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## CHAPTER 8

# RESIGNATION/TRANSFER TO THE NAVAL RESERVE/COMPULSORY TERMINATION/RETIREMENT

### Introduction

8.1 This chapter provides policy guidance, procedures and considerations relating to ending of service in the Permanent Navy (PN) and Service Category (SERCAT) 2 - 5 components of the Naval Reserve (NR). Members are separated or transferred to the NR as prescribed in the [Defence Regulation 2016](#) (DR 2016).

### Delegates Who May Grant Resignation/Transfer or Terminate Service

8.2 Under Section 84 of DR 2016 the Chief of the Defence Force (CDF) has authorised delegates who may grant a resignation/transfer to the NR or terminate a member's service.

### Avenues of Separation from the PN or Transfer to the NR

8.3 There are four main avenues of ending service in the PN:

- a. resignation
- b. transfer to the NR (SERCAT 2-5)
- c. retirement from Navy (PN or NR)
- d. termination of service.

8.4 Within these avenues there are various types of resignation/transfer and termination of service, which are briefly described below. Further details and administrative procedures related to a particular type of resignation/transfer and compulsory termination of service are contained in the Annexes to this chapter.

8.5 It is also possible for a Service Tribunal to dismiss a member from the Australian Defence Force (ADF) under the *Defence Force Discipline Act 1982*. The reference for this form of termination is [Australian Defence Force Publication 06.1.1—Discipline Law Manual](#). Administrative details relating to dismissal are at Annex A.

### Expiration of Appointment/Enlistment, Resignation or Transfers to the NR

8.6 Members are generally expected to serve for the period of their appointment/enlistment. The approval of the CDF's delegate is not required for expiration of appointment/enlistment (EA/EE). A member who becomes entitled to separation EA/EE:

- a. remains bound to serve until separated
- b. must be released from service in the Navy as soon as is reasonably practicable.

8.7 When an appointment/enlistment for a specified term exists, Navy does not terminate the member's service when their term of service expires. Instead, the service comes to an end by agreement at that time. Consequently, termination of service will not be initiated by the Navy People Career Management Agency (NPCMA). Should a member wish to seek an extension/conversion of appointment/enlistment it is the member's responsibility to request this by forwarding a fully completed Form PE012 in accordance with the policy in Chapter 2—'Methods of Entry' of this publication.

8.8 Resignation or transfer prior to expiration of appointment/enlistment (i.e a change in length of service at member request) is subject to the approval of the CDF's delegate. Resignations/transfers processes are outlined in the following Annexes to this chapter:

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- a. Annexes B, C and D – resignation and transfer to the NR (DR 2016 Section 18)
- b. Annex E - early resignation/transfer to the NR before expiration of appointment/enlistment (DR 2016 Section 18).

### Completion of Service on Attaining Retirement Age

8.9 The compulsory retirement age (CRA) of a member in the PN is 60 years and in the NR is 65 years with the exception of those eligible members who elected to retain their former retirement age. Retirement or transfer to the NR on attaining CRA is governed by DR 2016 Sections 18, 21 and 23.

8.10 Applications for extensions beyond CRA under DR 2016 Section 23 will normally only be considered where members possess critical skills required by Navy to meet its capability requirements. Applications are to be submitted in accordance with Chapter 2—'Methods of Entry'. Further detail is provided at Annex F.

### Extension of Service Obligation

8.11 Under DR 2016 Sections 18 and 19, a member whose appointment/enlistment expires during the following is deemed to have been extended to serve for the duration of the relevant time or period:

- a. time of war;
- b. time of defence emergency; or
- c. a period for which call out is exercised under Defence Act 1903, part IIIAAA for continuous service.

8.12 When a call out order is made under the [Defence Act 1903](#), any member of SERCAT 2 - 5 whose appointment/enlistment expires is deemed to have been extended. However, as a general rule, it will be essential to retain certain categories only. A list of essential ranks, branches and categories will be promulgated on each occasion of calling out a part of SERCAT 2. Where an appointment/enlistment expires and the member desires to be separated and is not included in a list of essential ranks, branches or categories, the CDF's delegate may authorise the member's separation on the expiration of the member's appointment/enlistment. Such a separation will be effected under DR 2016 Section 19, but entitlements on separation will be the same as for separation on EA/EE.

8.13 Except in time of war, or time of defence emergency, a NR member who volunteers to render a period of continuous service is entitled to be released on the expiration of that period with all reasonable speed.

### Termination of Service

8.14 DR 2016 Section 24 includes provision for termination of service where a member may be terminated on one or more reasons. Where such circumstances occur, DNPCMA will make a determination of which mode of termination has primacy. [MILPERSMAN](#), Part 10 Chapter 2—*Termination of service in the Australian Defence Force* and Annexes to this chapter includes but is not limited to those reasons listed below.

8.15 **Medically unfit for service.** Termination of service on medical grounds is effected under DR 2016, Section 24(1)(a). Procedures governing a determination for Medical Termination are contained within MILPERSMAN, Part 3, Chapter 2—*Australian Defence Force Medical Employment Classification System* and Health Manual Volume 3 —*Retention Standards*. Further detail is provided at Annex G.

8.16 **Redundancy.** A member serving in the PN who cannot be usefully employed because of redundancy in the Navy may be transferred to the NR (SERCAT 2) or have their service terminated under DR 2016 Section 24(1)(b). The member must be given a termination notice and at least 14 days after the notice is issued to provide a written response. Termination of service because of redundancy

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must not occur until five weeks after the notice is given, unless the member agrees to an earlier termination date.

**8.17 Retention not in the interests of the Defence Force.** Termination of a member's service because their retention is not in the interests of the Defence Force is effected under DR 2016 Section 24(1)(c). Further detail is provided at Annex H.

**8.18 Failure to meet a condition of appointment/enlistment.** Termination of a member's service for failure to meet a condition of appointment or enlistment is effected under DR 2016 Section 24(1)(d). Further detail is provided at Annex H.

**8.19 Absent without leave.** Termination of the service of a member who has been absent without leave for a continuous period of three months or more is effected under DR 2016 Section 24(1)(e). Further detail is provided at Annex I.

**8.20 Command Initiated Transfer to the Reserves (CITR).** A CITR is effected under DR 2016 Section 16(1). Further detail is provided at Annex F.

**8.21 Period of service (PS) ends.** Under DR 2016 Section 21 at the end of a period of PS the member will normally transfer to the Naval Reserves.

**8.22 Promotion with Conditions that requires transfer to the NR.** Promotion with such conditions was previously known as a Limited Tenure Promotion (LTP). Under DR 2016 Sections 13, 18 and 21, at the end of a period of LTP the member will normally transfer to the NR (SERCAT 2). Policy guidance is in [MILPERSMAN, Part 5, Chapter 3—Promotion, Acting Rank and Honorary Rank in the Australian Defence Force](#). Further detail is provided at Annex F.

### **Termination, Resignation or Transfer to NR Procedure**

**8.23** A member being terminated, separated or transferred is to be separated 'to shore' direct by their ship or establishment with the entitlements described in paragraph 8.33 (via form AC853). The member should arrive at the desired home locality having taken approved leave, or the current pay in lieu of leave instructions are to be applied. Members will not normally be approved long service leave (LSL) in conjunction with separation; however, where LSL has been approved members will be posted to the most convenient shore establishment for medical and separation or transfer administration.

**8.24** If a ship is expected to sail before the day a member is due to be separated or transferred to the NR to final leave, the member may be given the option of being retained beyond the approved separation/transfer date and separated or transferred to the NR at the first convenient port, or of being landed to an establishment at the ship's home port prior to the commencement of final leave. To avoid unnecessary expense, the Commanding Officer (CO) is to consider the member's travel entitlement when deciding the port of separation or transfer to the NR.

**8.25** If a member requests to be separated or transferred to the NR outside Australia on the expiration of appointment/enlistment, the request is to be forwarded to NPCMA for consideration.

**8.26** Normally, the relevant Career Manager will post a relief to the vacated position of the separating or transferring member, no earlier than six weeks prior to separation depending on availability of a replacement and the period of notification provided by the member separating.

**8.27** Defence Health Manual Vol 2 Part 6 contains information on the health responsibilities on completion of a period of service and separation health examination (SHE) to be carried out prior to separation or transfer.

**8.28** When a member under the age of 18 years is separated from the Navy the CO is to notify the member's next of kin or guardian in writing by the fastest means. This correspondence is to give details of travel arrangements for the return home of the member and a brief statement of the reason for separation. The notification should be forwarded to reach the next of kin or guardian before the member arrives home. [MILPERSMAN, Part 7, Chapter 2—Management and administration of Defence members under 18 years of age](#) provides policy guidance for administration of minors.

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**Reporting procedure**

8.29 The separation or transfer of any member impacts on a range of areas and there are two substantially independent aspects. Firstly, it is important that NPCMA be given the opportunity to know why the member is separating or transferring, whether retention is in the interests of the RAN, and whether appropriate steps have been taken to counsel the member with a view to retention. The second aspect is the identification of a relief and the administrative processing of the member to be separated or transferred. It is essential that this activity commences as early as possible and no later than:

- a. in the case of a member being separated EA/EE—within three months of receipt of the notifying List of Officers' Postings/List of Sailors' Postings
- b. in the case of a member submitting a resignation or transfer—as soon as the application is received by the member's CO.

8.30 When a member of the PN, or the NR on continuous full-time service (Service Option—SERVOP C), is to be separated or transferred for whatever reason, an intention to separate/transfer signal (located at the NPCMA Website) is to be forwarded to NPCMA, and form AC853 must also be completed.

**Certificate of Service/Statement of Service**

8.31 Certificates/Statements of Service will be issued by NPCMA to members on separation or transfer to the NR or another service, as follows:

- a. Certificate of Service for members who have served for a period of 12 months or more
- b. Statement of Service for members who have served for a period of less than 12 months.

8.32 Certificates of Service will also be issued by NPCMA to members on separation from the NR when requested.

8.33 Certificates/Statements of Service will be forwarded to the nominated address provided in Personal Data Defence One.

**Entitlements on Separation**

8.34 The following are the normal entitlements of a member being separated or transferred to the NR in accordance with the provisions of the *ADF Pay and Conditions Manual (PACMAN)*.

**Table 8-1 – Entitlements on Separation**

<b>Reason for Separation</b>	<b>Travel</b>	<b>Removal</b>
Dismissal from the Defence Force	Yes	No
Expiration of appointment/enlistment	Yes	Yes
Resignation/transfer to the NR	Yes	Yes
Elective resignation (Trainees – To Enlistment Location)	Yes	Yes
Early resignation/transfer to NR on compassionate grounds	Yes	Yes
Medically unfit for service	Yes	Yes
Redundancy	Yes	Yes
Management Initiated Early Retirement (MIER)	Yes	Yes
Retention not in the interests of the Defence Force	Yes	Yes
Failure to meet a condition of appointment/enlistment	Yes	Yes

8.35 To qualify for a removal, a PN member must have completed their Initial Minimum Period of Service. However, if a PN member with greater than three years service is to be separated or transferred to the NR on compassionate grounds at their own request they may be entitled to a full removal. Where a PN member with less than three years service is to be separated or transferred to

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the NR on compassionate grounds at their own request they may be entitled to a limited removal. [PACMAN](#) Chapter 6 refers.

**Transfer to the Naval Reserve**

8.36 Members who joined the PN prior to 01 July 2003 may volunteer to transfer to the NR. The CO is to ensure that a member who is eligible and recommended for transfer to the NR has requested to do so via form AC853. Every encouragement and opportunity is to be given to a member to facilitate transfer into the NR before the member departs the ship or establishment. Members may volunteer for transfer to SERCAT 2 or 3.

8.37 Members who joined the PN after 01 July 2003 are required to serve in SERCAT 2 on the completion of their PN service for a period of five years. Members may apply for transfer to SERCAT 3 should they believe they will be able to provide a commitment to Reserve employment during their first two years of Reserve service.

8.38 A member who submits a resignation/transfer application in accordance with Annexes C (Resignation and Transfer to the Naval Reserves) or E (Early Resignation/Transfer to the Naval Reserves), or is a member whose appointment/enlistment is expiring where paragraph 8.6 to this chapter is applicable, is to select the appropriate sections contained on form AC853 and action will be taken, subject to the recommendation of their CO, to transfer the member on the day of separation from the PN. On submitting an application for resignation/transfer, members are to be advised that once the application has been granted, a member may request that the resignation/transfer be withdrawn or varied in accordance with the procedures detailed in Annex C.

**Medical Requirements on Resignation, Transfer to the NR or Termination**

8.39 Members of any MEC may transfer to SERCAT 2. MEC status will then determine transfer to employability in SERCAT 3 or 5. SERCAT 7 members transferring to SERCAT 3 or 5 in positions which require MEC J11 or special fitness levels (submariners, divers, and aircrew) must satisfy the appropriate medical standards.

8.40 A SHE is to be completed to ensure the member's current MEC accurately reflects their medical status at the time of separation or transfer to the NR. Health Centres are to ensure that PMKeyS is updated accordingly to correctly reflect a member's MEC status at the time of separation or transfer. Where members have been approved transfer to SERCAT 3 and on transfer are found to be medically unfit (J31 or higher) for that service, they will automatically be transferred to SERCAT 2. At such time the member achieves fitness, the member may apply to transfer to SERCAT 3 via form AC853.

8.41 If a member is assessed as medically unfit (MEC J31 or higher) for separation or transfer, and treatment is not expected to be completed until after the promulgated separation date, and can not be provided in accordance with [Defence Health Manual Vol 2 Part 6 Chapter 6-Health responsibilities on completion of a period of service](#), all separation action should be ceased. The member is to be administered in accordance with [Defence Health Manual](#) and a signal 'Retention Beyond Separation on Medical Grounds' (can be located at the NPCMA Website) is to be sent to NPCMA as soon as possible..

8.42 All members assessed as MEC J40 are to be referred to the Medical Employment Classification review Board (MECRB) to determine the avenue of separation from the PN and are to be retained until a determination has been made by the MECRB. A signal 'Retention Beyond Separation on Medical Grounds' (can be located at the NPCMA Website) is to be sent to NPCMA as soon as possible by Command when advised by Health Centre that a member has been assessed as MEC J40.

**Rank on Separation/ Transfer to the NR**

8.43 Officers transferring to the NR must normally hold a minimum substantive rank of Sub Lieutenant and have attained their Primary Qualification (PQ).

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8.44 Sailors transferring to the NR must normally hold a minimum substantive rank of Able Seaman.

8.45 Any member who has failed to meet the conditions of their promotion at time of transfer will normally be reverted to the previous rank, on the day of transfer, unless prior NPCMA approval.

**Resettlement in Civilian Life**

8.46 Details of benefits available to members separating/transferring under the Career Transition Assistance Scheme are contained in PACMAN. Defence has further enhanced the transition process by delivering, in addition to administrative elements, individualised career coaching and mentoring services for all ADF members, and their family, who are permanent (SERCAT 7) or continuous full-time service (Service Option C) Reservists who leave the ADF. This service is available for 12 months after their transition date.

**Public Duty and Private Interest in Post Separation Employment**

8.47 In processing applications for separation or transfer to the NR, regard is to be given to the provisions of [DI\(G\) PERS 25-4—Notification of Post Separation Employment](#) regarding public duty and private interest in post separation employment.

**Recruitment of PN Members to the Australian Public Service**

8.48 A member of the PN who applies for an Australian Public Service (APS) position in the Department of Defence will not normally be engaged as an APS employee while still a PN SERCAT 7 member. Further information should be obtained from the appropriate contact officer in Defence APS Recruitment.

**Annexes:**

- 8A. Disciplinary Termination of Service
- 8B. New Entry Trainee Elective Resignation
- 8C. Resignation and Transfer to the Naval Reserves
- 8D. Australian Defence Force Gap Year-Navy
- 8E. Early Resignation/Transfer to the Naval Reserves
- 8F. Retirement from the Permanent Navy or Naval Reserve
- 8G. Termination of Service on Medical Grounds
- 8H. Termination of Service
- 8I. Termination of Service in Absence

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## CHAPTER 11

## MEDICAL EMPLOYMENT CLASSIFICATION REVIEW BOARD

## References:

- A. [MILPERSMAN](#), Part 3, Chapter 2 – *Australian Defence Force Medical Employment Classification System*
- B. [Defence Regulation 2016](#)
- C. Defence Health Manual, Volume 1, Part 4, Chapter 1– *Provision of Health Care to Health care of Defence Force Member*
- D. Defence Health Manual, Volume 1, Part 3, Chapter 1– *Privacy of Health information of Defence Members and Defence Candidates*
- E. Defence Health Manual, Volume 1, Part 13, Chapter 1– *Australian Defence Force Rehabilitation Program*
- F. [Complaints and Alternative Resolution Manual](#) (CARM – 2014), Chapter 6 – *Redress of Grievance*
- G. [MILPERSMAN](#), Part 3, Chapter 1, – *Australian Defence Force Policy on Individual Readiness*
- H. [MILPERSMAN](#), Part 10, Chapter 4 – *Termination of service in the Australian Defence Force*
- I. Defence Health Manual, Volume 2, Part 2, Chapter 9 – *Risk Analysis of Medical and Psychological conditions*
- J. [Australian Book of Reference \(ABR\) 1991, Volume 1, Chapter 8](#) – *Royal Australian Navy Health Services Manual*

## Introduction

11.1 This chapter provides generic details on the Navy Medical Employment Classification Review Board (MECRB) system, which is governed by the overarching references above. This chapter should therefore be read in conjunction with other health related policies.

11.2 The MECRB process forms the final phase of a member's Central Medical Employment Classification Review (CMECR) which is undertaken at the member's local Health Centre (HC). The CMECR component is managed through Joint Health Command (JHC). As such, policies relating to the MEC system are primarily of a tri-service nature, apart from some Navy specific elements.

11.3 This chapter relates specifically to the MECRB process that is undertaken within the Navy People Career Management Agency (NPCMA) in Canberra.

11.4 The Navy MECRB process is designed to consider a Navy member's medical status in the context of Defence's personnel capability requirements, whilst also upholding its Duty of Care towards our members.

11.5 The core function of the MECRB is to provide a medical fitness determination for Permanent and Reserve members to perform specific tasks necessary for employment in different operating environments over a specific period of time.

11.6 A MECRB determination is a personnel management decision based on medical recommendations made by the Medical Employment Category Advisory and Review Service (MECARS) who are located within Joint Health Command (JHC) in Canberra. Information relating to MECARS can be located on the JHC website.

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11.7 Through the MECRB process, a Medical Employment Classification (MEC) status will be awarded to a member with employment restrictions to be applied to ensure Navy upholds its Duty of Care to its personnel, whilst not compromising Service requirements. See Annex A for a summary of the MEC groups.

**Joint Health Policies**

11.8 JHC manage all Joint Health policies in relation to MEC standards, however each Service also has its own policy guidelines in relation to their Service owned MECRB processes. For Navy it is Australian Book of Reference (ABR) 1991 Royal Australian Navy Health Services Manual, Volume 1, Chapter 8 (reference J).

**Navy specific Policies**

11.9 In accordance with the hierarchy of Defence documents, JHC policies, including Health Directives, take precedence over single Service policies and guidance. For Navy members, MECRB can apply the policy guidance at reference J and specific Health Directives to meet Navy centric requirements.

**RAN Physical Fitness Testing (PFT) Requirements**

11.10 All Defence members who have been awarded a MEC status of J4 or J5 are not to undertake PFTs. This includes members who are awaiting MECRB outcomes at J40. Rehabilitation PFT's may be considered however they require the specific endorsement of the member's treating Medical Officer (MO) who will then assume responsibility for the duty of care for that member in this regard. Additionally, all Navy members who are J3 are not to undertake PFTs unless expressly approved to do so in writing by their treating MO on form PM 101 (Medical and Dental Fitness Advice), unless there are specific restrictions awarded through the MECRB process.

11.11 There is no requirement for Navy members to pass a RAN PFT prior to a MEC upgrade, as is the case for Army and Air Force. Navy members are afforded up to three months after upgrade to become Individually Ready (IR) in relation to their PFT requirements.

**The MECRB Process**

11.12 A Unit Medical Employment Classification Review (UMECR) is conducted and confirmed locally when a member's long term fitness for employment and deployment are not in doubt. A Central Medical Employment Classification Review (CMECR) is conducted when a member's longer term fitness for employment and deployment is in doubt. A CMECR reflects the commencement of the MECRB process.

11.13 The MECRB process begins at the local HC when a member's health circumstances are assessed as requiring management through the single Services. The MO must initiate, or cause to be initiated, a timely CMECR leading to a MECRB outcome when circumstances prevail. CMECR action is not to be delayed or postponed until the next scheduled health assessment or a review of the current MEC is due when a member's condition requires earlier review.

11.14 If there is any doubt surrounding a member's fitness to serve at sea, the Fleet Medical Officer (FMO)/Deputy Fleet Medical Officer (DFMO) is to be engaged by the treating MO to provide policy guidance.

11.15 Waivers for fitness for sea are NOT to be given at local level without engaging with the FMO/DFMO.

11.16 Generally the circumstances under which a CMECR is to be raised can be broken down into the following categories:

- a. a member has been classified MEC J31 for 12 months and the member's condition requires further attention;
- b. a member has been classified MEC J34 for four months;
- c. a member is required to undertake a review as a result of a previous MECRB Determination, bringing the member back to board for a review of their MEC status; and

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d. as directed by an appropriate authority.

11.17 Completion of the documentation for the CMECR is a shared responsibility between the administering unit and the treating HC; however it remains the responsibility of the member's HC to load the CMECR packs into the MECARS register for MECARS to review and recommendation to the MECRB. The documents that form a CMECR pack are detailed in Annex B to this chapter.

11.18 When members are referred to a MECRB through a CMECR, the treating HC is to raise a signal to notify NPCMA of the change in member's MEC status, as detailed in Annex C to this chapter.

11.19 A member's guide to the MECRB process is at Annex D to this chapter.

### **Medical Employment Classification Review Board**

11.20 Once the review process has been finalised through MECARS, the CMECR pack will be forwarded electronically to the MECRB Cell in NPCMA. Input relating to a members medical situation (subject to the provision of consent from the member) and subsequent impact to capability is then sought from the appropriate Career Manager and is included in the information provided to the MECRB Chair.

11.21 The MECRB Chair considers the following in making the final determination for each member:

- Member's Health Statement (Form AD524)
- Workplace Disability Report (Form AD523)
- Medical recommendations from MECARS (PM610)
- Capability requirement as advised by the Career Managers
- Duty of Care to both the member and the ADF

11.22 Once the MECRB Chair has made a decision, formal documentation will be forwarded to the appropriate Command for action and to advise the member.

11.23 A MECRB determination cannot be amended or overruled by anyone other than the Chair of the MECRB.

### **Command**

11.24 The Commanding Officer of a member's unit will receive the MECRB Determination, and will arrange to provide this to the member at the first available opportunity.

11.25 Upon receipt of the determination, a member is required to either:

- **Accept** the MECRB determination; or
- **Appeal** the MECRB determination.

11.26 Only Commanding Officers are authorised to deliver MECRB determinations as per reference A.

### **Concurrent Retention Not in the Interest of the Navy (RNIN)/MECRB Action**

11.27 A member's mode of discharge will remain extant on their Service records indefinitely, and can not be amended regardless of any retrospective recognition of another mode of discharge being established (Defence Regulations 2016 – section 25 refers). It is critically important therefore for Defence to ensure that members discharging are afforded the most appropriate mode of termination from the outset.

11.28 With this in mind, if RNIN action is being considered, all efforts should be made to determine whether the actions resulting in a potential RNIN are related (or potentially related) to a medical condition; this is to be done prior to the progression of the RNIN through engagement with the members treating MO.

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11.29 If it is considered that medical grounds may exist, then members are to be directed by the Commanding Officer to undergo a medical assessment which may result in a CMECR leading to a prioritised MECRB.

11.30 Once a MECRB determination is made the RNIN delegate must then decide on the most appropriate mode of discharge (RNIN or MECRB) and progress along that avenue.

11.31 Should RNIN action proceed, the actual separation date may be affected by the member's medical situation.

11.32 The MECRB Chair is to be advised of all potential or actual concurrent RNIN / MECRB action so that the member's MECRB case can be afforded priority to meet a timely decision making process for the delegate.

### **MEC Status on separating from the ADF**

11.33 All Navy members are to possess a relevant MEC status upon separating from the ADF, regardless of their mode of discharge. Members are not to be separated at J40 (Holding temporary – confirmation and allocation of suitable MEC classification pending MECRB determination). If however, a member is J40 at the time of their discharge albeit that this should be avoided at all costs, then the MECRB process will continue to its ultimate determination.

### **MECRB Appeal or Representation**

11.34 For MEC determinations of J1, J2, J3 and J4, a member may appeal a MECRB decision within 28 days of receipt. An appeal will only be considered on the basis of the provision of new medical information and is to be forwarded directly to the Chair MECRB (through the Commanding Officer). Extensions to the 28 days may be considered by the Chair MECRB where extenuating circumstances exist. All requests for extensions are to be processed through Commands and require the endorsement of the Commanding Officer.

11.35 An appeal will not be considered if no new medical evidence in support of the member's medical condition is provided. All other appeals should be managed in accordance with the ROG process, as detailed in the [Complaints and Alternative Resolutions Manual \(CARM\) Chapter 6—Redress of Grievance](#).

11.36 Where the Chair MECRB decision is to issue a Termination Notice to a member through the allocation of a MEC J5, a member may provide a Statement Of Reasons as to why their service should not be terminated, as provided for in DR 2016, Section 24(1)(a) — *Early Termination of Service*.

11.37 MECRB makes a personnel management decision, not a medical decision. There is therefore no guarantee that a decision may be overturned regardless of subsequent medical advice.

### **Request for an Extension to Separation Date on Medical Grounds**

11.38 When a Separation Decision is made as a result of MECRB action the member will be issued with a Termination Notice that specifies a separation period that generally allows three months. Should the member wish to request an extension of that period they are to submit a written formal request to NPCMA for consideration.

11.39 All requests for an extension to the member's separation date must be progressed through the member's Chain of Command and must address the reason for the request. Requests of this nature are managed on a case by case basis.

### **Separation Health Examination**

11.40 A form DM42 - Invalidity Retirement from the Defence Force Medical Information is to be completed at the time of the Separation Health Examination (SHE) for all members separating on medical grounds. Information required includes:

- list of medical conditions relating to the medical discharge

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- list of medical conditions that are present at the time of separation but did not lead to medical discharge, and
- a detailed list of member's functional restrictions for civilian employment considerations (not military employment considerations). For example, this could include estimated time member can sit, stand or walk, lifting restrictions, mobility restrictions, fitness for driving, fitness for travelling on public transport or cognitive impairments.

11.41 Commonwealth Superannuation Cooperation (CSC) (previously COMSUPER) is unable to assess the member's entitlement to Invalidity Benefits without the completed DM42 and a copy of the member's medical records. Ideally this should be provided by the member's HC as close as possible to the member's separation date.

11.42 Members who are MEC J40 at their SHE will require urgent prioritisation at MECRB level to ensure that they are allocated an appropriate MEC status on separation. Consideration of retention beyond the member's discharge date pending MECRB Determination is recommended in this situation and a request to NPCMA will be required. The CO is to be kept informed throughout this process.

11.43 Members who are MEC J3 at their SHE or in the months leading up to their separation should be considered for urgent and prioritised referral to MECRB. Referral to MECRB is strongly recommended for members with a mental health condition. If the member is considered likely to achieve fitness for deployment within 12 months of allocation of MEC J3, then the member can be considered 'Fit for discharge in this MEC'. Examples include pregnancy and simple injuries.

11.44 Failure to allocate the most appropriate MEC at SHE or prior to separation can affect a member's entitlements. Therefore it is critically important that members are awarded an appropriate MEC status on discharge. Members at J40 (awaiting MECRB determination) are not to be discharged, rather the HC and Commands are to seek timely resolution of their MEC status through prioritised MECRB.

**Annexes:**

- 11A. Summary of the Medical Employment Classification Groups
- 11B. List of CMECR Documents
- 11C. Template for Medical Employment Classification (MEC) signal
- 11D. MECRB Process – Flow Chart

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## MEDICAL EMPLOYMENT CLASSIFICATION (MEC) GROUPS

### Introduction

1. The MEC system has five levels. Detailed information on the MEC system and levels can be found at the JCG, Joint Health Command webpage [Medical Employment Classification \(MEC\) System](#).
2. In essence however, the five levels are defined within clearly delineated deployable and non-deployable categories as follows:
  - a. **MEC 1:** Fully employable and deployable;
  - b. **MEC 2:** Employable and deployable with restrictions;
  - c. **MEC 3:** Rehabilitation –Temporarily not deployable with employment restrictions
  - d. **MEC 4:** Employment at Service discretion - not deployable;
  - e. **MEC 5:** Medically Unfit for Further Service – not employable or deployable
3. Medical classifications are categorised as **Joint**, **Maritime** or **Land**. Descriptions of each MEC with career/personnel management guidance are contained in MILPERSMAN, Part 3, Chapter 2, Annex B.
4. In addition to the MEC status, a Specialist Employment Classification (SPEC) may also be required to amplify employment restrictions for Defence member's within specialist employment streams. These relate specifically to the following areas:
  - a. Aircrew (**A**),
  - b. Joint Battlefield Airspace Controller (**C**),
  - c. Diver (**D**),
  - d. Parachutist (**P**), and
  - e. Submariner (**S**)

### Medical Employment Classification J4 – Employment Transition

5. MEC J4 is designated as an employment transition category that provides options for the medium-term employment of Defence members who are not deployable but who may remain employable. The placement of a Defence member into this MEC will be reliant upon capability requirements at the time of the MECRB consideration together with the individual management considerations for that member. A placement in a MEC J4 will result in one of the following:
  - a. **MEC J41 (Alternative Employment)** - Unfit in current employment PQ/CAT (Maybe suitable for the allocation of a deployable classification in an alternative PQ/CAT or TOS)
  - b. **MEC J42 (Employment at Service Discretion)** - Duration up to 5 years at any one time (Employable but not deployable).
  - c. **MEC J43 (Extended Transition)** - Duration up to 3 years to support transition from the ADF
  - d. **MEC J44 (Extended Non-effective)** - Not fit for work for a defined period between 4 and 12 months

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**Medical Employment Classification 5 – Medically Unfit for Further Service**

6. If a Defence member is deemed to be medically unfit for further service in the Defence Force, under the MEC system, the MECRB Chair may issue a Notice to Show Cause – Termination Notice to the member on the basis that the Defence member is medically unfit. Thereafter, a delegate listed in [Defence \(Chief of the Defence Force\) Delegations and Authorisations \(No.5\) 2016](#), Schedule 1 may terminate the members service in accordance with Section 24(1)(a) of [Defence Regulation 2016](#) (DR 2016), as being medically unfit for further service in the Defence Force.

7. The MEC 5 sub-classifications are:

- a. **MEC J51** (*Not employable on medical grounds*) - Medically unfit and not employable other than within applicable restrictions in the period leading up to termination.
- b. **MEC J52** (*Not employable on medical grounds*) - Non-effective and unable to be employed in the period leading up to termination.

**MECRB Restrictions**

8. Employment restrictions applied to a Defence member through the MECRB process provide advice to the Defence member, their Chain of Command and their Career Managers, to assist with the ongoing management of their employment.

9. A MECRB determination will always provide a list of restrictions for the member. Employment restrictions are defined in *DHM Volume 2, Part 6, Chapter, Annex 2G – Restriction codes and their Descriptors* and recorded on a Defence member's Form PM 532 (Medical Employment Classification (MEC) Advice)











10. Navy's Duty of Care towards the member dictates that it is a requirement to uphold all prescribed restrictions. If a member considers that the MEC restrictions are not an accurate reflection of their individual circumstances, they may, through their Chain of Command, seek reconsideration through the MECRB Chair. Supporting evidence will be required through this process so as to ensure that Navy is not increasing the risk to the member by removing specific restrictions.

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## CENTRAL MEDICAL EMPLOYMENT CLASSIFICATION REVIEW DOCUMENTS

### List of Documents

1. The completed CMECR must include the following documentation, which is to be forwarded to the Directorate of Military Medicine (DMM) in the Medical Employment Category Advisory Review Service (MECARS) located in Joint Health Command (JHC), for review by an authorised Defence employed medical practitioner:

- a.  **PM 532 - Medical Employment Classification (MEC) Advice** 
  - b.  **PM 518 - Medical Employment Classification Review Record (MECR)** 
  - c.  **PM609 - Consent Form - Member** 
  - d.  **AD524 - Members Health Statement (MHS) - Member** 
  - e.  **AD523 - Workplace Disability Report (WDR) - Supervisor** 
  - f. **All relevant medical information** (including updated specialist advice, and reports)
  - g. Any reports/documentation as indicated by the previous MECRB Determination (when relevant)
2. The Medical Employment Classification Advisory and Review Service (MECARS) will assess all relevant documentation contained in the CMECR pack and raise a medical summary which will include a MEC recommendation, including restrictions, to the MECRB Chair.



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ANNEX 11C

## TEMPLATE FOR MEDICAL EMPLOYMENT CLASSIFICATION (MEC) SIGNAL

FROM: HEALTH FACULTY NAME  
ACTION: MEMBERS UNIT/SHIP  
NPCMA(REGION)  
INFO: DGNHS  
FLEET HEALTH DIVISION  
JHSA CANBERRA

A1B WAP

SENSITIVE: PERSONAL

SUBJECT: MEDICAL EMPLOYEMENT CLASSIFICATION REVIEW RANK/NAME/PMKEYS

- A. MILPERSMAN PT 3 CHAP 2
- B. DHM VOL 2 PT 6 CHAP 2
- 1. WITH EFFECT DATE
- 2. MO RANK/NAME/POSITION CONDUCTING MEC/SPEC REVIEW
- 3. RANK/NAME/POSITION OF CONFIRMING AUTHORITY
- 4. MEC/SPEC FOR XX MONTHS REVIEW BY DATE
- 5. EMPLOYMENT RESTRICTIONS IN ACCORDANCE WITH DHM VOL 2 PT 6 CHAP 2 ANNEX 2G
- 6. ANTICIPATED MEC/SPEC AT NEXT REVIEW
- 7. ASSESSMENT OF MO CONFIDENCE THAT THE MEMBER WILL ATTAIN THE ANTICIPATED MEC/SPEC USING THE FOLLOWING:
  - A. HIGH** (MO ASSESSES THERE ARE NO KNOWN IMPEDIMENTS TO THE MEMBER ACHIEVING THE FORECAST MEC/SPEC BY THE ESTIMATED DATE)
  - B. MEDIUM**(MO ASSESSES, ALTHOUGH THERE ARE IMPEDIMENTS TO THE MEMBER ACHIEVING THE FORECAST MEC/SPEC BY THE ESTIMATED DATE, THEY ARE BEING ADDRESSED)
  - C. LOW** (MO ASSESSES THERE ARE IMPEDIMENTS THAT MAY PRECLUDE THE MEMBER ACHIEVING THE FORECAST MEC/SPEC BY THE ESTIMATED DATE)
- 8. IF UNFIT FOR SEA, FORECAST ESTIMATED DURATION
- 9. PMKEYS HAS BEEN UPDATED/REQUEST UPDATE PMKEYS
- 10. HEALTH FACILITY POC RANK/NAME/EMAIL/PHONE NUMBER

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**EXAMPLE ONLY**

FROM: HARMAN-HC  
ACTION: HARMAN  
NPCMA  
INFO: DGNHS  
FLEET HEALTH DIVISION  
JHSA CANBERRA

SENSITIVE: PERSONAL

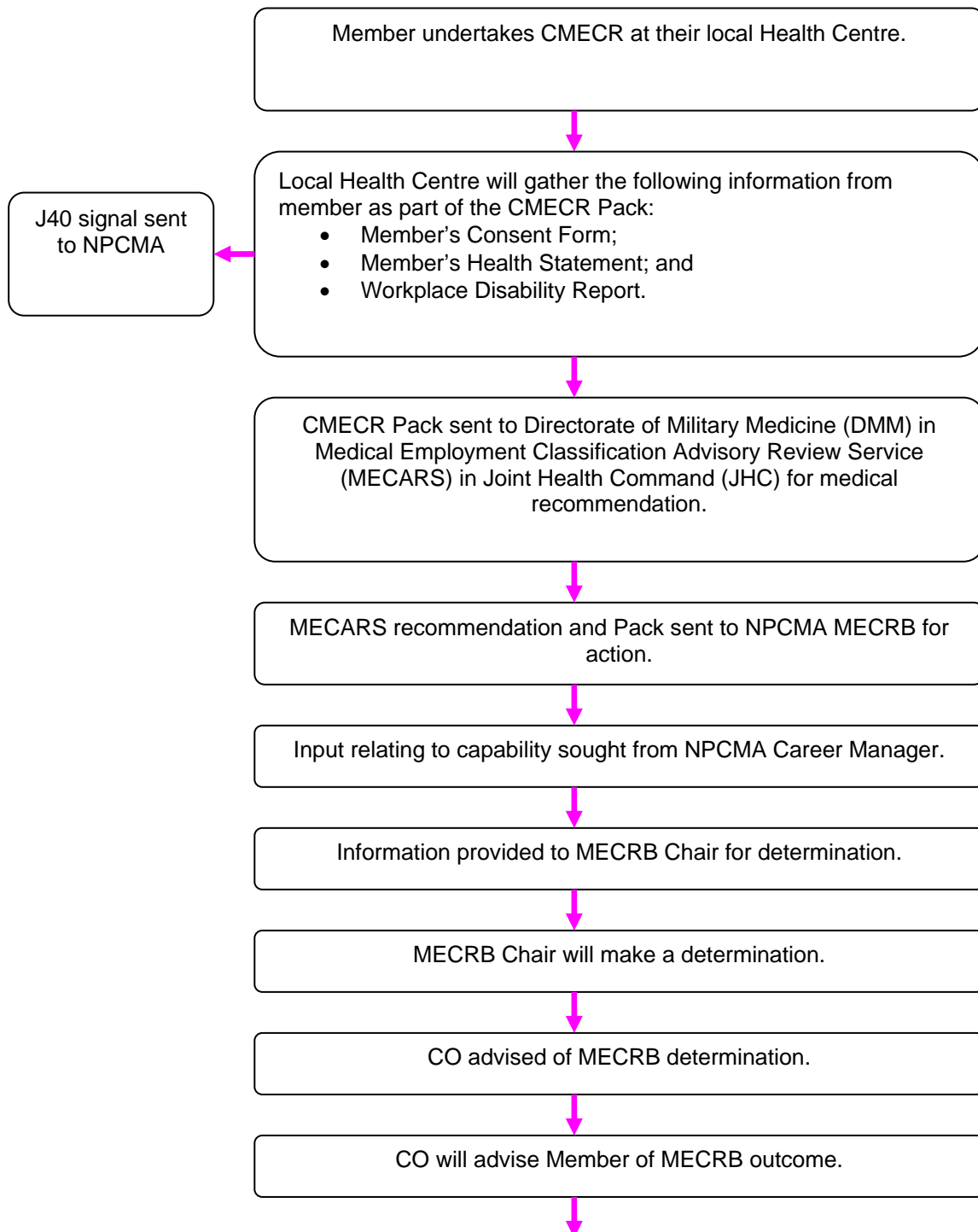
SUBJECT: MEDICAL EMPLOYMENT CLASSIFICATION REVIEW - LSCIS JOE  
BLOGGS 8080808

- A. MILPERSMAN PT 3 CHAP 2
- B. DHM VOL 2 PT 6 CHAP 2
- 1. 16JUN16
- 2. DR M.E.C REEVES MO ALBHC
- 3. LCDR I.M. BOSS SMA
- 4. MEC J34 FOR 4 MONTHS REVIEW BY 16OCT16
- 5. 1-1, 1-3, 1-4, 1-8, 1-9, 3-1, 3-2, 3-3
- 6. MEC J40
- 7. C
- 8. 4 MONTHS
- 9. PMKEYS HAS BEEN UPDATED
- 10. POC LSMED I SORE EMAIL IAN.SORE (AT) DEFENCE.GOV.AU PH  
(02) 61234567

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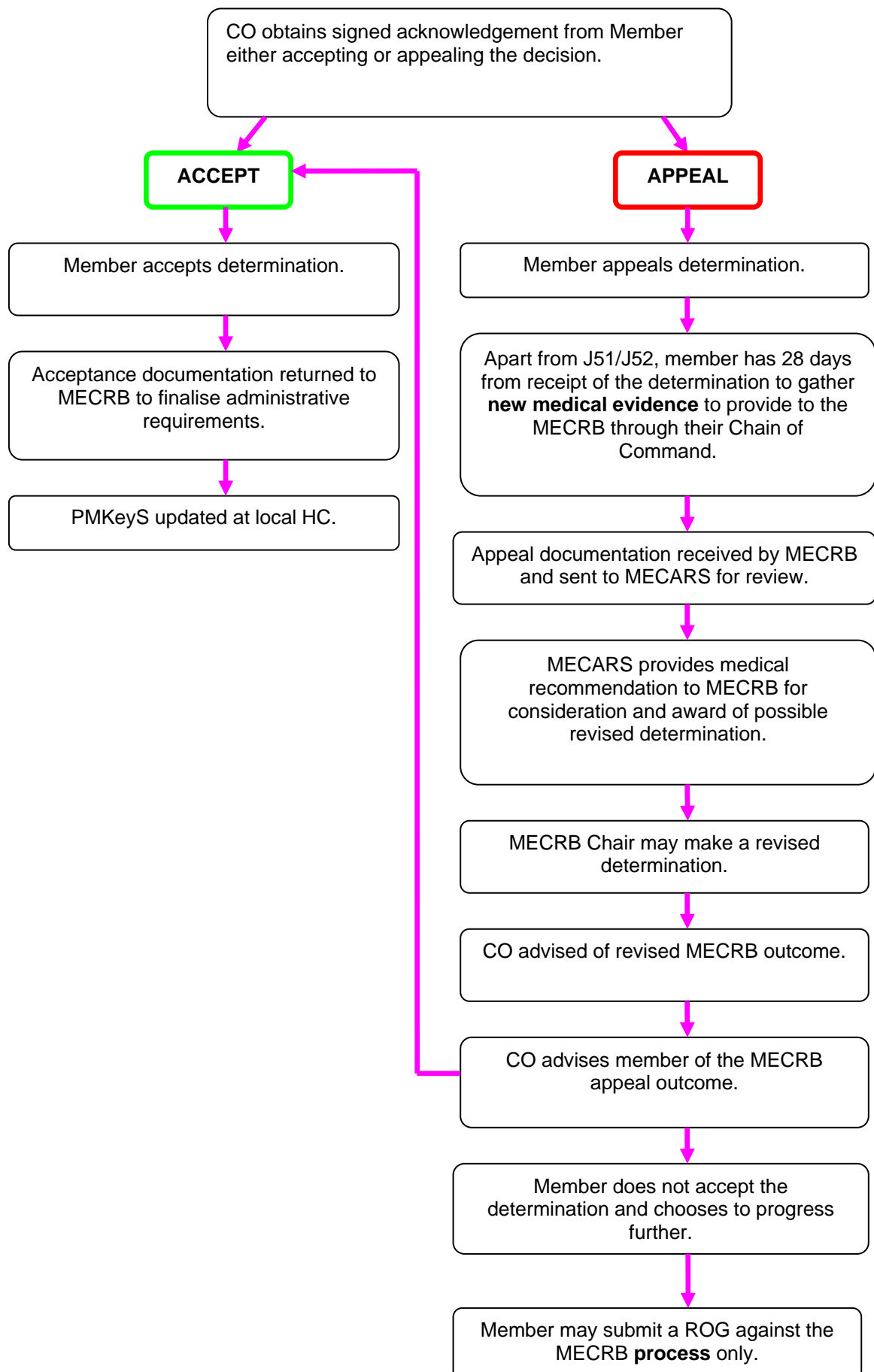
## MEDICAL EMPLOYMENT CLASSIFICATION REVIEW BOARD PROCESS FLOW CHART

The MECRB process starts with a Central Medical Employment Classification Review (CMECR)



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Version 1.0

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## CHAPTER 3

# RESIGNATION AND TRANSFER TO THE RESERVE

### INTRODUCTION

3.1 The Australian Defence Force (ADF) expends considerable resources in the recruitment, entry, training and skills development of Defence members. The increasing complexity of the military environment requires highly trained and experienced members who, once trained, represent a significant investment in training time and are an asset that is difficult to replace.

### POLICY STATEMENT

3.2 Defence recognises the importance of ensuring that all Defence members understand their conditions of service and the obligations associated with their service in the ADF. These conditions and obligations include: resignation; retirement ages; and subsequent service in the Reserves at the end of permanent service.

### DEFINITIONS

3.3 Military Personnel Policy Manual (MILPERSMAN), [Part 1, Chapter 3](#)—‘Military Personnel Policy Manual Glossary’ contains terms and definitions used throughout this chapter.

### AUTHORITY

3.4 [Defence Regulation 2016](#) establishes provisions for resignation, retirement ages and transfers to the Reserve.

### ROLES AND RESPONSIBILITIES

3.5 The following key stakeholders have major roles and responsibilities in relation to the management and effective implementation of this chapter:

- a. **Delegates.** Delegates are responsible for making decisions on resignations and transfers and detailing the associated conditions clearly to Defence members who wish to resign or transfer.
- b. **Career Management Agencies (CMA).** The CMAs are responsible for ensuring that all Defence members understand their conditions of service and the obligations associated with resignations and transfers.

### RESIGNATION AND TRANSFER

3.6 **Resignation.** Defence members who wish to resign must apply to reduce their period of service in accordance with Section 18 of [Defence Regulation 2016](#). A member's period of service can only be reduced if a delegate of the Chief of the Defence Force (CDF) or delegate agrees. Information on resignation notification requirements is available in MILPERSMAN, [Part 10, Chapter 1](#)—‘Permanent Defence Members Notification of Intention to Resign or Transfer to the Reserves’.

3.7 **Voluntary transfer.** Information on voluntary transfer is available in MILPERSMAN, [Part 6, Chapter 5](#)—‘Transfer of Personnel Between the Services’, and MILPERSMAN, [Part 6, Chapter 4](#)—‘Transfer of personnel across the Service Spectrum’. Information on the notification requirements for transferring to the Reserves is available in MILPERSMAN, [Part 10, Chapter 1](#)—‘Permanent Defence Members Notification of Intention to Resign or Transfer to the Reserves’.

3.8 **Involuntary transfers.** The CDF or delegate may transfer a member from one arm of the Defence Force to another (Section 15 of [Defence Regulation 2016](#)) or from the Permanent Force to the Reserve (Section 16 of [Defence Regulation 2016](#)).

### TRANSFER AT THE END OF A PERIOD OF SERVICE IN THE PERMANENT FORCES

3.9 Earlier regulations established that members appointed or enlisted on, or after, a prescribed date were required to transfer to the Standby Reserve within their parent service. Subsequently, [Defence Regulation 2016](#) prescribes that when a member’s service in the Permanent Forces ends, the member becomes a member of the Reserves unless:

- a. the CDF directs otherwise; or
- b. the Defence member has had their service terminated under *Section 24* of [Defence Regulation 2016](#) (early termination of service) other than because of redundancy in the Defence Force; or
- c. the Defence member has had their service terminated (however described), under the [Defence Act 1903](#) or the [Defence Force Discipline Act 1982](#).

3.10 Members of the Permanent Forces enlisted or appointed before the dates below remain subject to the regulations relating to transfer to the Reserves under which they were appointed or enlisted (explained in subparagraph 3.11b). Members who were appointed or enlisted into the Permanent Forces on or after the dates below are subject to transfer arrangements in [Defence Regulation 2016](#) (explained in subparagraph 3.11a).

- a. 01 July 2003 – for all Defence members other than Permanent Air Force (PAF) enlisted members; and
- b. 01 January 1996 – PAF enlisted members.

3.11 For the purpose of CDF direction, on completion of service in the Permanent Forces the following shall apply:

- a. Defence members appointed or enlisted on, or after, the relevant date specified in paragraph 3.10 will transfer to the Reserves unless:
  - (1) they have reached the Reserve compulsory retirement age (CRA) applicable to them
  - (2) they are a participant of the Gap Year program and do not wish to transfer to the Reserves



- (3) they have not completed initial officer or recruit training (as applicable) and their initial employment training; or
  - (4) the delegate directs that the Defence member is not to transfer to the Reserves.
- b. Defence members appointed or enlisted before the relevant date specified in paragraph 3.10 will transfer to the Reserves unless:
  - (1) they have reached the Reserve CRA applicable to them
  - (2) the member does not wish to transfer to the Reserves; or
  - (3) the delegate directs that the Defence member is not to transfer to the Reserves.

3.12 Unless agreed otherwise, the member will commence Reserve Service in the SERCAT 2 (formerly known as the Standby Reserve).

3.13 Notwithstanding the direction above, subject to satisfactory performance and behaviour, all Defence members should be strongly encouraged to transfer to the Reserves on completion of service in the Permanent Force.

3.14 **Service in the Reserves.** Where a Defence member is transferred to the Reserves, the period of service in the Reserves will be as follows:

- a. If the CDF specifies a period of service in the Reserves before the member becomes a member of the Reserves – that period; or
- b. An indefinite period that ends if, during a continuous period of five years the member has not been required to render service as a member of the Reserves.

3.15 Where a serving Defence member in a Reserve category fails to comply with training or other obligations for their category, the decision maker may transfer the Defence member to another category of the Reserves with a lesser training obligation.

3.16 Transfer from the Permanent Forces to the Reserves is taken to be a retirement from the permanent Defence force, with effect from the date of the transfer, for all purposes relating to payment of benefits.

## RETIREMENT AGE

3.17 **Compulsory Retirement Age (CRA).** Section 23 of [Defence Regulation 2016](#) provides that a member's period of service in the Defence Force ends when they reach their CRA. Members who have, under previous regulations, made an election in relation to their CRA will retain that elected CRA. Members who, immediately before the repeal of the Defence (Personnel) Regulations 2002, were able to make an election under those regulations in relation to their CRA, may make an election as if those regulations were not repealed. The provisions for making an

election to retain a former retirement age are prescribed in Section 88 of [Defence Regulation 2016](#).

3.18 **Service beyond CRA.** The CDF or delegate may allow a member to serve beyond CRA under subsection 23(2)(b) of [Defence Regulation 2016](#) in order to fill a specific capability gap.

### RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 2, Chapter 4](#)—‘Service Obligations’

MILPERSMAN, [Part 6, Chapter 4](#)—‘Voluntary Transfer of Personnel across the Service Spectrum’

MILPERSMAN, [Part 6, Chapter 5](#)—‘Transfer of Personnel between the Services’

MILPERSMAN, [Part 10, Chapter 1](#)—‘Permanent Defence Members Notification of Intention to Resign or Transfer to the Reserves’

MILPERSMAN, [Part 10, Chapter 5](#)—‘Management of ADF Standby Reserve’

### RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Regulation 2016](#)

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Army Standing Instructions \(Personnel\)](#)

[Air Force Standing Instructions \(Personnel\)](#)

**Sponsor:** ASPPEC (DMPP)

## CHAPTER 2

# TERMINATION OF SERVICE IN THE AUSTRALIAN DEFENCE FORCE

### INTRODUCTION

2.1 The [Defence Act 1903](#) and [Defence Regulation 2016](#) enable the Chief of the Defence Force (CDF) to terminate the service of Defence members (Permanent and Reserves) for prescribed reasons.

### POLICY STATEMENT

2.2 Delegates may make decisions with respect to the ongoing service of members of the ADF.

### SCOPE

2.3 This chapter details the Defence policy regarding the termination of service mechanisms contained in the [Defence Act 1903](#) and [Defence Regulation 2016](#), and is applicable to Defence members. This chapter does not address termination under the [Defence Force Discipline Act 1982](#).

### DEFINITIONS

2.4 Military Personnel Policy Manual (MILPERSMAN), [Part 1, Chapter 3](#)—‘Military Personnel Policy Manual Glossary’ contains terms and definitions used throughout this chapter.

### AUTHORITY

2.5 [Defence Regulation 2016](#) provides the CDF authority to terminate a Defence member’s service in prescribed circumstances and to delegate those powers. The [Defence Act 1903](#) provides the CDF authority to terminate a Defence member’s service as a result of positive prohibited substance testing and to delegate those powers. The CDF instruments of personnel-related delegations and authorisations are located on the [Pay and Conditions website](#).

### TERMINATION OF SERVICE

#### GROUNDINGS FOR TERMINATION OF A DEFENCE MEMBER’S SERVICE

2.6 The service of a Defence member may be terminated under [Defence Regulation 2016](#), Section 24. This section provides that the CDF (or a delegate) may terminate a member’s service if:

- a. **The member is medically unfit for service in the Defence Force.** This can include but is not limited to situations where:
  - (1) the member is incapable of rendering effective service as a result of physical or mental incapacity

- (2) the member is medically unfit to deploy as a result of physical or mental incapacity
  - (3) the member does not meet the medical standard for the assigned employment category in which they serve.
- b. **The member cannot usefully serve due to redundancy in the Defence Force.** Redundancy means that Defence no longer requires the work or job to be performed by anyone because of the changes in the operational requirements of Defence. Unless CDF directs otherwise, a member who is terminated due to redundancy will transfer to the Reserves (Service Category (SERCAT) 2 (formerly the Standby Reserve) in accordance with *subsection 21(3) of [Defence Regulation 2016](#)*. Delegates intending to terminate a Defence member's service due to redundancy should also refer to the relevant Defence Determination which has been made under *subsection 58B of the [Defence Act 1903](#)*. Terminations due to redundancy are distinctly different to compulsory transfers to the Reserves under the Command-Initiated Transfer to the Reserves (CITR) provisions outlined in MILPERSMAN, [Part 10, Chapter 4](#).
- c. **Retention of the member's service is not in the interests of the Defence Force.** This can include reasons relating to one or more of the following:
  - (1) a member's performance
  - (2) a member's behaviour (including any convictions for criminal or service offences)
  - (3) a member's suitability to serve in the Defence Force, or in a particular role or rank
  - (4) workforce planning in the Defence Force
  - (5) effectiveness and efficiency of the Defence Force
  - (6) the morale, welfare and discipline of the Defence Force
  - (7) the reputation and community standing of the Defence Force.
- d. **The member has failed to meet a condition of their appointment or enlistment.** The condition, including the allocated timeframe, must have been specified at the time of the appointment or enlistment and can include, but is not limited to, situations where:
  - (1) a member has not successfully completed a training requirement
  - (2) a member has not been granted, or has not accepted, Australian citizenship
  - (3) a member has not attained a specified security clearance.

- e. **The member has been absent without leave for a continuous period of 3 months or more.**

## PROCESS FOR TERMINATING THE SERVICE OF DEFENCE MEMBERS UNDER DEFENCE REGULATION 2016

2.7 [Defence Regulation 2016](#), subsection 24(2) outlines notice period requirements for terminating the service of a Defence member. These requirements ensure that Defence members receive procedural fairness in relation to termination decisions. Any failure to follow the process may result in termination decisions being invalid.

2.8 Where it is proposed to terminate the service of a Defence member, they must receive a termination notice, and be provided at least 14 days to respond, unless:

- a. the termination is because of failing to meet a condition of appointment or enlistment
- b. the termination is during a period of probation that was specified at the time of appointment or enlistment
- c. the member has been absent without leave for a continuous period of 3 months or more.

2.9 In the circumstances outlined at subparagraphs 2.8a – 2.8c, termination without notice is permitted. It is, however, considered administrative best practise to follow the termination process described in paragraphs 2.12 – 2.17. Delegates considering making a termination decision without following the process described below should seek legal advice before doing so.

2.10 When a member's service is to be terminated due to redundancy the termination must not occur until at least five weeks after the notice is given, unless the member agrees to earlier termination ([Defence Regulation 2016](#), subsection 24(4)).

2.11 Where termination of service is for reasons related to medical fitness, refer to MILPERSMAN, [Part 3, Chapter 2](#)—'Australian Defence Force Medical Employment Classification System' and single-Service policy to ensure that all relevant processes are followed.

2.12 Unless the termination decision is made personally by the CDF, the person who decides to issue the termination notice is to be a different person from the delegate who makes the termination decision.

2.13 [Defence Regulation 2016](#), Section 30 specifies that the termination notice must:

- a. state that it is proposed to terminate the Defence member's service in the Defence Force

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- b. state the reason for the proposed termination of the Defence member's service
- c. set out the facts and circumstances relating to the reason for terminating the Defence member's service, in sufficient detail to allow the Defence member to prepare a written response about why their service should not be terminated. This will include details of any evidence relied upon to support the reasons for termination
- d. invite the Defence member to provide a written response why their service should not be terminated
- e. specify a period of at least 14 days after the date of the notice as the period in which the Defence member may give the statement of reasons.

2.14 When a member is provided a termination notice, a decision to terminate a member's service must not be made until the member has either provided a written response, advised in writing that they do not intend to provide a written response, or the period for providing a written response has ended. Before making a decision, the delegate must consider any written response that the member has provided.

2.15 If the delegate becomes aware of any additional information which is relevant to whether the member's service should be terminated, it may be necessary to provide the member with an opportunity to respond to that information before making a decision to terminate the member's service. Where unsure how to proceed, the delegate should consider consulting a legal officer.

2.16 If the member's service is to be terminated after the delegate has considered the member's written response or the period for providing a response has ended, the delegate is to advise the member of the decision and specify the date the termination will take effect.

2.17 Where the Defence member's location is not known, reasonable attempts should be made to locate the Defence member in order to provide the member with a termination notice. Where the Defence member cannot be located, the termination notice should usually be sent to their last known address and non-Defence email address(es).

## TERMINATION OF SERVICE WHEN BECOMING A PERMANENT RESIDENT OF ANOTHER COUNTRY

2.18 Defence members who intend to take or have taken permanent residency in another country are to notify the CDF as soon as practicable. The CDF may terminate the service of the member if it is determined their retention is not in the interests of the Defence Force.

## TERMINATION OF SERVICE AS A RESULT OF POSITIVE PROHIBITED SUBSTANCE TESTING

2.19 Termination on the basis of a positive prohibited substance test under Part VIIIA of the [Defence Act 1903](#) must be in accordance with the [Defence Act 1903](#) and the processes outlined in MILPERSMAN, [Part 4, Chapter 3](#)—Management of the



use or involvement with prohibited substances in the Australian Defence Force. Where a Defence member has returned a positive prohibited substance test in the course of a [Defence Force Discipline Act 1982](#) investigation or other than under Part VIIIA of the [Defence Act 1903](#), termination of service should be considered under [Defence Regulation 2016](#), Section 24.

## TERMINATION DATE

2.20 Wherever practical, when choosing the termination date for a Defence member, or responding to a request for an extension of a Defence member who 'is medically unfit for service in the Defence Force' and is to be terminated under subsection 24(1)(a) of [Defence Regulation 2016](#), the delegate should consider:

- a. whether the member has received an initial assessment from the Commonwealth Superannuation Corporation, if they have submitted a request for an assessment, and
- b. whether the member has received any initial decision from the Department of Veterans Affairs on claims based on the Commonwealth Superannuation Corporation assessment.

2.21 Where an assessment from the Commonwealth Superannuation Corporation or Department of Veterans' Affairs is pending or delayed, the delegate, when choosing the termination date for a Defence member, should consider:

- a. whether short-term retention while awaiting an assessment is in the interests of the member
- b. the wishes of the member for retention.

2.22 Where an assessment from the Commonwealth Superannuation Corporation or Department of Veterans' Affairs is delayed beyond a reasonable period of time, the delegate should specify a date of termination appropriate in the circumstances, but is not to retain the member beyond this reasonable period.

## TERMINATION DECISIONS AND REDRESS OF GRIEVANCES

2.23 A Defence member may submit a redress of grievance (ROG) to their Commanding Officer (CO), in accordance with the [Complaints and Alternative Resolutions Manual \(CARM\)](#), on the decision to terminate their service. A ROG relating to a termination decision must be submitted within 14 days after the Defence member was notified of the decision to terminate their service and should also be submitted in advance of the termination taking effect.

2.24 When a ROG is submitted, the termination action may be suspended pending resolution of the ROG. The underlying principle is that the delegate should not normally take irrevocable or pre-emptive action that would prejudice an appropriate remedy if a Defence member's ROG were subsequently upheld; these decisions are to be made on a case-by-case basis.

2.25 If the termination action has been suspended pending resolution of a ROG, termination dates should be postponed until at least three working days after a ROG

is finalised, unless prevented by the operation of Part VIIIA of the [Defence Act 1903](#) (see MILPERSMAN, [Part 4, Chapter 3](#)). A Defence member is considered to have been notified of the outcome of the ROG on the day the Defence member receives the written decision or could reasonably be expected to have received the decision.

2.26 When considering suspending termination action the safety, security, discipline and/or the effective operation of the unit may reasonably dictate that termination should proceed despite the submission of a ROG. Such circumstances are to be exceptional. In the alternate, the Defence member may be suspended from duty under Section 28 of [Defence Regulation 2016](#).

## ENTITLEMENTS FOLLOWING TERMINATION OF SERVICE

2.27 A Defence member's entitlement to superannuation, pay and allowances where their service is terminated will vary according to the individual circumstances. For details of entitlements refer to [ADF Pay and Conditions Manual \(PACMAN\)](#) and Commonwealth Superannuation Corporation.

## RELATED MANUAL CHAPTERS

MILPERSMAN, [Part 3, Chapter 2](#)—'Australian Defence Force Medical Employment Classification System'

MILPERSMAN, [Part 4, Chapter 3](#)—'Management of the use or involvement with prohibited substances in the Australian Defence Force'

MILPERSMAN, [Part 10, Chapter 3](#)—'Resignation and transfer to the Reserve'

MILPERSMAN, [Part 10, Chapter 4](#)—'Command Initiated Transfer to the Reserves'

## RELATED LEGISLATION, POLICY AND PUBLICATIONS

[Defence Act 1903](#)

[Defence Force Discipline Act 1982](#)

[Ombudsman Act 1976](#)

[Defence Regulation 2016](#)

[Defence \(Chief of the Defence Force\) Delegations and Authorisations \(No.2\) 2017](#)

[ADF Pay and Conditions Manual \(PACMAN\)](#)

[Complaints and Alternative Resolutions Manual \(CARM\)](#)

[Australian Book of Reference \(ABR\) 0010](#)—*Sailors' Career Management Manual*

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[ABR 6289](#)—*RAN Officers' Career Management Manual*

[Air Force Standing Instructions \(Personnel\)](#)

[Army Standing Instructions \(Personnel\)](#)

**Sponsor:** ASPPEC (DMPP)

2.89 In circumstances where a Defence member's commander/manager has concerns about the medical fitness of a Defence member to undertake a particular activity, or when there has been a significant change to the employment environment, they should seek advice from an AHP or senior medical officer as to whether the Defence member is medically fit to participate in such activities. A formal health risk analysis should be conducted as part of this process in accordance with relevant health policy.

2.90 For any activities supported by a written HSO, commanders/managers are to ensure the HSO is consistent with the overall risk assessment, and that all critical assumptions regarding the level of available health support are confirmed, with appropriate detail included to facilitate access to that health support.

## JOINT OPERATIONS MEDICAL AND DENTAL WAIVERS

2.91 In exceptional mission-critical circumstances, CJOPS may authorise the granting of waivers in order to deploy mission-critical Defence members assigned a non-deployable MEC, or medical restrictions that are not compatible with deployment in the joint environment.

2.92 The raising of a waiver is the responsibility of the Defence member's chain of command. Timely processing of the waiver is more likely to be achieved if the application meets the requirements found on the [HQJOC website](#). Prior to being submitted to HQJOC the waiver is to be staffed through the Defence member's:

- a. parent unit/ship
- b. functional, formation or environmental headquarters
- c. single-Service chain of command.

2.93 The Defence member's chain of command are to demonstrate that all practicable avenues to find a suitable replacement have been exhausted, clearly articulate the associated health risks to the individual if they were to deploy, and define the risk to the accomplishment of the mission if the Defence member does not deploy.

2.94 Defence members who do not meet the minimum medical standard to deploy, and who have not been cleared to deploy by the appropriate delegate within HQJOC, in accordance with the relevant HSO, are not to deploy unless a waiver has been granted by CJOPS.

## SEPARATION

2.95 As the CDF's delegate, the MECRB Chair can initiate separation when they consider the Defence member to be medically unfit for further service, in accordance with [Defence Regulation 2016](#) section 24. Separation procedures are to accord with Defence Regulation 2016 and with [MILPERSMAN Part 10, Chapter 2—Termination of Service in the Australian Defence Force](#). The Separating Authority who makes the final decision on separation, must be a different person to the MECRB Chair, and is not to have been involved in the MECRB decision.