



## **Defence Force Remuneration Tribunal No. 17 of 2023, ADF Allowances – Submarine capability assurance payment – amendment**

The Defence Force Remuneration Tribunal, make this Determination under section 58H of the *Defence Act 1903*. It relates to Matter No. 10 of 2023 – Submarine Capability Assurance Payment (SM-CAP) Amendments and Report Back.

Dated 29 November 2023

Bernadette O'Neill

President

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Adrian Morris

Member

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Major General Gerard Fogarty, AO (Retd)

Member

.....



**1 Name**

1. This Determination is Defence Force Remuneration Tribunal Determination No. 17 of 2023, ADF Allowances – Submarine capability assurance payment – amendment.
2. This Determination may also be cited as DFRT Determination No. 17 of 2023.

**2 Commencement**

Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Provisions</b>	<b>Commencement</b>
1. The whole of this instrument	The day after signature.

**Note:** This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

**3 Authority**

This instrument is made under section 58H of the *Defence Act 1903*.

**4 Schedules**

1. Defence Force Remuneration Tribunal Determination No. 11 of 2013, *ADF allowances*, as amended, is amended as set out in Schedule 1 of this Determination.
2. Transitional provisions are set out in Schedule 2 of this Determination.

**Schedule 1—Submarine capability assurance payment amendments**  
***DFRT Determination No. 11 of 2013, ADF allowances***

**1 Section D.1.3 (table item 2)**  
 Omit “Part-time leave without pay”, substitute “On a Flexible Service Determination”.

**2 Section D.1.9**  
 Repeal the section, substitute:

**D.1.9 Administration of payment**

1. Payment is calculated based on the following and is payable as a lump sum.
  - a. For the period 1 January 2015 to 31 December 2023 — the amount of payment is calculated for each calendar year and payable after each year ends.
  - b. For the period 1 January 2024 onwards — subject to subsection 2, the amount of payment is calculated for each financial year and payable after each financial year ends.
2. For the financial year ending 30 June 2024, the amount of payment is calculated using the following formula.

$$\text{amount of payment} = \frac{A}{2}$$

Where:

A is the amount payable for the period 1 July 2023 to 30 June 2024.

**3 Table 3 Part F Colum 3**  
 Repeal the column, substitute:

<b>Column 3 Rate (\$)</b>
\$25,000
\$35,000
\$45,000
\$55,000

## Schedule 2—Transitional

### 1 Definitions

**Allowance Determination** means Defence Force Remuneration Tribunal Determination No. 11 of 2013, ADF allowances as in force from time to time.

### 1 Payment for 2023 calendar year

1. This section applies to a member who is eligible for payment of submarine capability assurance under Division D.1.6 of the Allowance Determination for the period 1 January 2023 to 31 December 2023.
2. The member is eligible to be paid the annual rate of submarine capability assurance payment set out in Table 3 in Part F of the Allowance Determination that applies to the member as though the changes made by Schedule 1 of this Determination applied at the time.

# EXPLANATORY STATEMENT

## Defence Force Remuneration Tribunal No. 17 of 2023 – Submarine Capability Assurance Payment (SM-CAP) Amendments and Report Back

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 increase the rates of the submarine capability assurance payment as well as change the period for which it is paid from a calendar year to a financial year from 1 January 2024.

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 the day after 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 amends section D.1.3 of the Principal Determination which provides the effect specific activities have on effective service. The section has been amended to substitute references to “part-time leave without pay” with “Flexible Service Determination”. Flexible Service Determinations replaced the use of part-time leave without pay in 2018.

Section 2 repeals and substitutes section D.1.9 of the Principal Determination which provides the administration of payment for the submarine capability assurance payment. The section has been redrafted to provide that from 1 January 2024, payment is based on a financial year and is payable after each financial year ends. The section further provides how payment is to be calculated for the financial year ending 30 June 2024.

Section 3 repeals and substitutes column 3 of Table 3 in Part F of the Principal Determination. The table has been amended to provide the new rates of submarine capability assurance payment.

Criteria are provided for the exercise of discretions under the Principal Determination, as amended by this Determination. Adverse decisions may be subject to inquiry under the ADF redress of grievance system. A person may make a complaint to the Defence Force Ombudsman.

### Schedule 2 sets out transitional provisions

Clause 1 provides the definition of Allowance Determination for the purpose of Schedule 2 of this Determination.

Clause 2 provides that a member who is eligible for payment of submarine capability assurance under D.1.6 of the Principal Determination for the period 1 January 2023 to 31 December 2023 is eligible for the rate of payment that applies to the member set out in Table 3 in Part F of the Principal Determination as though the changes made by Schedule 1 of this Determination applied at the time.

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