



DETERMINATION NO. 166 OF 1990

DETERMINATION UNDER SECTION 58B OF THE DEFENCE ACT 1903

I, RUTH ALISON CAMPBELL, First Assistant Secretary, 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 31 October 1990

R.A. Campbell  
First Assistant Secretary  
Remuneration and Conditions  
Division Department of Industrial  
Relations

**Citation**

1. This determination may be cited as Defence Determination 1990/166.

**Commencement**

2.1 Parts A, D, I and M of this determination are to be taken to have commenced on 19 July 1990.

2.2 Parts B, C, E, F, G and H of this determination are to be taken to have commenced immediately after Defence Determination 1990/141 comes into operation.

2.3 Parts J, K and L of this determination are to be taken to have commenced on 30 August 1990.

2.4 Part N of this determination is to be taken to have commenced immediately before Defence Determination 1990/141 comes into operation.

## Part A

### Principal Determination

3. In this Part, Determination 104, Higher Duties Allowance as in force<sup>1</sup> is referred to as the Principal Determination.

#### Rate of allowance - PNGDF

4. Clause 24 of the Principal Determination is amended by omitting the Table and substituting the following table

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Column 1 PNGDF Pay Level	Column 2 Australian Notional Pay level	Column 3 Australian Pay level
3	2.2	1.1, 1.2 or 2.1
4 2.2	3.1	1.1, 1.2, 2.1 or

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#### Rate of allowance - Pay levels

5. Clause 25 of the Principal Determination is amended by -

- (a) omitting from "pay level 1, 2 or 3" from paragraph (a) and substituting "pay level 1.1, 1.2 or 2.1";
- (b) omitting from "pay level 4 or 5" from paragraph (b) and substituting "pay level 2.2 or 3.1";
- (c) omitting from "pay level 6" (twice occurring) from paragraph (c) and substituting "pay level 3.2"; and
- (d) omitting from "pay level 7" (twice occurring) and substituting "pay level 4.1".

## Part B

### Principal Determination

6. In this Part, Determination 107, Flight Duties Allowance as in force<sup>2</sup> is referred to as the Principal Determination.

#### Flight Duties Allowance - Allowance not payable

7. Clause 6 of the Principal Determination is amended by

omitting sub-paragraph (a)(iii) and substituting the following sub-paragraph -

"(iii) the disability element of Special Action Forces Allowance;"

#### **Part C**

##### **Principal Determination**

8. In this Part, Determination 108, Parachutist Allowance as in force<sup>3</sup> is referred to as the Principal Determination.

##### **Parachutists Allowance - Allowance not payable**

9. Sub-clause 4(2) of the Principal Determination is amended by omitting paragraph (a) and substituting the following paragraph -

"(a) the disability element of Special Action Forces Allowance; or"

#### **Part D**

##### **Principal Determination**

10. In this Part, Determination 114, Trainee's Dependant Allowance as in force<sup>4</sup> is referred to as the Principal Determination.

##### **Group rent scheme**

11. The definition of "specified salary" in clause 2 of the Principal Determination is amended by omitting "pay level 1" and substituting "pay level 1.1".

#### **Part E**

##### **Principal Determination**

12. In this Part, Determination 117, Special Royal Navy Allowance Paid to RAN Members Posted to and Serving in Britain as in force<sup>5</sup> is referred to as the Principal Determination.

##### **Special Royal Navy Allowance - Allowance not payable**

13. Clause 6 of the Principal Determination is amended by inserting "the disability element of" after "the member is entitled to be paid".

## Part F

### Principal Determination

14. In this Part, Determination 202, Separation Allowance as in force<sup>6</sup> is referred to as the Principal Determination.

### Separation Allowance

15. Sub-paragraph 4(b) of the Principal Determination is amended by omitting sub-paragraph (ii) and substituting the following sub-paragraph -

"(ii) is a member of the Special Air Service Regiment who is entitled to be paid the qualification and skill element of Special Action Forces Allowance; or".

## Part G

### Principal Determination

16. In this Part, Determination 204, Submarine Service Allowance as in force<sup>7</sup> is referred to as the Principal Determination.

### Submarine Service Allowance

17. Sub-clause 10(2) of the Principal Determination is amended by inserting "the disability element of" after "the member is entitled to be paid".

## Part H

### Principal Determination

18. In this Part, Determination 210, Unpredictable Explosives Allowance as in force<sup>8</sup> is referred to as the Principal Determination.

### Unpredictable Explosives Allowance

19. Clause 13 of the Principal Determination is amended by inserting "the disability element of" after "the member is entitled to be paid".

## Part I

### Principal Determination

20. In this Part, Determination 503, Temporary Rental Allowance as in force<sup>9</sup> is referred to as the Principal Determination.

## **Group rent scheme**

21. Schedule 3 of the Principal Determination is amended by omitting "pay level 1" and substituting "pay level 1.1".

### **Part J**

#### **Principal Determination**

22. In this Part, Determination 2601, Recreation Leave as in force<sup>10</sup> is referred to as the Principal Determination.

#### **Allowances - grant of recreation leave**

23.1 Clause 36 of the Principal Determination is amended by omitting sub-paragraph (b)(vii).

23.2 Clause 36 of the Principal Determination is amended by inserting at the end thereof the following sub-clause -

"(2) Clause 47 shall not apply to the payment of the following allowances -

- (a) Special Action Forces Allowance; and
- (b) Special Action Forces Allowance (Qualification and Skill).

#### **Allowances - payment in lieu of recreation leave**

24.1 Clause 41 of the Principal Determination is amended by omitting sub-paragraph (b)(vii).

24.2 Clause 41 of the Principal Determination is amended by inserting at the end thereof the following sub-clause -

"(2) An allowance referred to in sub-clause 36(2) shall be included in salary for the purpose of payment in lieu of recreation leave if the allowance would have been payable during a period of recreation leave taken by the member commencing on the day on which the member became entitled to the payment in lieu of leave."

### **Part K**

#### **Principal Determination**

25. In this Part, Determination 2607, Recreation Leave Bonus as in force<sup>11</sup> is referred to as the Principal Determination.

#### **Recreation leave bonus**

26. Clause 3 of the Principal Determination is amended by omitting sub-paragraph (d)(viii) and substituting the following sub-paragraph -

"(viii) Determination No. 10 of 1990, Special Action Forces Allowance, made by the Defence Force

Remuneration Tribunal under section 58H of the  
Defence Act 1903;".

**Part L**

**Principal Determination**

27. In this Part, Determination 2701, Long Service Leave as in force<sup>12</sup> is referred to as the Principal Determination.

**Long service leave**

28.1 Clause 23 of the Principal Determination is amended by omitting sub-paragraph (b)(vii).

28.2 Clause 23 of the Principal Determination is amended by inserting at the end thereof the following sub-clauses -

"(2) Clause 28 shall not apply to the payment of the following allowances -

- (a) Special Action Forces Allowance; and
- (b) Special Action Forces Allowance (Qualification and Skill).

"(3) An allowance referred to in sub-clause (2) shall be included in salary for the purpose of payment in lieu of long service leave if the allowance would have been payable during a period of long service leave taken by the member commencing on the day on which the member became entitled to the payment in lieu of leave.

**Part M**

**Principal Determination**

29. In this Part, Determination 3714, Overseas Living Allowance as in force<sup>13</sup> is referred to as the Principal Determination.

**Allowance Group**

30. The Principal Determination is amended by omitting Schedule 1 and substituting the schedule to this determination.

## Part N

### Provision of determination to commence

31. Defence Determination 1990/141 is amended by inserting after clause 1 the following clause -

"1A. Clause 5 of this determination is to commence on 12 October 1990."

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#### Note:

1. Determination 104, as amended to date. For previous amendments see Note 1 to Determination No 6 of 1989 and see also Determination No 6 of 1989. See Determination No 123 of 1990.
2. Determination 107, as amended to date. For previous amendments see Note 1 to Determination No 17 of 1988 and see also Determination No 17 of 1988. See Determination Nos 40 and 141 of 1990.
3. Determination 108, as amended to date. For previous amendments see Note 1 to Determination No 17 of 1988 and see also Determination No 17 of 1988. See Determination No 141 of 1990.
4. Determination 114, as amended to date. For previous amendments see Note 1 to Determination No 17 of 1988 and see also Determination No 17 of 1988.
5. Determination 117, as amended to date. For previous amendments see Determination No 52 of 1985, No 15 of 1987, No 17 of 1988, No 88 of 1989 and No 141 of 1990.
6. Determination 202, as amended to date. For previous amendments see Note 1 to Determination No 19 of 1989 and see also Determination No 19 of 1989. See Determination No 103 of 1990.
7. Determination 204, as amended to date. For previous amendments see Note 1 to Determination No 173 of 1989 and see also Determination No 173 of 1989. See Determination No 141 of 1990.
8. Determination 210, as amended to date. For previous amendments see Note 1 to Determination No 54 of 1988 and see also Determination No 54 of 1988. See Determination No 141 of 1990.

9. Determination 503, as amended to date. For previous amendments see Note 1 to Determination No 7 of 1990 and see also Determination No 7, 11, 27, 34, 63, 64, 84, 99, 109, 123 and 128 of 1990.
10. Determination 2601, as amended to date. For previous amendments see Note 1 to Determination No 200 of 1989 and see also Determination Nos 200 and 204 of 1989. See Determination Nos 51, 123 and 141 of 1990.
11. Determination 2607, as amended to date. For previous amendments see Note 1 to Determination No 6 of 1989 and see also Determination Nos 6, 18 and 110 of 1989.
12. Determination 2701, as amended to date. For previous amendments see Note 1 to Determination no 6 of 1989 and see also Determination No 6, 18 and 110 of 1989.
13. Determination 3714, as amended to date. For previous amendments see Note 1 to Determination No 36 of 1990 and see also Determination Nos 36, 48, 49, 53, 54, 59, 60, 66, 72, 75, 78, 81, 91, 102, 108, 111, 115, 120, 123, 127, 135, 138, 145 and 147 of 1990.



**SCHEDULE 1**

**ALLOWANCE GROUP**

Column 1	Column 2		
Allowance group	Rank and, if applicable, pay level, circumstances or years of service		
	Navy	Army	Air Force
1	Trainee Seaman (pay level 1-1 or 1-2) Able Seaman (pay level 1-1)	Trainee Private (pay level 1-1 or 1-2) Lance Corporal (pay level 1-1)	Trainee Aircraftman (pay level 1-1 or 1-2) Leading Aircraftman (pay level 1-1)
2	Seaman (pay level 2-1, 2-2 or 3-1) Able Seaman (pay level 1-2, 2-1 or 2-2) Leading Seaman (pay level 1-1, 1-2 or 2-1)	Private (pay level 2-1, 2-2 or 3-1) Lance Corporal (pay level 1-2, 2-1 or 2-2) Corporal (pay level 1-1, 1-2 or 2-1)	Aircraftman (pay level 2-1, 2-2 or 3-1) Leading Aircraftman (pay level 1-2, 2-1 or 2-2) Corporal (pay level 1-1, 1-2 or 2-1)
3	Seaman (pay level 3-2 or 4) Able Seaman (pay level 3-1, 3-2 or 4) Leading Seaman (pay level 2-2 or 3-1) Acting Sub Lieutenant	Private (pay level 3-2 or 4) Lance Corporal (pay level 3-1, 3-2 or 4) Corporal (pay level 2-2 or 3-1) Second Lieutenant	Aircraftman (pay level 3-2 or 4) Leading Aircraftman (pay level 3-1, 3-2 or 4) Corporal (pay level 2-2 or 3-1) Pilot Officer
4	Leading Seaman (pay level 3-2 or 4) Petty Officer (pay level 1-1, 1-2, 2-1, 2-2, 3-1 or 3-2)	Corporal (pay level 3-2 or 4) Sergeant (pay level 1-1, 1-2, 2-1, 2-2, 3-1 or 3-2)	Corporal (pay level 3-2 or 4) Sergeant (pay level 1-1, 1-2, 2-1, 2-2, 3-1 or 3-2)

SCHEDULE 1 - continued

Column 1

Column 2

Allowance  
group

Rank and, if applicable, pay level,  
circumstances or years of service

	Navy	Army	Air Force
5	Petty Officer (pay level 4)  Officer performing year of compulsory residency (from undergraduate scheme)  Acting Sub Lieutenant (who is paid salary in accordance with Schedule 2 of Determination 0101)  Sub Lieutenant	Sergeant (pay level 4)  Staff Sergeant  Officer performing year of compulsory residency (from undergraduate scheme)  Lieutenant	Sergeant (pay level 4)  Officer performing year of compulsory residency (from undergraduate scheme)  Pilot Officer (who is paid salary in accordance with Schedule 2 of Determination 0101)  Flying Officer
6	Chief Petty Officer  Sub Lieutenant (who is paid salary in accordance with Schedule 2 of Determination 0101)  Chaplain (with less than 4 years of service)	Warrant Officer, Class 2  Lieutenant (who is paid salary in accordance with Schedule 2 of Determination 0101)  Chaplain (with less than 4 years of service)	Flight Sergeant  Flying Officer (who is paid salary in accordance with Schedule 2 of Determination 0101)  Chaplain (with less than 4 years of service)
7	Warrant Officer  Lieutenant	Warrant Officer, Class 1  Captain	Warrant Officer  Flight Lieutenant
8	Chaplain (with 4 or more years of service but less than 14 years of service)	Chaplain (with 4 or more years of service but less than 14 years of service)	Chaplain (with 4 or more years of service but less than 14 years of service)
9	Lieutenant Commander  Chaplain (with 14 or more years of service)	Major  Chaplain (with 14 or more years of service)	Squadron Leader  Chaplain (with 14 or more years of service)

SCHEDULE 1 - continued

Column 1	Column 2		
Allowance group	Rank and, if applicable, pay level, circumstances or years of service		
	Navy	Army	Air Force
11	Lieutenant (who is a Medical Officer or a Dental Officer) Commander Principal Naval Chaplain	Captain (who is a Medical Officer or a Dental Officer) Lieutenant Colonel Principal Chaplain	Flight Lieutenant (who is a Medical Officer or a Dental Officer) Wing Commander Principal Air Chaplain
12	Lieutenant Commander (who is a Medical Officer or a Dental Officer) Captain	Major (who is a Medical Officer or a Dental Officer) Colonel	Squadron Leader (who is a Medical Officer or a Dental Officer) Group Captain
14	Commander (who is a Medical Officer or a Dental Officer) Commodore	Lieutenant Colonel (who is a Medical Officer or a Dental Officer) Brigadier	Wing Commander (who is a Medical Officer or a Dental Officer) Air Commodore
15	Captain (who is a Medical Officer or a Dental Officer)	Colonel (who is a Medical Officer or a Dental Officer)	Group Captain (who is a Medical Officer or a Dental Officer)
16	Commodore (who is a Medical Officer or a Dental Officer) Rear Admiral	Brigadier (who is a Medical Officer or a Dental Officer) Major General	Air Commodore (who is a Medical Officer or a Dental Officer) Air Vice Marshal

EXPLANATORY MEMORANDUM

DETERMINATION NO.166 OF 1990

Defence Act 1903

The amendments made by this determination relate to -

- . changes made by the Defence Forces Remuneration Tribunal to the description of pay levels;
- . the date of repeal of a determination;
- . the description of an allowance established by the Tribunal; and
- . recognition of Special Action Forces Allowance for purposes of payment during leave.

**Description of pay levels**

The Defence Forces Remuneration Tribunal has made a determination varying the description of certain pay levels in the Defence Force with effect from 19 July 1990.

The amendments made by Parts A, D, I and M of this determination make the corresponding changes to the references to these pay levels in various determinations under section 58B of the Defence Act. The amendments are brought into operation from the date of effect of that Tribunal's determination.

**Date of repeal of a determination**

Defence Determination 1990/141 in part repealed a section 58B determination which provided for payment of Special Action Forces Allowance. This followed the decision of the Defence Forces Remuneration Tribunal to provide for payment of this allowance by a determination of the Tribunal.

The amendment made by Part N of this determination inserts a commencement clause into Defence Determination 1990/141 so that the repeal of the section 58B determination comes into effect on the same day as the Tribunal's determination which displaced it.

**Description of an allowance**

Certain allowances are not payable concurrently with Special Action Forces Allowance and various determinations under section 58B include provisions for this purpose. The Defence Forces Remuneration Tribunal recently made a determination dealing with this allowance.

The amendments made by Parts B, C, E, G and H of this determination bring the description of Special Action Forces

Allowance in these provisions into line with the terminology used by the Tribunal.

Separation Allowance is ordinarily payable to members at a daily rate. Paragraph 4(b) of Determination 202 provides for payments at an annual rate to certain members defined by reference to Special Action Forces Allowance payable under in accordance with a determination made under section 58B.

The amendments made by Part F of this determination recognise that provision is no longer made for the payment of Special Action Forces Allowance by determinations made under section 58B.

These amendments are brought into operation immediately after Defence Determination 1990/141 as the amendments modify provisions which had already been amended by that determination. This date of commencement is consistent with the date of commencement of the relevant determination of the Defence Forces Remuneration Tribunal's determination which varied the basis of Special Action Forces Allowance.

#### Recognition of allowance for purposes of payment on leave

Parts J, K and L of this determination amend provisions relating to payment of allowances during recreation and long service leave and the inclusion of allowances in payment in lieu of leave. The amendments made the necessary changes to continue the existing entitlements in the light of the Tribunal's determination providing for the payment of Special Action Forces Allowance. These amendments are brought into operation to coincide with the date of commencement of the Tribunal's determination to ensure continuity of entitlements for members.

The retrospective application of this determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such a person.

Authority: Section 58B of the Defence Act 1903