Defence Determination 2013/53, Additional risk insurance, post indexes, location allowance, hardship post conditions of service and deployment allowance – amendment

I, CHRISTON SCOTT CHAMLEY, Acting Director General People Policy and Employment Conditions, make this Determination under section 58B of the Defence Act 1903.

Dated 7 November 2013

Acting Director General
People Policy and Employment Conditions
Defence People Group
1 Citation
1. This Determination is Defence Determination 2013/53, Additional risk insurance, post indexes, location allowance, hardship post conditions of service and deployment allowance – amendment.
2. This Determination may also be cited as Defence Determination 2013/53.

2 Commencement
1. Clauses 5 to 9 of this Determination commence on 6 January 2014.
2. The remaining clauses commence on 7 November 2013.

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

4 Subclause 4.9.4.1 (Amount of reimbursement)
  omit
  $2,189
  insert
  $2,244

5 Annex 15.2.A (Post indexes), table
  before the entry for Belgium, insert

<table>
<thead>
<tr>
<th>Location</th>
<th>Index</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFGHANISTAN</td>
<td>100.0</td>
<td>0.00</td>
</tr>
<tr>
<td>[Note: no price data is available for this location.]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6 Annex 15.2.A (Post indexes), table
  after the entry for Micronesia, insert

<table>
<thead>
<tr>
<th>Location</th>
<th>Index</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>MYANMAR</td>
<td>100.0</td>
<td>80.0</td>
</tr>
</tbody>
</table>
Chapter 16 Part 8 (Location allowances)
substitute
the Part set out in the Schedule

Annex 16.A (Hardship post conditions of service), Part 1
Before the entry for Cambodia, insert

<table>
<thead>
<tr>
<th>1A.</th>
<th>Afghanistan – Kabul</th>
<th>12</th>
<th>London 1</th>
<th>Rome 1</th>
<th>4</th>
<th>Yes</th>
<th>10</th>
<th>G</th>
</tr>
</thead>
</table>

Annex 16.A (Hardship post conditions of service), Part 1
after the entry for Micronesia, insert

<table>
<thead>
<tr>
<th>21A.</th>
<th>Myanmar</th>
<th>24</th>
<th>Australia 1</th>
<th>Singapore 3</th>
<th>4.8</th>
<th>Yes</th>
<th>10</th>
<th>E</th>
</tr>
</thead>
</table>

Subclause 17.9.8.1 (Rate of allowance), table
substitute

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Threat level</td>
<td>Rate of allowance - AUD a day</td>
<td>Military, armed or related threat</td>
</tr>
<tr>
<td>1.</td>
<td>Very low</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2.</td>
<td>Low</td>
<td>30.70</td>
<td>15.83</td>
</tr>
<tr>
<td>3.</td>
<td>Medium</td>
<td>53.47</td>
<td>27.04</td>
</tr>
<tr>
<td>4.</td>
<td>High</td>
<td>76.25</td>
<td>38.28</td>
</tr>
<tr>
<td>5.</td>
<td>Very High</td>
<td>99.01</td>
<td>49.52</td>
</tr>
</tbody>
</table>
11 Subclause 17.9.8.1 (Rate of allowance), examples

Example 1: A member who is deployed to a location with a medium threat level in relation to military, armed or related threat and environmental hazard is entitled to a daily rate of deployment allowance of AUD 80.51. That daily rate is made up of:

- AUD 53.47 in relation to the military, armed or related threat, and
- AUD 27.04 in relation to the environmental hazard.

Example 2: A member who is deployed to a location with a medium threat level in relation to military, armed or related and a very high environmental hazard is entitled to a daily rate of deployment allowance of AUD 102.99. That daily rate is made up of:

- AUD 53.47 in relation to the military, armed or related threat, and
- AUD 49.52 in relation to the environmental hazard.

NOTE

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2013/1 and amendments made by Defence Determinations 2013/1, 2, 3, 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 and 52.
Part 8: Location allowances

16.8.1 Purpose
It is hard for Defence to attract and retain members on long-term posting to some locations. Location allowances recognise this.

16.8.2 Member this Part applies to
This Part applies to a member on a long-term posting in Afghanistan or Papua New Guinea.

16.8.3 Allowances for Defence Attache Kabul – ADF only
1. This clause applies to a member who meets all these conditions.
   a. The member is on long-term posting as the Defence Attache Kabul.
   b. The member is required to perform duties in support of warlike operations in Afghanistan.
   c. The member is not assigned for duty with a deployment.
2. ...
3. The member is entitled to a special Kabul allowance. The allowance is AUD 170.00 a day.
4. The CDF may vary the amount of special Kabul allowance at any of these times.
   a. Every six months.
   b. Each time the occupant of the post changes.
   c. If there is a change in circumstances affecting the post.

Example: A change in the relevant military threat assessment.

16.8.4 Unused leave – Defence Attache Kabul – ADF only
1. The member's period of unused leave is the recreation leave credit the member accrues but does not take during a long-term posting as the Defence Attache Kabul. It is capped at a maximum of the amount of recreation leave that the member accrued over their last 12 months' service at the posting location.
2. This clause only applies if the CDF decides that the member cannot take some or all of the leave during the posting period, owing to any of the following.
   a. Medical or compassionate reasons relating to the member or a dependant result in an early end to their posting.
   b. They have ceased continuous full-time service (whether in Permanent or Reserve forces).
   c. Operational needs.
3. The CDF may authorise special Kabul allowance to be paid for the period of unused leave taken overseas.
4. Payment must not be made under this clause for leave taken in Australia after the member returns.
5. The period of unused leave must not be more than the amount of recreation leave that the member accrued over their last 12 months' service at the posting location.

16.8.5 Attraction allowance for Papua New Guinea

An eligible member receives an attraction allowance at the rate of AUD 10,000 a year.

Note: This amount is subject to income tax.
EXPLANATORY STATEMENT

Defence Determination 2013/53

This Determination amends Defence Determination 2005/15, Conditions of service (the Principal Determination), made under section 58B of the Defence Act 1903 (the Defence Act) and in accordance with subsection 33(3) of the Acts Interpretation Act 1901 (AIA Act). Determinations made under section 58B of the Defence Act are disallowable non-legislative instruments and are subject to the interpretation principles in the AIA Act, as modified by section 58B of the Defence Act.

This Determination amends the following Chapters of the Principal Determination.

- Chapter 4 sets out provisions dealing with allowances and reimbursements for members of the Australian Defence Force (ADF).
- Chapter 15 sets out provisions dealing with living and working on long-term posting overseas for members of the ADF and Australian Public Service (APS) employees.
- Chapter 16 sets out provisions dealing with overseas hardship locations for members of the ADF.
- Chapter 17 sets out provisions dealing with warlike and non-warlike deployments for members of the ADF and APS employees.

This Determination has five purposes.

- To increase the maximum amount a member may be reimbursed for additional risk life insurance.
- To insert two new posting locations from the list of locations for which post indexes are determined.
- To replace Iraq/Baghdad with Afghanistan/Kabul as a post that attracts location allowance conditions of service.
- To add two new posting locations to the list of locations that attract hardship conditions of service.
- To increase the rates of deployment allowance.

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

Clause 2 provides that clauses 5 to 9 of this Determination commence on 6 January 2013 to coincide with the arrival of members posted to Afghanistan and Myanmar. Clause 2 also provides that the remaining clauses commence on 7 November 2013, which is the date the 2013 salary increase under the ADF Workplace Remuneration Arrangement 2011-2014 takes effect.

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

Clause 4 amends subclause 4.9.4.1 of the Principal Determination to amend the rate for additional risk life insurance. A member may be reimbursed the part of a life insurance policy premium they pay because of the additional risk involved in doing their duties. The amount has been increased by 2.5% to align with the increase to the salaries of ADF members under the ADF Workplace Remuneration Arrangement.

Clauses 5 and 6 amend Annex 15.2.A of the Principal Determination, which lists posting locations and their respective post indexes. Post indexes show the relative cost of living at a posting location compared with Australia. This is then used to calculate various overseas allowances. Clauses 5 and 6 insert two new posting locations, Afghanistan and Myanmar.
Clause 7 substitutes Chapter 16 Part 8 of the Principal Determination, which provides location allowances for some locations to which it is hard to attract and retain members on long-term postings. The Iraq/Baghdad post, which attracted a location allowance, is to be shut down in December 2013. A new post in Afghanistan/Kabul will attract a location allowance from January 2014. Clause 7 therefore replaces any references to Iraq with Afghanistan and Baghdad with Kabul. The attraction allowance for members posted to Baghdad has been removed completely. This allowance is not considered necessary for attracting members to the Kabul posting.

Clauses 8 and 9 amend Annex 16.A of the Principal Determination. The Annex sets out a list of hardship post conditions of service for specific posting locations. Hardship posting locations are graded on factors that indicate if a location is harder to live in than Australia. Hardship allowance is used to provide additional assistance to a member and their dependants, which is beyond that covered by normal overseas conditions of service. Two new posting locations are to receive hardship post conditions of service. Clause 8 inserts Afghanistan – Kabul with a hardship grade G and clause 9 inserts Myanmar with a hardship grade E.

Clause 10 substitutes the table in subclause 17.9.8.1 of the Principal Determination, which sets out the daily rates of deployment allowance for levels of military related threat and environmental hazards. The rates of allowance have increased by 2.5% to align with the 7 November 2013 adjustment to the salaries of ADF members under the ADF Workplace Remuneration Arrangement.

Clause 11 amends the examples in subclause 17.9.8.1 of the Principal Determination. The figures in the examples have been updated to reflect the rate increases set out in the table in subclause 17.9.8.1 of the Principal Determination, as amended by clause 5 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*
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Defence Determination 2013/53, Additional risk insurance, post indexes, location allowance, hardship post conditions of service and deployment allowance – amendment

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.

Overview of the Determination

This Determination implements an annual increase to deployment allowance and increases the maximum amount a member may be reimbursed for additional risk life insurance. It provides that post indexes and hardship conditions of service be determined for two new post locations and makes provisions for members to receive location allowance when on a long-term posting in Afghanistan.

Human rights implications

This Determination engages the following human rights:

Right to the enjoyment of just and favourable conditions of work

The protection of a person's right to remuneration engages Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 7 guarantees just and favourable conditions of work, including remuneration, safe and healthy conditions, equal opportunity and reasonable limitations.

Legitimate objective: Defence members may be required to perform duty in overseas locations including hardship locations and areas of military conflict. Some overseas posting locations are more expensive to live in than Australia. Post indexes ensure that members in these locations are financially compensated to cover the additional expense.

Similarly, Defence members who are posted or deployed to some overseas locations will experience adverse conditions during service. These members are compensated for conditions that can include but are not limited to hazard, stress, climate, health care facilities, infrastructure and isolation.

Reasonable, necessary and proportionate: Defence requires its members to perform duty in these locations and therefore provides additional benefits, beyond the normal overseas conditions of service, to assist the member to not suffer a disadvantage because of the requirement for the member to live and work overseas. These benefits include allowances, additional recreation leave and relief travel to obtain a break from the environment.

This Determination makes a seasonal adjustment to deployment allowance. It also provides that post indexes and hardship conditions of service be determined for two new post locations, including location allowance for one of these locations. These amendments ensure that an affected person continues to receive just and favourable remuneration.

This Determination also makes a seasonal adjustment to the maximum annual amount Defence may contribute towards the cost of a member’s life insurance. The assistance ensures the member is not financially disadvantaged because of the nature of their work.

Conclusion

This Determination is compatible with human rights because it advances the protection of human rights.

Christon Scott Chamley, Acting Director General People Policy and Employment Conditions