



The Hon Darren Chester MP

Minister for Veterans' Affairs
Minister for Defence Personnel

Minister Assisting the Prime Minister for the Centenary of ANZAC

MS18-000887

Senator John Williams
Chair
Senate Regulations and Ordinances Committee
Suite S1.111
Parliament House
CANBERRA ACT 2600

Dear Senator 

Thank you for your letter of 15 February 2018 on behalf of the Senate Standing Committee on Regulations and Ordinance regarding Defence Determination (Short-term overseas duty travel and benchmark schools) 2018 (No.2).

I note the Committee has requested further advice as to:

- whether any persons have been disadvantaged by the retrospective reduction of Deployment Allowance by the amount of one cent and what measures have been taken to redress it; and
- how retrospectivity will be addressed in the future.

Retrospective reduction of Deployment Allowance and redress measures

Schedule 4 of Defence Determination (Short-term overseas duty travel and benchmark schools) 2018 (No.2) [F2018L00050] is an amending determination to Defence Determination 2017/40, Deployment allowance - amendment [F2018C00080]. It seeks to amend the transitional Deployment Allowance rates for both Operation AUGURY and Operation MANITOU from AUD 85.45 to AUD 85.44. This correction of a typographical error appears to have unintentionally created a potential for debt to the Commonwealth.

As the relevant provisions commenced on 25 January 2018, it does not retrospectively affect benefits payable to members prior to 25 January 2018. For this reason it is neither retrospective in application nor detrimental in effect.

How retrospectivity will be addressed in the future

Defence notes the Committee expects that in the future the Explanatory Statement of a Determination should specifically address retrospective effect. Defence undertakes to provide more comprehensive advice in the Explanatory Statement when retrospectivity is applied and to ensure there is no retrospective disadvantage to members.

If you would like to discuss this matter in further detail, you may wish to contact Ms Fiona McSpeerin, Assistant Secretary People Policy and Employment Conditions at the Department of Defence

Thank you for bringing the Committee's concerns to our attention.

I trust this information is of assistance.

Yours sincerely

DARREN CHESTER

23 MAR 2018



The Hon Alan Tudge MP
Minister for Citizenship and Multicultural Affairs

Ref No: MS18-000991

Senator John Williams (Chair)
Senate Regulations and Ordinances Committee
Room S1.111
Parliament House
CANBERRA ACT 2600

Dear Senator *John*

Thank you for requesting my advice in Delegated Legislation Monitor 2 of 2018 in relation to the Migration (IMMI 18/004: Specification of Occupations – Subclass 457 Visa) Instrument 2018 [F2018L00044] and the Migration (IMMI 18/006: Specification of Occupations – Subclass 407 Visa) Instrument 2018 [F2018L00047] (the Instruments).

The Committee observed that the Instruments and their explanatory statements did not provide any further information regarding whether the Minister has made an instrument in writing for the definition of ‘ANZSCO’, or how that instrument defines ‘ANZSCO’. The Committee expressed concern that the consequence of this is that the note in each instrument explaining that the term ‘ANZSCO’ is defined in the *Migration Regulations 1994* provides no practical assistance to a reader seeking to understand the term. The Committee observed that the use of the term ‘ANZSCO’ is prominent in the operative provisions of both of the instruments, and that the instruments are likely to be of interest and relevance to a large number of persons.

The Committee has requested the Minister’s advice as to the use of the term ‘ANZSCO’ in the Instruments, and whether a more meaningful definition of the term can be included in the instruments or their explanatory statements, to improve the clarity and intelligibility of the instruments to persons interested in or affected by them.

Since the Committee made its observations, the Instruments have been repealed and replaced with new instruments, which address changes to the Regulations made by the *Migration Legislation Amendment (Temporary Skill Shortage Visa and Complementary Reforms) Regulations 2018* (the Amendment Regulations). The new Instruments and Amendment Regulations commenced on 18 March 2018.

It was not considered appropriate to include a definition of 'ANZSCO' in the replacement instruments, as this could lead to multiple and potentially inconsistent definitions of the one term appearing in the enabling Regulations and the instruments.

However, the Committee's concerns in relation to the definition of 'ANZSCO' were taken into account in drafting the explanatory statements for the replacement instruments. It is proposed that the following information will be set out in the explanatory statements to the replacement instruments, as relevant:

Regulation 1.03 of the Regulations provides the following definition of ANZSCO: 'ANZSCO has the meaning specified by the Minister in an instrument in writing for this definition.'

The instrument made under regulation 1.03 for the definition of ANZSCO is the Migration (IMMI 18/051: Specification of Occupations and Assessing Authorities) Instrument 2018. Section 5 of IMMI 18/051 provides that:

For the purposes of regulation 1.03 of the Regulations, 'ANZSCO' means the Australian and New Zealand Standard Classification of Occupations published by the Australia Bureau of Statistics, as in force on 18 March 2018.

ANZSCO may be accessed on the Australian Bureau of Statistics website.

Thank you for bringing this matter to my attention.

Alan Tudge

19 March 2018