increment anniversary date.  
 ii. The day after the member has completed that condition, but not earlier than the member’s increment anniversary date.  
 **Note:** This may result in an increment of salary being given on a day that is not the member’s increment anniversary date. |
| 3.   | 3.2.25.2.c | on the day after the member has completed that condition. |
| 4.   | 3.2.25.2.d | on the day after the member has completed that condition. |

7. If a member performs a period of higher duties, the service at the higher rank counts towards increment advancement in the member’s substantive rank, but not in the higher rank.

**See:** Chapter 4 Part 1 Division 3 subclause 4.1.16.2, Amount of higher duties allowance – general
8. For members of the Permanent Force, any period when the member is not entitled to salary ('non-effective service') cannot be counted for salary increments.

**Examples:** Leave without pay, absence without leave.

**Exception:** A member on part time leave without pay earns increments on a pro rata basis.

**See:** Chapter 5 Part 8 Division 2 clause 5.8.16, Effect on salary increments

9 **Transition and savings**

If, before the date of commencement of this determination, an increment advancement was provided to a member, then the member continues to hold that increment, until such time as the member is eligible for the next increment advancement under clause 3.2.25 of the Principal Determination.

**NOTE**

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2011/1 and Defence Determinations 2011/2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42.
EXPLANATORY STATEMENT

Defence Determination 2011/43

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 3 of the Principal Determination sets out provisions dealing with salary for members of the Australian Defence Force (ADF).

The purposes of this Determination are to better explain, and to broaden the administration of the eligibility for increment advancement for members of the Reserve Force.

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 1 October 2011.

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

Clause 4 changes the policy in clause 3.2.15 regarding when a Reserve member is to be paid salary. The new policy mirrors the salary payment cycle for Permanent Force members. Provision has been made to allow for a Commanding Officer to approve a payment outside of the regular pay cycle if the Reserve member can demonstrate exceptional circumstances or hardship.

Clause 5 adds an example to the existing subclause 3.2.21.2 of the Principal Determination. The example is intended to demonstrate how the CDF may choose to recognise a member's service in the Reserve Force, and the effect this could have on where the CDF places the member in the Permanent Force pay schedules.

Clause 6 removes subclause 3.2.21.3 from the Principal Determination. The changes made to clause 3.2.25 in the Principal Determination by clause 8 of this Determination mean that the ‘2 for 1’ calculation no longer cover all situations. The new rules are more beneficial and allow periods to be recognised that previously could not be counted.

Clause 7 inserts a new clause in the Principal Determination which follows clause 3.2.24. This new clause makes clear that this Division does not apply to members who are paid a specialist salary.

Clause 8 replaces the entire clause 3.2.25 of the Principal Determination. The previous clause 3.2.25 of the Principal Determination was very narrow in its application and in some instances significantly disadvantaged members of the Reserve Force, particularly if they rendered periods of continuous full-time service and regular Reserve service in various patterns and in any order. A review of the increment advancement policy for Reservists identified the need to define ‘effective service’ and recognise periods of mixed service for increment advancement purposes.

Therefore, the new clause 3.2.25 of the Principal Determination now presents a more equitable policy for increment advancement for members of the Reserve Force, and is more realistic in that it better reflects how the members of the Reserve Force are used to address capability needs of the Defence organisation.

- The new subclause 3.2.25.1 of the Principal Determination sets out the overarching eligibility conditions for increment advancement for all members of the ADF.

- The new subclause 3.2.25.2 of the Principal Determination sets out the detailed time period conditions that may be used to qualify for an increment of salary. Two new conditions that are available to members include:
  - completion of 100 days of mixed service (i.e. days of paid Reserve service, continuous full-time service, or days served under the UN) in any pattern or order;
  - completion of two years of effective service under regulation 100 of the Defence (Personnel) Regulations 2002, with up to a 12 month break between the two effective years.
The exception under this clause is intended to ensure that Air Force Band 4 Reserve members must meet the same minimum training day requirements as other Reserve members across the ADF to be eligible for an increment of salary. The current Deputy Chief of Air Force directive that determines the requirements for Air Force members under regulation 100 of the Defence (Personnel) Regulations 2002, requires a Band 4 category Reserve member to undertake 1 day of training a year. While this requirement is considered appropriate to meet Air Force Reserve capabilities, Air Force has determined that it is not consistent with the minimum requirements for increment of salary applied across the ADF.

- The new subclause 3.2.25.3 of the Principal Determination sets out the rules for the administration of the time period conditions in subclause 3.2.25.2. The table specifies that:
  - a period of duty greater than six hours will count as a day for the purposes of determining if a member has met a time period condition provided in subclause 3.2.25.2 of the Principal Determination.
  - a part day of service can be aggregated and the total counted towards the time period conditions in subclause 3.2.25.2 of the Principal Determination.
  - when a member is taken to be attending for duty under subclause 3.2.13 of the Principal Determination, or attending for duty in special circumstances under subclause 3.2.13A of the Principal Determination, that period of duty will count towards the time period conditions outlined in subclause 3.2.25.2 of the Principal Determination.
  - a day of continuous full-time service is equivalent to one day of regular Reserve service towards satisfying a time period condition provided in subclause 3.2.25.2 of the Principal Determination.

- The new subclause 3.2.25.4 of the Principal Determination sets out a discretionary power for a Service Chief to decide that a prolonged break can extend a member’s increment time period that is described in subclause 3.2.25.2 of the Principal Determination. This discretion ensures that any extenuating circumstances in a member’s situation do not unjustly impact on their eligibility for increment advancement.

- The new subclause 3.2.25.5 of the Principal Determination clarifies the meaning of the term “increment anniversary date” to mean the day that is 12 months after the member’s most recent appointment, enlistment, promotion or last increment advancement date.

- The new subclause 3.2.25.6 of the Principal Determination sets out the point in time when a member is to be given an increment of salary based on meeting the eligibility criteria set out in subclauses 3.2.25.1 and 3.2.25.2 of the Principal Determination.

- The new subclause 3.2.25.7 of the Principal Determination is simply a renumbered subclause that was previously referenced as subclause 3.2.25.2.

- The new subclause 3.2.25.8 of the Principal Determination is simply a renumbered subclause that was previously referenced as subclause 3.2.25.3.

Clause 9 provides transitional arrangements that preserve increment advancements made to a member before the commencement of this determination.

Criteria are provided for the exercise of discretions under the Principal Determination, as amended by this Determination. Adverse decisions are subject to merits review under the ADF redress of grievance system, including an appeal to the Defence Force Ombudsman.

Authority: Section 58B of the Defence Act 1903