



Determination No. 103 of 1990

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**Determination under Section 58B of the Defence Act 1903<sup>1</sup>  
(Amendment)**

I, PATRICK DENNIS GOURLEY, Acting First Assistant Secretary, Australian Government Employment Remuneration and Conditions Division, Department of Industrial Relations, pursuant to a delegation made by the Minister of State for Industrial Relations under Defence Force Regulation 72A, hereby make the following Determination under section 58B of the *Defence Act 1903*.

Dated 15 June 1990.

P. D. GOURLEY

Acting First Assistant Secretary  
Australian Government Employment Remuneration and Conditions  
Division  
Department of Industrial Relations

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**Separation Allowance**

1. Determination 0202, Separation Allowance, is amended -

(a) by omitting the definition of "category MS member" from clause 2 and substituting the following definition:

"category MS member", means a member who maintains a home for his or her dependants and -

(a) who is entitled to have his or her family removed at public expense to the locality at which he or she is required to live, but whose family is not removed to that locality because -

(i) the member is unable to obtain suitable accommodation for the family at that locality;

- (ii) the member is unable to remove the family to that locality by reason of illness or infirmity of a dependant of the member;
  - (iii) a removal of the family to that locality would result in interference to the continuity of the secondary or tertiary education of a child; or
  - (iv) it is necessary for the member to continue to maintain a home at his or her former place of residence in the interest of his or her child who is serving an apprenticeship or is a handicapped child attending a school for handicapped children or a rehabilitation centre;
- (b) who is required by his or her Service -
- (i) to live in Service accommodation in the locality of posting; or
  - (ii) to perform duty for a period not exceeding 12 months in a locality other than the locality in which the member maintains a home for his or her dependants; or
- (c) who is considered unable to reside in that home by the person from time to time holding or performing the duties of the position in the Department of Defence titled Director General Service Conditions for reasons attributable to the member's service having regard to:
- (i) the nature of the reasons for the member not residing in that home;
  - (ii) the extent to which service requirements as distinct from the personal choice of either the member or a person in the member's family prevent the member from residing in that home;
  - (iii) whether the member is entitled to a removal of his or her family; and
  - (iv) the length of the member's current posting;";
- (b) by omitting the definition of "eligible member" from clause 2; and

- (c) by omitting "an eligible member" (twice occurring) from paragraph 4(a) and substituting "a category MS member".

### Living Out Allowance

2. Determination 0507, Living Out Allowance, is amended by omitting the definition of "category MS member" from clause 2 and substituting the following definition:

"category MS member", means a member who maintains a home for his or her dependants and -

- (a) who is entitled to have his or her family removed at public expense to the locality at which he or she is required to live, but whose family is not removed to that locality because -
  - (i) the member is unable to obtain suitable accommodation for the family at that locality;
  - (ii) the member is unable to remove the family to that locality by reason of illness or infirmity of a dependant of the member;
  - (iii) a removal of the family to that locality would result in interference to the continuity of the secondary or tertiary education of a child; or
  - (iv) it is necessary for the member to continue to maintain a home at his or her former place of residence in the interest of his or her child who is serving an apprenticeship or is a handicapped child attending a school for handicapped children or a rehabilitation centre;
- (b) who is required by his or her Service -
  - (i) to live in Service accommodation in the locality of posting; or
  - (ii) to perform duty for a period not exceeding 12 months in a locality other than the locality in which the member maintains a home for his or her dependants; or
- (c) who is considered unable to reside in that home by the person from time to time holding or performing the duties of the position in the Department of Defence titled Director

General Service Conditions for reasons attributable to the member's service having regard to:

- (i) the nature of the reasons for the member not residing in that home;
- (ii) the extent to which service requirements as distinct from the personal choice of either the member or a person in the member's family prevent the member from residing in that home;
- (iii) whether the member is entitled to a removal of his or her family; and
- (iv) the length of the member's current posting;".

#### **Living Out Away From Home Allowance**

3. Determination 0508, Living Out Away From Home Allowance, is amended by omitting the definition of "category MS member" from clause 2 and substituting the following definition:

"category MS member", means a member who maintains a home for his or her dependants and -

- (a) who is entitled to have his or her family removed at public expense to the locality at which he or she is required to live, but whose family is not removed to that locality because -
  - (i) the member is unable to obtain suitable accommodation for the family at that locality;
  - (ii) the member is unable to remove the family to that locality by reason of illness or infirmity of a dependant of the member;
  - (iii) a removal of the family to that locality would result in interference to the continuity of the secondary or tertiary education of a child; or
  - (iv) it is necessary for the member to continue to maintain a home at his or her former place of residence in the interest of his or her child who is serving an apprenticeship or is a handicapped child attending a school for handicapped children or a rehabilitation centre;

- (b) who is required by his or her Service -
  - (i) to live in Service accommodation in the locality of posting; or
  - (ii) to perform duty for a period not exceeding 12 months in a locality other than the locality in which the member maintains a home for his or her dependants; or
- (c) who is considered unable to reside in that home by the person from time to time holding or performing the duties of the position in the Department of Defence titled Director General Service Conditions for reasons attributable to the member's service having regard to:
  - (i) the nature of the reasons for the member not residing in that home;
  - (ii) the extent to which service requirements as distinct from the personal choice of either the member or a person in the member's family prevent the member from residing in that home;
  - (iii) whether the member is entitled to a removal of his or her family; and
  - (iv) the length of the member's current posting;".

#### Charge for Rations and Quarters

4. Determination 2501, Charge for Rations and Quarters, is amended by omitting the definition of "category MS member" from clause 2 and substituting the following definition:

"category MS member", means a member who maintains a home for his or her dependants and -

- (a) who is entitled to have his or her family removed at public expense to the locality at which he or she is required to live, but whose family is not removed to that locality because -
  - (i) the member is unable to obtain suitable accommodation for the family at that locality;
  - (ii) the member is unable to remove the family to that locality by reason of illness or infirmity of a dependant of the member;

- (iii) a removal of the family to that locality would result in interference to the continuity of the secondary or tertiary education of a child; or
  - (iv) it is necessary for the member to continue to maintain a home at his or her former place of residence in the interest of his or her child who is serving an apprenticeship or is a handicapped child attending a school for handicapped children or a rehabilitation centre;
- (b) who is required by his or her Service -
- (i) to live in Service accommodation in the locality of posting; or
  - (ii) to perform duty for a period not exceeding 12 months in a locality other than the locality in which the member maintains a home for his or her dependants; or
- (c) who is considered unable to reside in that home by the person from time to time holding or performing the duties of the position in the Department of Defence titled Director General Service Conditions for reasons attributable to the member's service having regard to:
- (i) the nature of the reasons for the member not residing in that home;
  - (ii) the extent to which service requirements as distinct from the personal choice of either the member or a person in the member's family prevent the member from residing in that home;
  - (iii) whether the member is entitled to a removal of his or her family; and
  - (iv) the length of the member's current posting;".
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**NOTE**

1. For previous Determinations made in respect of a Determination specified in column 1 of the following table, see Determination Nos. specified in column 2 opposite to that Determination:

Column 1	Column 2
Determination	Previous Determinations
Determination 0202, Separation Allowance	See Note 1 to No. 17 of 1987 and <i>see also</i> No. 17 of 1987; No. 17 of 1988; No. 19 of 1989
Determination 0507, Living Out Allowance	See Note 1 to No. 183 of 1989 and <i>see also</i> No. 183 of 1989; No. 34 of 1990
Determination 0508, Living Out Away From Home Allowance	See Note 1 to No. 183 of 1989 and <i>see also</i> No. 183 of 1989; No. 34 of 1990
Determination 2501, Charge for Rations and Quarters	See Note 1 to No. 191 of 1989 and <i>see also</i> No. 191 of 1989; No. 79 of 1990

EXPLANATORY STATEMENT

DETERMINATION NO. 103 OF 1990

ISSUED BY THE AUTHORITY OF THE MINISTER FOR INDUSTRIAL RELATIONS  
UNDER SECTION 58B OF THE DEFENCE ACT 1903

Sections 58B and 58E of the Defence Act 1903 allow the Minister or his delegate to make determinations on conditions of service for members of the Defence Force.

Determinations 0202, Separation Allowance, 0507, Living Out Allowance, 0508, Living Out Away From Home Allowance and 2501, Charge for Rations and Quarters each have a definition of a "category MS member" (and in the case of Separation Allowance "eligible member") whose entitlements in respect of these provisions are dealt with in the determinations. These members are basically members who have families but who are prevented from residing with their families for a variety of acceptable reasons, including reasons attributable to the "exigencies of the service". The meaning of this expression requires clarification because recent cases of separation by personal choice have been attributed to service requirements; this was not intended.

Determination 0202, Separation Allowance, has been amended at paragraphs 1(b) and (c) of the attached determination to omit "eligible member" and substitute the term "category MS member" throughout. At paragraph 1(a) the definition of "category MS member" has been amended to omit the expression "exigencies of the service" and replace it with:

- . a description of those short term circumstances where members cannot reside with families because of service requirements; and
- . discretion to approve other deserving cases of separation which the approving authority considers are attributable to the requirements of members' service, subject to certain guidelines.

The same definition of "category MS member" in the other three determinations has been amended in exactly the same way at clauses 2, 3 and 4 of the attached determination.

All of these amendments take effect from the day on which this determination was made.