



VICE CHIEF OF DEFENCE FORCE GROUP
Reserve and Employer Support Division

MINUTE

2003/40871/3
DESPS/OUT/2008/504

CDF

EMPLOYER SUPPORT PAYMENTS

References:

- A. Defence (Employer Support Payments) Determination 2005
- B. DI(G) PERS 05-42 *Employer Support Payment Scheme – claims for service commenced after 31 August 2005* dated 11 Nov 05

1. To facilitate the provision of health services capabilities required by the ADF for the support of operations and training exercises, and for the provision of civil aid, humanitarian assistance, assistance in medical or civil emergencies or disaster relief, I recommend that you approve the payment of additional Employer Support Payments (ESP) as authorised by section 15A of *Defence (Employer Support Payments) Determination 2005*, in accordance with the stated conditions, limitations and restrictions.

Eligible claimants

2. Claimants eligible for payment of additional ESP are:
 - a. Employers of medical, dental or allied health officers in the ADF Reserves who are within any of the classes of health specialisation listed in Annex A.
 - b. Employers of nursing officers in the ADF Reserves who are within any of the classes of nursing specialisation listed in Annex A.
 - c. Employers of medical, dental, nursing or allied health officers in the ADF Reserves within other classes of health specialisation, if agreed by Head Reserve and Employer Support Division (HRESD) and either Commander Joint Health (CJHLTH) or Surgeon General Defence Health Reserves (SGDHR) that this class should be entitled to additional ESP under the authority of this Approval.
 - d. Employers include self-employed Reservists.

Date of Effect

3. This approval is effective from 1 January 2009.

GENERAL PROVISIONS

4. For an employer to be entitled to additional ESP in accordance with section 15A of the Determination, the officer must:

- a. have completed a qualifying period of two weeks of continuous Defence service, while employed by the employer and within the current financial year, whether as a single period or in multiple periods of service as long as each period of service comprises a minimum of five consecutive days; and
- b. have, while employed by the employer, rendered a period of Defence service as a medical, dental, nursing or allied health officer, either on continuous full-time service or on service remunerated by payment of training days, and have provided:
 - (1) service on an ADF operation;
 - (2) service undertaking pre-deployment training for an ADF operation;
 - (3) service on a:
 - (a) training exercise,
 - (b) training course (either as a student, instructor or officer conducting the course), or
 - (c) other training opportunity (including attendance at a medical fellowship) that has been approved by CJHLTH or SGDHR,
whether the exercise, course or training opportunity is an ADF event or a foreign or combined event with ADF participation;
 - (4) service on a naval ship deployment (whether an RAN or foreign ship);
or
 - (5) service providing:
 - (a) civil aid,
 - (b) humanitarian assistance,
 - (c) disaster relief,
 - (d) assistance in a medical or civil emergency, or
 - (e) provision of other medical support or other duty
for which the officer's service has been authorised by CJHLTH or SGDHR.

5. When a Reservist's service ceases before the end of the annual two week qualifying period, the Director of the ESP Scheme (DESPS) may approve payment of a portion of the additional ESP to the employer for the period of service that has been completed. This may only occur in the following situations:

- a. The Reservist dies.

- b. The Reservist becomes medically unfit and cannot complete the period of service because of physical or mental incapacity not within the member's control.
- c. The DESPS accepts that the Reservist cannot complete the period of service for reasons not within the member's control.

Amount Payable

6. Once the qualifying conditions have been satisfied, an employer is entitled to an additional ESP payable from the first day of the service detailed in paragraph 4.b. The amounts specified in Annex A are the maximum amounts payable in respect of a full-time employee (unless the claim is submitted on a financial hardship basis). When a medical, dental, nursing or allied health officer is employed on a part time basis, the employer is entitled to an additional ESP calculated on a pro-rata basis.
7. Employers are entitled to be paid in accordance with payment rates detailed at Annex A.
8. Employers of specialisations not listed at Annex A, if agreed to be eligible by HRES D and either CJHLTH or SGDHR in accordance with paragraph 2.c, are entitled to receive payment at a rate agreed by HRES D and either CJHLTH or SGDHR. In determining a rate, consideration will be given to the professional qualifications and competency level of the health officer and to comparable categories already listed at Annex A of this Approval.
9. Week has the same meaning as it has in the *Defence (Employer Support Payments) Determination 2005*. The concept of a week is explained in paragraph 99 of ref B.

Impact of civil practice support allowance

10. When a medical officer is entitled to a Civil Practice Support Allowance (CPSA) for the period of service detailed in paragraph 4.b, the amount payable to the employer under Annex A is to be reduced by the amount of CPSA that is payable. When the medical officer is employed in an employment arrangement where the medical officer is employed by an employer (such as a hospital) but also exercises a right of private practice, then the reduction is to be applied only to that payment that is payable to the medical officer. Should such a reduction reduce the amount payable to the medical officer to a negative figure, then the negative figure is to be disregarded and the amount payable to the medical officer is taken to be zero.

Example: LTCOL A is a General Surgeon with a full-time functioning civil medical practice. He undertakes a 10 week deployment to Afghanistan (OP SLIPPER). This Approval provides a payment rate of \$5,600.00 per week for full-time General Surgeons. However, LTCOL A is also entitled to CPSA for his deployment so he will receive a reduced ESP payment rate of \$4,000.00 per week (5,600.00 – 1,600.00). For the 10 week deployment, LTCOL A will receive:

- \$40,000.00 in ESP payments
- \$16,000.00 in CPSA payments

Note: The CPSA is administered by the relevant Service authorities as identified on the CPSA claim form (AD 387). It is not administered by the ESP Directorate.

Impact of standard Employer Support Payment

11. Any payment of additional ESP at the rate listed in Annex A includes any entitlement to standard ESP. When the employer of a medical, dental, nursing or allied health officer is entitled to claim the standard ESP for the period of service detailed in paragraph 4.b, the amount payable to the employer under Annex A is to be reduced by the amount of standard ESP that has been paid.

Part time employment

12. When a medical, dental, nursing or allied health officer is employed on a part time basis and works less than 35 hours per week, the additional ESP is calculated on a pro-rata basis using 35 hours as the ordinary hours for a full-time employee.

Example: Dr X is a Public Health Physician who works 25 hours per week in a public hospital. During a deployment, the public hospital is entitled to 25/35 of the weekly payment rate ($25/35 \times \$4,500$ per week).

Multiple employment arrangements

13. When a medical, dental, nursing or allied health officer is employed in more than one employment arrangement (e.g. a medical officer who is employed within the public health sector but also exercises a right of private practice), then:

- a. the additional ESP will be calculated having regard to the number of hours worked for each employer;
- b. the additional ESP will be treated as separate payments and not apportioned between the employers; and
- c. the limitation on both full-time and part-time employers receiving ESP payments will not apply.

Example: Dr X is a General Surgeon who works 50 hours per week. Of this, 35 hours is for a public hospital and 15 hours is in private practice. During a deployment, the public hospital is entitled to payment at the weekly payment rate (\$5,600 per week) on a full-time basis and Dr X is entitled to 15/35 of the weekly payment rate ($15/35 \times \$5,600$ per week).

If Dr X is eligible to receive CPSA, Dr X's entitlement should be reduced by the amount of the CPSA. If the CPSA exceeds the amount of Dr X's entitlement, then the amount of ESP payable to or by Dr X is zero. The payment to the public hospital is unaffected.

Restrictions

14. An employer is not entitled to more than one additional ESP in respect of a single medical, dental, nursing or allied health officer. Should an officer match the description of more than one class as detailed in Annex A, the employer will only be entitled to an additional ESP in respect of the class that is the predominant civilian occupation of the officer.

Eligibility

15. In addition to meeting the conditions detailed in paragraph 4, claimants must meet specific eligibility criteria and provide a fully completed ESP claim form with supporting documentation. Different criteria and documentation requirements apply to self-employed Reservist claimants.

EMPLOYER CLAIMS

16. For an employer to be eligible for additional ESP:

- a. The Reservist must be a bona fide employee of the employer.
- b. The employer must have released the employee to undertake the Defence service.

Note: If the Reservist undertakes part or all of the Defence service on annual leave, long service leave or any form of accrued leave entitlement or performs work for the business during the period of Defence service (except emergency work or work authorised in writing by the Reservist's commanding officer or branch head), no additional ESP is payable in respect of those days during the period of Defence service when these forms of leave were utilised or this work occurred.

- c. If the Reservist is undertaking unprotected voluntary continuous full-time service, the employer must have provided an undertaking to the Reservist to comply with the requirements of the *Defence Reserve Service (Protection) Act 2001* as if the service being rendered was protected service.

17. The following documentation must be provided with the ESP claim form:

- a. Evidence that the business is bona fide (eg notification of ABN registration, certificate of incorporation, business name registration certificate or similar supporting evidence).
- b. Evidence of the Reservist's employment (eg payment summary, payroll slip, group certificate, employment contract or other similar evidence) immediately prior to the first period of claimed Defence service in the relevant financial year. This evidence should show the number of hours per week that the Reservist normally works for the employer.

For part-time employees, the evidence of normal hours worked should be provided for the two months prior to the service claimed (e.g. last two months rosters, last two months payment details including hours worked, employment contract or other similar evidence).

SELF-EMPLOYED RESERVIST CLAIMS

18. A Reservist is classed as self-employed if the Reservist conducts a recognised profession or bona fide business as:

- a. a sole trader; or

- b. a partner; or
 - c. an employee, in an active role, of a company in which the member has a controlling interest; or
 - d. a director of a company in which the member has a controlling interest and in which the Reservist plays an active role in the direction of the company; or
 - e. an independent contractor providing services to a company in which the member has a controlling interest.
19. For a self-employed Reservist to be eligible for additional ESP:
- a. the self-employed Reservist must
 - (1) have a bona fide functioning medical practice; or
 - (2) be contracting as a registered medical practitioner to a bona fide functioning medical practice; or
 - b. the self-employed Reservist must conduct a recognised business and
 - (1) the business or company must be bona fide and operating; and
 - (2) the business or company must provide the Reservist's principal source of income and have done so for a continuous period of at least the previous six months prior to the period of continuous Defence service being used to establish eligibility; or
 - (3) the Reservist must be able to satisfy the Legitimate Business Test requirement.

20. A bona fide functioning medical practice is a properly established medical practice in which a registered medical practitioner or practitioners clinically attend to patients on a part-time or full-time basis.

21. To be eligible for additional ESP under paragraph 19.a.(1), the self-employed Reservist must operate the practice as a sole trader or as a partner in partnership with another partner or through a company in which the member has a controlling interest.

22. The Legitimate Business Test provisions of *Defence (Employer Support Payments) Determination 2005* are detailed at paragraph 86 of ref B.

Documentation requirements - Self-employed Reservist claims

23. Different documentation requirements apply for self-employed Reservists depending on whether or not they have a bona fide functioning medical practice or are contracting to a bona fide functioning medical practice.

24. **Reservists with a medical practice or who are contracting to a medical practice.** When a self-employed Reservist has a functioning medical practice, or is contracting as a registered medical practitioner to a functioning medical practice, the Reservist does not have to provide evidence that the business or company is legitimate, trading or operating, and provides the

Reservist's principal source of income. In these cases, the Reservist must provide a fully completed ESP claim form. Annually (with the first claim of each financial year), certification is required from CJHLTH or SGDHR, or from an officer authorised in writing by either of them to provide this certification, covering the following points:

- a. that the self-employed Reservist has a functioning medical practice or is contracting as a registered medical practitioner to a functioning medical practice;
- b. what the predominant medical speciality or discipline of the Reservist is and, if this speciality or discipline is not listed at Annex A, what other medical speciality or discipline (if any) the Reservist would be classified as having;
- c. whether the Reservist practices in the medical practice on a full-time (35 hours or more per week) or part-time (less than 35 hours per week) basis; and
- d. in the case of a Reservist who practices on a part-time basis, the number of hours per week the Reservist practices in the medical practice (if known).

25. CJHLTH or SGDHR certification of the points detailed in paragraph 24 may also be provided by accessing information on a Defence Health Data Base, as long as that Data Base has been certified, in writing, by CJHLTH or SGDHR as suitable for this purpose.

26. When a self-employed Reservist operates a medical practice or is contracting to a medical practice on a part-time basis and CJHLTH or SGDHR (or an officer or data base authorised by either of them) cannot certify the Reservist's working hours, then the DESPS will require evidence of normal work hours in order to determine the entitlement to additional ESP.

27. Reservists without a medical practice or who are not contracting to a medical practice. When a self-employed Reservist does not have a functioning medical practice or is not contracting as a registered medical practitioner to a functioning medical practice, the Reservist must provide a fully completed ESP claim form with the following supporting documentation:

- a. proof that the business, company or partnership is legitimate, including at least one of the following:
 - (1) a copy of notification of ABN registration from the ATO; or
 - (2) a copy of certificate of incorporation; or
 - (3) a copy of business registration certificate;
- b. proof that the business, company or partnership is trading or operating, including at least one of the following:
 - (1) a copy of a current business activity statement for the business or company; or
 - (2) a copy of a current financial statement for the business or company, certified by the company's accountant or financial adviser; or
 - (3) a copy of the current business tax return, substantiated by forwarding the ATO notice of assessment within seven days of its receipt; or
 - (4) other evidence from a financial adviser or accountant for the business; and

- c. proof that the business, company or partnership provides the Reservist's principal source of income, including at least one of the following:
- (1) a copy of the Reservist's current financial statement, certified by the member's accountant or financial adviser; or
 - (2) a copy of the Reservist's current personal tax return, substantiated by forwarding the ATO notice of assessment within seven days of its receipt; or
 - (3) other evidence certified by the member's financial adviser or accountant concerning the Reservist's income (see paragraphs 74 to 77 of ref B).

28. **Principal source of income.** Principal source of income documentation must relate to a specified period of at least the previous six months in length. When a self employed Reservist undertakes multiple periods of continuous Defence service without a break in service of six months or longer, the Reservist may rely on the principal source of income documentation previously provided for up to three years. A new principal source of income must be established every three years (even if the self-employed Reservist is part way through a period of continuous Defence service at the three year point) by meeting the requirements detailed at paragraph 27.

29. A Reservist may provide new principal source of income evidence with any claim, even if within the three year period. If the new principal source of income evidence is accepted by the delegate, a new three year period would apply.

30. If a Reservist submits an application under the Legitimate Business Test provisions of *Defence (Employer Support Payments) Determination 2005*, specific documentation requirements apply. These are detailed at paragraphs 86 and 87 of ref B.

INJURY OR ILLNESS ON DEFENCE SERVICE

31. When an employer is eligible for additional ESP (or would have been if the service was completed as planned) and the medical, dental, nursing or allied health officer suffers an injury or illness as a result of the officer's Defence service, then the Director, Deputy Director or Assistant Director may approve continuing payment of additional ESP to the employer if:

- a. the injury or illness prevents the officer from returning to work (or continuing to work if the injury or illness is not diagnosed until after the member has already returned to work); and
- b. the officer is receiving medical treatment for the injury or illness from the Joint Health Command (JHC) (whether from a health practitioner employed by the JHC or another practitioner authorised by the JHC to provide this treatment) or is receiving compensation payments from the Department of Veterans' Affairs (DVA) in relation to the injury or illness.

In determining the quantum of additional ESP, the Director, Deputy Director or Assistant Director may take into account any compensation payable to the officer in respect of the injury or illness. In appropriate cases, the Director, Deputy Director or Assistant Director may determine that the requirement of para 31.b should not apply.

32. Any payment authorised under paragraph 31 is to cease:

- a. when the officer returns to work or is reasonably able to return to work; or

- b. if the officer ceases to be entitled to medical treatment from the JHC and ceases to be entitled to compensation payments from the DVA; or
- c. when payments have reached the maximum payment period of 78 weeks.

33. If an officer suffers an injury or illness as a result of the officer's Defence service that prevents the officer from returning to full duties at work, then the employer may apply, in writing, to the DESPS for an amount of additional ESP. The Director, Deputy Director or Assistant Director may approve or refuse the claim. In determining the quantum of any additional ESP, the Director, Deputy Director or Assistant Director may take into account any compensation payable to the officer in respect of the injury or illness. If uncertain as to the eligibility of the claim, the Director, Deputy Director or Assistant Director may request further information.

SUBSTANTIAL FINANCIAL HARDSHIP

34. If an employer believes that they have suffered, or will suffer, substantial financial hardship because of the absence of the medical, dental, nursing or allied health officer on continuous Defence service and the amount of any ESP paid to the claimant under this approval is insufficient to prevent substantial financial hardship; then the employer may apply, in writing, to the DESPS for an additional amount of ESP.

35. The Director, Deputy Director or Assistant Director may approve or refuse the claim.

36. An employer has suffered, or will suffer substantial financial hardship in respect of a claim period if the employer satisfies the Director, Deputy Director or Assistant Director that:

- a. it was not possible in the circumstances for the claimant to make adequate arrangements to avoid substantial financial hardship caused by the absence of the claimant's employee during the claim period; and
- b. the claimant has made, or is making, a reasonable effort to avoid or limit substantial financial hardship; and
- c. any allowances the claimant has received, or is eligible to receive, including payment of the ESP at the normal level, are insufficient to avoid substantial financial hardship; and
- d. the claimant applied for the additional payment as soon as reasonably practicable after becoming aware that he or she would suffer substantial financial hardship because of the employee's absence during the claim period.

37. Eligibility to receive CPSA does not affect eligibility to apply for additional ESP on a hardship basis.

SUBMISSION OF CLAIMS

38. Claims for payment of additional ESP under this approval should be submitted to the DESPS for adjudication. The address for submission of claims under this approval is:

Director ESP Scheme
R8-G-026
Russell Offices
CANBERRA ACT 2600

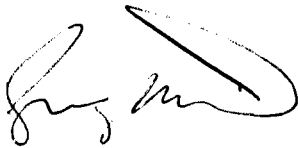
39. Claimants should not include periods of Defence service that are not eligible service under this approval on claims for payment of additional ESP submitted direct to DESPS.

40. Periods of service, which are not eligible for payment of additional ESP under this approval, should be submitted on separate claim forms, seeking payment at the standard rate, to the appropriate ESP Delegate in accordance with normal procedures detailed in ref B.

PREVIOUS DETERMINATION

41. The approval of the payment of additional ESP to medical, dental, nursing or allied health officers by CDF dated 28 December 2007 is revoked with effect from 1 January 2009.

~~APPROVED / NOT APPROVED~~



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2 Dec 08



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16 Dec 08

CLASSES OF HEALTH SPECIALISATION AND PAYMENT RATES**Medical, dental and allied health officers**

Serial	Discipline	Payment Rate (full time employees)
1	Anaesthetist	\$5,600 per week
2	Burns and Plastic Surgeon	\$5,600 per week
3	Dentist	\$4,500 per week
4	Dermatologist	\$5,600 per week
5	Ear, Nose and Throat Specialist	\$5,600 per week
6	Emergency Medicine Specialist	\$5,600 per week
7	Environmental Health Officer	\$2,350 per week
8	Faciomaxillary Surgeon	\$5,600 per week
9	Forensic Anthropologist	\$3,150 per week
10	Forensic Archaeologist	\$3,150 per week
11	Forensic Odontologist	\$5,000 per week
12	General Physician	\$5,000 per week
13	General Practitioner	\$4,500 per week
14	General Surgeon	\$5,600 per week
15	Intensivist	\$5,600 per week
16	Neurosurgeon	\$5,600 per week
17	Obstetrician and Gynaecologist	\$5,600 per week
18	Occupational Medicine Specialist	\$4,500 per week
19	Ophthalmologist	\$5,600 per week
20	Orthopaedic Surgeon	\$5,600 per week
21	Paediatrician	\$5,000 per week
22	Pharmacist	\$2,350 per week
23	Physiotherapist	\$2,350 per week
24	Psychiatrist	\$5,000 per week
25	Psychologist	\$2,350 per week
26	Public Health Physician	\$4,500 per week
27	Radiographer	\$2,350 per week
28	Radiologist	\$5,600 per week
29	Scientific Officer	\$2,350 per week
30	Dental Sedationist	\$4,500 per week

31	Sports Medicine Physician	\$4,500 per week
32	Registrar	\$1,600 per week
33	Tropical Medicine Specialist	\$4,500 per week

Nursing officers

Serial	Discipline	Payment Rate (full time employees)
1	Accident and Emergency Nurse	\$3,150 per week
2	Aeromedical Evacuation Nurse	\$3,150 per week
3	Intensive Care Nurse	\$3,150 per week
4	Mental Health Nurse	\$3,150 per week
5	Midwife	\$3,150 per week
6	Paediatric Nurse	\$3,150 per week
7	Perioperative Nurse	\$3,150 per week
8	Registered General Nurse	\$3,150 per week