Defence Determination 2014/21, Benchmark schools, summer schools, clubs and hardship package – 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 6 May 2014

Acting Director General
People Policy and Employment Conditions
Defence People Group
1 Citation
1. This Determination is Defence Determination 2014/21, Benchmark schools, summer schools, clubs and hardship package – amendment.
2. This Determination may also be cited as Defence Determination 2014/21.

2 Commencement
1. Clause 9 of this Determination commences on 18 June 2014.
2. The remaining clauses commence on the date of signature.

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

4 Annex 15.6.A (Benchmark schools), table item 31
substitute

<table>
<thead>
<tr>
<th>31.</th>
<th>Tonga</th>
<th>ACTS Community School</th>
<th>ACTS Community School</th>
<th>Ocean of Light International School</th>
</tr>
</thead>
</table>

5 Annex 15.6.B (Approved summer schools), table item 3
substitute

| 3. | France | American School, Paris | Ecole Privées Internationales de Marseille (EPIM School), Aix-en-Provence | International School, Paris | Centre International Privé pour l'Education et la Culture (CIPEC), France | International Bilingual School of Provence (IBS), France |

6 Clause 15.7.5 (List of approved clubs), table
after the entry for Marshall Islands, insert

| Myanmar | Pun Hlaing Golf Club |
7. Clause 15.7.5 (List of approved clubs), table entry for Samoa

substitute

<table>
<thead>
<tr>
<th></th>
<th>Fitness Firm Samoa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Samoa</td>
<td></td>
</tr>
</tbody>
</table>

8. Clause 16.1.A (Hardship package), table item 7

substitute

<table>
<thead>
<tr>
<th>7.</th>
<th>Location allowances for Afghanistan and Papua New Guinea.</th>
<th>Chapter 16 Part 8</th>
</tr>
</thead>
</table>

9. Annex 16.A (Hardship post conditions of service), table item 16

substitute

<table>
<thead>
<tr>
<th>16.</th>
<th>Korea</th>
<th>24</th>
<th>Australia 1</th>
<th>Singapore 1</th>
<th>8</th>
<th>Regional centre only²</th>
<th>10</th>
<th>B</th>
</tr>
</thead>
</table>

NOTE

1. Defence Determination 2005/15, as amended to date. For previous amendments see Note to Defence Determination 2014/1 and amendments made by Defence Determinations 2014/1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19 and 20.
EXPLANATORY STATEMENT

Defence Determination 2014/21

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 15 sets out provisions dealing with living and working on long-term posting overseas for members of the Australian Defence Force (ADF).
- Chapter 16 sets out provisions dealing with overseas hardship locations.

This Determination has the following purposes.

- To insert a new benchmark school for Tonga.
- To insert two additional summer schools for France.
- To amend the list of approved clubs.
- To replace a cross reference in the hardship package.
- To amend the hardship grade for Korea.

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

Clause 2 of this Determination provides that clause 9 of the Determination commences on 18 June 2014 and the remaining clauses commence on date of signature.

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

Clause 4 substitutes table item 31 of Annex 15.6.A of the Principal Determination, which provides a list of schools that set the 'benchmark' for the amount of education assistance to be reimbursed to members for their children's education at overseas posting locations. Following a review, The ACTS Community School in Tonga has been chosen as the benchmark school for the preschool and primary levels. Ocean of Light International School continues as the benchmark school for the secondary school level.

Clause 5 substitutes table item 3 of Annex 15.6.B of the Principal Determination, which provides locations of summer schools on overseas postings. A member whose child attends an approved summer school may be entitled to reimbursement of associated costs. Prior to this addition, there was no summer school available for secondary students in France. The Centre International Privé pour l'Education et la Culture and the International Bilingual School of Provence have been added to the list to provide members with a broader choice of summer schools that meet their children's needs.

Clause 6 inserts a new table item in the table in clause 15.7.5 of the Principal Determination. This table provides a list of approved clubs in overseas posting locations where other suitable sporting and recreation facilities are not available. Members attending an approved club may be reimbursed club membership fees. A new club has been prescribed for Myanmar to give members access to recreational facilities.

Clause 7 substitutes the table entry for Samoa in clause 15.7.5 of the Principal Determination. This table provides a list of approved clubs in overseas posting locations where other suitable sporting and recreation facilities are not available. Members attending an approved club may be reimbursed club membership fees. Clause 7 substitutes 'Xtreme Performance Samoa', which has closed, with 'Fitness Firm Samoa'.
Clause 8 substitutes table item 7 in clause 16.1.4 of the Principal Determination, which provides a summary to assist the reader to understand the hardship package. This package consists of benefits provided in locations with difficulties or hardships. The Iraq/Baghdad post, which attracted a location allowance, was shut down in December 2013 and a new post in Afghanistan/Kabul attracted a location allowance from January 2014. These changes were made in Defence Determination 2013/53 and this amendment is made to reflect those changes.

Clause 9 substitutes table item 16 in Annex 16.A of the Principal Determination, which provides a list of hardship post conditions of service for specific posting locations. An annual review is conducted to determine the hardship grade for overseas posting locations based on factors that indicate if a location is harder to live in than Australia. It was determined during the review for 2014, that Korea’s hardship grade be lowered to a level B. These changes are made to reflect these findings.

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 2014/21, Benchmark schools, summer schools, clubs and hardship package – 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 makes amendments to Defence Determination 2005/15, Conditions of service for members of the Australian Defence Force. This Determination has the following purposes.

- To insert a new benchmark school for Tonga.
- To insert two additional summer schools for France.
- To amend the list of approved clubs.
- To replace a cross reference in the hardship package.
- To amend the hardship grade for Korea.

Human rights implications

Summer and benchmark schools

The summer and benchmark school and the club membership provisions in this Determination advance the rights under Articles 12 and 13 of the International Covenant on Economic, Social and Cultural Rights. Article 12 recognises the right to the enjoyment of the highest attainable standard of physical and mental health. Article 13 recognises the right of everyone to education.

Defence provides a range of benefits to members' posted overseas to assist members and their families to not suffer a disadvantage because of the requirement for the member to live and work overseas. Benchmark schools are nominated to set the 'benchmark' for the amount of education assistance to be reimbursed to members for their children's education whilst posted overseas. Summer schools are available for members and their families to maintain a level of education that is as close as possible to an equivalent Australian standard. Club memberships are provided to members and their families so they can maintain their standard of physical and mental health. This Determination amends the benchmark schools for Tonga, adds two additional summer schools for France and inserts a club for Myanmar.

Hardship post grade

This Determination engages Article 11 of International Covenant on Economic, Social and Cultural Rights. Article 11 protects the right of everyone to an adequate standard of living and living conditions.

Legitimate objective: Overseas postings can take members to locations that have a reduced standard of living comparable to Australia. The hardship package is not considered 'danger money', however it is provided for difficulties or hardships experienced during long and short-term overseas postings in certain locations.

Reasonable, necessary and proportionate: Hardship posting locations are graded on factors that indicate if a location is harder to live in than Australia. Each factor earns points that determine the hardship grade for that location and the total score determines what rate of hardship allowance is paid. 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. This Determination changes the hardship post grade for Korea.
This Determination also makes a technical amendment to the location allowance summary table within the hardship allowance package. There are no human rights implications as a result of this change.

Please refer to Defence Determination 2013/53, Additional risk insurance, post indexes, location allowance, hardship post conditions of service and deployment allowance – amendment, for additional changes made to location allowances and its compatibility with human rights.

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