



Defence Determination 2000/13

I, MAL PEARCE, Director General Personnel Policy and Employment Conditions, Defence Personnel Executive, make this Determination under section 58B of the *Defence Act 1903*.

Dated 1 June 2000

M. PEARCE
Director General
Personnel Policy and Employment Conditions
Defence Personnel Executive

Ref232

Part 1 Preliminary

1 Citation

This Determination is Defence Determination 2000/13, Detention – application of allowances (Determination 0805, Detention Allowance – Repeal, and Defence Determination 2000/1, Conditions of Service – Amendment).

NOTE: This Determination commences on the day on which it is made: see *Defence Act 1903*, subsection 58B(4).

Part 2 Repeal of Determination 0805

2 Repeal

Determination 0805, Detention Allowance, as amended,¹ is repealed.

Part 3 Amendment of Defence Determination 2000/1

3 Amendment

Defence Determination 2000/1, Conditions of Service, as amended,² is amended as set out in this Part.

4 After clause 6.1.13

insert

6.1.14 Amount of allowance for member serving a period of detention

- (1) This clause applies to a member with dependants who is serving a period of detention under service law.
- (2) The member is entitled to the allowance that would otherwise have been payable to the member under this Part if:
 - (a) immediately before the member began to serve a period of detention, the allowance was payable to the member; and
 - (b) at that time, the member was not a member to whom subclause 6.1.5 (3) applies; and
 - (c) the member's dependants continue to live in the locality for which the allowance was payable.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

5 After clause 6.2.10

insert

6.2.11 Amount of allowance for member serving a period of detention

- (1) This clause applies to a member with dependants who is serving a period of detention under service law.
- (2) The member is entitled to the allowance that would otherwise have been payable to the member under this Part if:
 - (a) immediately before the member began to serve a period of detention, the allowance was payable to the member; and
 - (b) at that time, the member was not a member to whom subclause 6.2.4 (2) applies; and
 - (c) the member's dependants continue to live in the Woomera locality.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

6 After clause 6.3.7

insert

6.3.8 Amount of allowance for member serving a period of detention

- (1) This clause applies to a member who is serving a period of detention under service law.
- (2) The member is entitled to the allowance that would otherwise have been payable to the member under this Part if:
 - (a) immediately before the member began to serve a period of detention, the allowance was payable to the member; and
 - (b) the member's dependants continue to live in the Bindoon Military Area.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

7 After clause 6.5.6

insert

6.5.7 Amount of allowance for member serving a period of detention

- (1) This clause applies to a member with dependants who is serving a period of detention under service law.
- (2) The member is entitled to the allowance that would otherwise have been payable to the member under this Part if:
 - (a) immediately before the member began to serve a period of detention, the allowance was payable to the member; and
 - (b) the member's dependants continue to live at the establishment.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

8 After clause 7.1.10

insert

7.1.10A Amount of allowance for member serving a period of detention

- (1) This clause applies to a member who is serving a period of detention under service law.
- (2) The member is entitled to any allowance that would otherwise have been payable to the member under this Part, if the allowance was payable to the member immediately before the member began to serve a period of detention.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

9 After clause 9.1.18

insert

9.1.18A Amount of allowance for member serving a period of detention

- (1) This clause applies to a member who is serving a period of detention under service law, if the member was entitled to overseas living allowance immediately before the member began to serve a period of detention.
- (2) The member is entitled to an amount approved by the CDF.
- (3) For subclause (2), the CDF must have regard to:
 - (a) whether, immediately before the member began to serve a period of detention, the member was an accompanied member for overseas living allowance; and
 - (b) whether a dependant of the member continues to live in the locality for which the overseas living allowance was payable; and
 - (c) the nature of the costs, if any, which the member continues to incur during the period of detention.
- (4) A member to whom this clause applies is not entitled to any other payments under this Part.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

10 After clause 12.1.2

insert

12.1.3 Amount of allowance for member serving a period of detention

- (1) This clause applies to a member who is serving a period of detention under service law.
- (2) The member is entitled to the allowance that would otherwise have been payable to the member under this Part, if the allowance was payable to the member immediately before the member began to serve a period of detention.

Note Regulation 68 of the Defence Force Regulations provides that a member undergoing detention under service law forfeits all allowances, other than those specifically provided for under this Determination.

NOTES

1. Determination 0805 was made by Determination 1985/48 and has been amended by 1986/87; 1987/17 and 77; 1989/204; 1994/2; 1995/27; 1997/8 and 21; 1998/31 and 32; and 1999/2 and 22.
2. Defence Determination 2000/1 was made on 6 January 2000 and has been amended by Defence Determinations 2000/2, 3, 4, 6, 7, 8, 9, 10, 11 and 12.

EXPLANATORY STATEMENT

Defence Determination 2000/13

Determination 0805, Detention Allowance, made under section 58B of the *Defence Act 1903*, applied certain allowances to members of the Australian Defence Force on detention under service law if specified requirements were met. The relevant allowances were district allowance, Woomera allowance, Bindoon allowance, Port Wakefield allowance, housing assistance, overseas living allowance and uniform maintenance allowance.

In January 2000, Defence Determination 2000/1, Conditions of Service (“the Principal Determination”), made under section 58B of the *Defence Act 1903*, incorporated the majority of determinations made under section 58B into a single consolidated section 58B Determination. However, Determination 0805 could not be incorporated into the Principal Determination until a minor amendment was made to regulation 68 of the Defence Force Regulations. This was because regulation 68 provided that no allowances were payable to these members, other than as provided by Determination 0805.

Regulation 68 has now been amended to refer to the Principal Determination.

As a result, this Determination repeals Determination 0805 and incorporates its provisions into the relevant Parts of the Principal Determination. The provisions incorporated into the Principal Determination are:

- clause 6.1.14 for district allowance;
- clause 6.2.11 for Woomera allowance;
- clause 6.3.8 for Bindoon allowance;
- clause 6.5.7 for Port Wakefield allowance;
- clause 7.1.10A for housing assistance;
- clause 9.1.18A for overseas living allowance; and
- clause 12.1.3 for uniform maintenance allowance.

This Determination commences on the day on which it is made (1 June 2000), as provided by subsection 58B(4) of the *Defence Act 1903*. This is the day on which the consequential amendment to the Defence Force Regulations commences.

Authority: Section 58B of the
Defence Act 1903