Defence Determination 2012/39, District allowance – amendment

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

Dated 24 July 2012

BRIAN PAULE
Director General
People Policy and Employment Conditions
Defence People Group
1 Citation
1. This Determination is Defence Determination 2012/39, District allowance – amendment.
2. This Determination may also be cited as Defence Determination 2012/39.

2 Commencement
This Determination commences on 16 August 2012.

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

4 Clause 4.4.9 (Rate of allowance – member living in), table

<table>
<thead>
<tr>
<th>Item</th>
<th>If the member is living in at a location graded…</th>
<th>then their yearly rate of allowance is ($)…</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>A</td>
<td>850</td>
</tr>
<tr>
<td>2.</td>
<td>B</td>
<td>2,430</td>
</tr>
<tr>
<td>3.</td>
<td>C</td>
<td>3,040</td>
</tr>
<tr>
<td>4.</td>
<td>D</td>
<td>4,260</td>
</tr>
<tr>
<td>5.</td>
<td>E</td>
<td>4,865</td>
</tr>
</tbody>
</table>
### Subclause 4.4.10.1 (Rate of allowance – member living out), table

**substitute**

<table>
<thead>
<tr>
<th>Item</th>
<th>If the member is a member… and they are living out at a location graded… then their yearly rate of allowance is… ($)</th>
</tr>
</thead>
</table>
| 1.   | with dependants, and items 2 or 4 do not apply<br><br>   A 2,435  
       B 6,945  
       C 8,685  
       D 12,165  
       E 13,905 |
| 2.   | with dependants, and one or more of those dependants meets both these conditions.<br><br> a. The dependant is an ADF member or an APS employee in Defence.  
    b. The dependant is paid ADF district allowance or district allowance under the Defence Enterprise Collective Agreement 2012-2014.<br><br>   A 1,220  
       B 3,475  
       C 4,345  
       D 6,085  
       E 6,955 |
| 3.   | ...<br><br>   A 1,220  
       B 3,475  
       C 4,345  
       D 6,085  
       E 6,955 |
| 4.   | with dependants (unaccompanied)<br><br>   A 1,220  
       B 3,475  
       C 4,345  
       D 6,085  
       E 6,955 |
| 5.   | without dependants<br><br>   A 1,220  
       B 3,475  
       C 4,345  
       D 6,085  
       E 6,955 |
### Clause 4.4.22 (Rate of allowance), table

**replace**

<table>
<thead>
<tr>
<th>Item</th>
<th>If the member is a member…</th>
<th>then their yearly rate of allowance is… ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>with dependants and items 2, 3 or 4 do not apply</td>
<td>3,700</td>
</tr>
<tr>
<td>2.</td>
<td>with dependants, and their spouse or interdependent partner is also a member</td>
<td>2,140</td>
</tr>
</tbody>
</table>
| 3.   | with dependants and meets all of the following conditions.  
  a. At least one dependant is employed.  
  b. The employed dependant receives an allowance equal to or more than the allowance the member would get under item 1.  
  c. The employed dependant lives with the member or the member’s spouse or interdependent partner. |  
| 4.   | with dependants, and each dependant normally living with them has a yearly income of $30,742 or more |  
| 5.   | of any other kind | 2,140 |

### Subclause 4.4.26.2 (Entitlement), table

**replace**

<table>
<thead>
<tr>
<th>Item</th>
<th>If the member…</th>
<th>then their yearly rate of allowance is… ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>has at least one dependant living at the establishment</td>
<td>2,435</td>
</tr>
<tr>
<td>2.</td>
<td>is a member of any other kind</td>
<td>1,220</td>
</tr>
</tbody>
</table>

### Clause 4.4.40 (Rate of allowance)

**omit**

$5,525

**insert**

$5,660
Clause 4.4.48 (Rate of allowance), table

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<table>
<thead>
<tr>
<th>Item</th>
<th>If subclause...</th>
<th>then they are entitled to the allowance at a rate of ($)...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>4.4.47.a applies to the member</td>
<td>11,999 a year.</td>
</tr>
<tr>
<td>2.</td>
<td>4.4.47.b applies to the member</td>
<td>6,611 a year.</td>
</tr>
</tbody>
</table>
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Subclause 15.2.8.4 (Rate and period of reimbursement)

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Note: The data comparison and calculation is done by Directorate of Service Conditions and Housing Policy.

NOTE

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2012/1 and Defence Determinations 2012/2, 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 and 38.
EXPLANATORY STATEMENT

Defence Determination 2012/39

This Determination amends Defence Determination 2005/15, Conditions of service (the Principal Determination), made under section 58B of the Defence Act 1903 (the Act). The following Chapters of the Principal Determination set out provisions for members of the Australian Defence Force (ADF).

- Chapter 4 sets out provisions dealing with allowances and reimbursements.
- Chapter 15 sets out provisions dealing with members living and working on long-term posting overseas.

The purposes of this Determination are to:

- make routine adjustments to allowances for members in remote locations. These are based on changes in the Consumer Price Index or figures supplied by a contracted service provider;
- make a consequential amendment to update references to the agreement that covers conditions of employment for Australian Public Service employees in Defence; and
- update the title of a directorate, for administrative purposes, and change the reference to this title from a rule to an administrative note.

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

Clause 2 of this Determination provides this Determination commences on 16 August 2012 to allow time for administrative processes required to implement the new rates.

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

Clause 4 substitutes the table in clause 4.4.9 of the Principal Determination. The table provides rates of district allowance for a member without dependants or with dependants (unaccompanied) who 'lives in' at a remote location. The allowance rates have increased in line with the All Groups component of the Consumer Price Index for the 12 month period ending March 2012 (1.6%), rounding the underlying figure to the nearest five dollars, and then multiplying the figure by 0.35 and rounding the new base rate to the nearest five dollars.

Clause 5 substitutes the table in subclause 4.4.10.1 of the Principal Determination. The table provides rates of district allowance for a member who 'lives out' at a remote location. The allowance rates have increased in line with the All Groups component of the Consumer Price Index for the 12 month period ending March 2012 (1.6%), rounding the underlying figure to the nearest five dollars. In substituting the table, Clause 5 also updates the name of Defence's enterprise agreement consequential on the new agreement commencing as Defence Enterprise Collective Agreement 2012-2014.

Clause 6 substitutes the table in clause 4.4.22 of the Principal Determination, adjusting the yearly rates of Woomera allowance. The allowance rates have increased by 2.8% (item 1) and 2.9% (items 2, 3, 4 and 5), in line with new rates advised by a contracted service provider. Clause 6 also increases the dependant's yearly minimum income at item 4 from $28,368 to $30,742. This increase reflects the prescribed figure in paragraph H7.2 of the Defence Enterprise Collective Agreement 2012-2014.

Clause 7 substitutes the table in subclause 4.4.26.2 of the Principal Determination. This amendment adjusts the yearly rates of Port Wakefield allowance. The allowance rates have increased in line with the All Groups component of the Consumer Price Index for the 12 month period ending March 2012 (1.6%), rounding the underlying figure to the nearest five dollars.

Clause 8 amends clause 4.4.40 of the Principal Determination. This amendment adjusts the yearly rate of Scherger allowance. The allowance rate has increased in line with movement in the Transportation component of the Consumer Price Index for the 12 month period ending March 2012 (2.5%), rounding the underlying figure to the nearest five dollars.
Clause 9 substitutes the table in clause 4.4.48 of the Principal Determination, adjusting the yearly rates of Antarctic allowance. The allowance rates have increased by 2.9%, in line with new rates advised by a contracted service provider.

Clause 10 amends subclause 15.2.8.4 of the Principal Determination. The subclause provides information on the rate and period of reimbursement for post indexes. The subclause omits the rule that the variation will be carried out by Directorate of Service Conditions, and adds an administrative note that the data comparison and calculation is done by Directorate of Service Conditions and Housing Policy.

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 Scrutiny) Act 2011. This Determination engages the following human rights:

- Right to an adequate standard of living (article 11(1) International Covenant on Economic, Social and Cultural Rights)
- Right to the enjoyment of just and favourable conditions of work (article 7 of the International Covenant of Economic, Social and Cultural Rights)

Legitimate objective: Defence members are posted for service to locations that involve hardship. This could cause significant adverse effect on the lifestyle or welfare of members and their dependants, as a result of the living conditions at the posting location. These hardships can include remoteness, harsh climate and cost of living.

Reasonable, necessary and proportionate: Defence requires its members to be posted to these locations. Therefore, conditions of service provide additional allowances, beyond the normal rates of remuneration, to assist the member and their family.

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