

# EXPLANATORY STATEMENT

## Defence Force Remuneration Tribunal Determination No. 4 of 2018 – ADF Allowances – Recruit Instructor Disability Allowance – amendment

This Determination amends Defence Force Remuneration Tribunal (DFRT) Determination No. 11 of 2013, *ADF Allowances* (the Principal Determination), made under section 58H of the *Defence Act 1903* (the Act) and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (AIA Act). The Principal Determination sets out provisions dealing with salary related allowances for members of the Australian Defence Force (ADF).

The purpose of this Determination is to:

- Extend the eligibility of recruit instructor disability allowance to members who have been directed to perform CDF approved temporary duty.
- To provide that if a member is eligible for Special Forces sustainability allowance and recruit instructor sustainability allowance for the same period, the member is to be paid the higher of the relevant two rates.
- To make clear that a member may not be eligible to receive recruit instructor sustainability allowance when other allowances are payable for the same period.

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

Section 2 of this Determination provides that the Determination commences on date of signature.

Section 3 provides that this instrument has authority under section 58H of the *Defence Act 1903*.

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### Schedule 1 sets out amendments to DFRT Determination No. 11 of 2013, *ADF Allowances*

Section 1 omits and substitutes paragraph B.17.3.b of the Principal Determination, which provides one of three eligibility conditions that are used to decide a member's eligibility for recruit instructor disability allowance. Paragraph b. has been expanded to include a member who is performing CDF approved temporary duty. Army have identified that there are instances in which members who have the required qualifications are temporarily moved into recruit instructor positions to cover for an instructor who is unavailable for a period of time, or during periods of high tempo when short term surge capacity is required. This would be considered CDF approved temporary duty. These periods would generally not be less than two weeks. It is acknowledged that around the two week period, a member would be experiencing the range and cumulative effects of the disabilities for which recruit instructor disability allowance is paid, and therefore should be eligible for payment.

Section 2 omits and substitutes section C.2.7 of the Principal Determination, which provided that eligibility for Special Forces sustainability allowance does not exclude eligibility for any other allowance. Army have identified that potential posting of Special Forces personnel to 1 Recruit Training Battalion (1 RTB) as a recruit instructor could result in that member being eligible for both Special Forces sustainability allowance and recruit instructor sustainability allowance—an unintended outcome. The Special Forces sustainability allowance is intended to provide a similar outcome as the recruit instructor sustainability allowance: the Special Forces sustainability allowance provides members with an incentive to take postings outside their parent SF unit where their knowledge, skills, attributes, and experience can be applied for the achievement of wider ADF outcomes (for example in places like 1 RTB), while the recruit instructor sustainability allowance is intended to attract suitable members to 1 RTB. This means that a Special Forces member who is posted to 1 RTB as a recruit instructor has already being incentivised to

be a recruit instructor through the payment of the Special Forces sustainability allowance, and getting the recruit instructor sustainability allowance at the same time could be seen as a double payment.

The section has been amended to provide that where a member is eligible for both Special Force sustainability allowance and recruit instructor sustainability allowance for the same period, only the higher of the two relevant rates is payable.

Section 3 omits and substitutes section C.3.5 of the Principal Determination, which provided that eligibility for recruit instructor sustainability allowance does not exclude eligibility for any other allowance. As a result of the change made in section 2 of this determination the section has been amended to make clear that other allowances may not permit payment of recruit instructor sustainability allowance (for example, Special Forces sustainability allowance).

**Authority:** Section 58H of the  
*Defence Act 1903*