Defence Determination 2012/36, Reserve health support – amendment

I, BRIAN GARY PAULE, Director General People Policy and Employment Conditions, make this Determination under section 58B of the Defence Act 1903.

Dated 29 June 2012

BRIAN PAULE
Director General
People Policy and Employment Conditions
Defence People Group
1 Citation

1. This Determination is Defence Determination 2012/36, Reserve health support – amendment.

2. This Determination may also be cited as Defence Determination 2012/36.

2 Commencement

This Determination commences on 1 July 2012.

3 Amendment

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

4 Subclause 4.8.35.4 (Active and Specialist Reserve health support allowance)

substitute

4. To be eligible for Reserve health support allowance, a member must serve the period of time set out in subclause 5 for their Reserve category and follow one of the following procedures.

a. The member may make an annual health declaration in writing.

   Note: The member's declaration is recorded in PMKeys, Defence's personnel system.

b. This subparagraph applies to a member who has not been able to get a health examination in a financial year. The member may submit a confirmation of a health examination appointment that has been made for the next financial year.

5 Subclause 4.8.35.8.a (Active and Specialist Reserve health support allowance)

omit

paragraph 4.b.

insert

subclause 4.

NOTE

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2012/1 and amendments made by Defence Determinations 2012/1, 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 and 35.
EXPLANATORY STATEMENT

Defence Determination 2012/36

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 4 of the Principal Determination sets out provisions dealing with allowances and reimbursements for members of the Australian Defence Force (ADF).

The purpose of this Determination is to modify the application procedures for Active and Specialist Reserve health support allowance.

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 July 2012.

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

Clause 4 substitutes subclause 4.8.35.4 of the Principal Determination which sets out the procedures that a member must follow to apply for Active and Specialist Reserve health support allowance. Paragraph 4.8.35.4.b has been amended to remove the requirement for members to submit a health declaration form which is relevant to their Service. Previously, Navy required the submission of a form which was different to the generic form which was used by Army and Air Force. A separate form for the Navy is no longer needed and members of the Navy can now use the generic health declaration form. This form is administrative and is published on the internet in the ADF Pay and Conditions Manual at www.defence.gov.au/dpe/pac.

Clause 5 amends paragraph 4.8.35.8.a of the Principal Determination which provides that a member of the Air Force Reserves may receive the allowance before the end of the financial year for which it is payable. The paragraph is amended consequential upon the amendments made by clause 4 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.

This Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary) Act 2011.

This Determination engages the following human right:

- Right to the enjoyment of the highest attainable standard of physical and mental health (article 12(1) of the International Covenant of Economic, Social and Cultural Rights).

(a) Legitimate objective: Defence provides health services to permanent force members to maximise the health of its workforce, and to ensure the preparedness of members for operations. Active and Specialist Reserve health support allowance is paid to encourage Reserve members to also seek regular health care, to ensure the greatest possible readiness of Reserve members.

(b) Reasonable, necessary and proportionate: Reserve members have the same access to the Australian health care system as any other citizen. The waiting time for an ADF medical assessment does not prevent the Reserve member from seeking regular health care through their primary medical practitioner or using this allowance to secure health and well-being products, such as health insurance.

This Determination is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Authority: Section 58B of the Defence Act 1903