



## **Defence Determination 2003/37**

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

Dated 23 December 2003

S J PARR  
Director General  
Personnel Policy and Employment Conditions  
Defence Personnel Executive

## 1 Citation

This Determination is Defence Determination 2003/37, Revision of recreation and trainee leave.

## 2 Amendment

Defence Determination 2003/21, Conditions of Service, as amended,<sup>1</sup> is amended as set out in this Determination.

## 3 Commencement

This Determination commences on 1 January 2004.

## 4 Part 1 of Chapter 8 (Recreation leave)

*substitute*

# Part 1 Recreation leave

## Division 1 Purpose, definitions, administration

### 8.1.1 Purpose

- (1) The purpose of this Part is to provide an entitlement for members to apply for the grant of a reasonable period of recreation leave each year and to encourage commanding officers to manage leave effectively.
- (2) The purpose of recreation leave is to provide members with leisure periods so that they may relax and recuperate away from their work environment for a substantial period or periods each year to enhance their continued efficiency and effectiveness.

### 8.1.2 Members this Part does not apply to

This Part does not apply to a member in any period when the member is:

- (a) undertaking a medical residency at a hospital; or
- (b) rendering Reserve service.

### 8.1.3 Definitions

In this Part:

***clearance diving team*** means a team of members who have the qualifications required by the Navy for clearance divers under Determination No.19 of 2002, Specialist Operations Allowance.

***fleet supply team*** has the same meaning as in Determination No. 1 of 1996, Seagoing Allowance.

***flight*** means a flight in a Service aircraft or commercial aircraft on charter to the Commonwealth.

***flight duties*** has the same meaning as in Determination No. 4 of 1992, Flight Duties Allowance.

***flying duties*** means duties performed as a member of an aircrew on an airborne Service aircraft or commercial aircraft on charter to the Commonwealth.

***non-effective service***, for a member, means service in any period of more than 24 hours when the member is:

- (a) on leave without pay; or
- (b) absent without leave; or
- (c) on detention, or in prison after a conviction; or
- (d) suspended, on detention, or in prison immediately before a conviction.

***sea training group*** has the same meaning as in Determination No. 1 of 1996, Seagoing Allowance.

***start day***, for a member, means:

- (a) for the grant of a period of recreation leave — the first day of absence; and
- (b) for a payment instead of recreation leave — the earliest of:
  - (i) the day the member begins resettlement training; and
  - (ii) the day the member is transferred to a discharge centre; and
  - (iii) the day the member begins a period of recreation leave or long service leave in preparation for ceasing to be a member; and
  - (iv) the day the member ceases to be a member.

#### **8.1.4 Recreation leave credits reduced by non-effective service**

- (1) This clause applies if a member would, but for this clause, be given recreation leave credit under clause 8.1.7 or 8.1.8 in relation to a leave year in which the member rendered non-effective service for an aggregate period of more than 30 days.
- (2) The recreation leave credit must be reduced by:
  - (a) for non-effective service of less than 51 days — three days; and
  - (b) for non-effective service of 51 days or more but less than 191 days — the sum of three days and one day for each period, or total period, of not more than 20 days of non-effective service in excess of 50 days; and
  - (c) for non-effective service of 191 days or more — the lesser of:
    - (i) the sum of 12 days and one day for each period, or total period, of not more than 20 days of non-effective service in excess of 210 days; and
    - (ii) 20 days.

- (3) The following table shows how non-effective service affects recreation leave credits:

<b>If the member has non-effective service to a total of...</b>	<b>Then the member's annual credit of recreation leave is reduced by....</b>
0 - 30	Nil
31 - 50	3
51 - 70	4
71 - 90	5
91 - 110	6
111 - 130	7
131 - 150	8
151 - 170	9
171 - 190	10
191 - 210	12
211 - 230	13
231 - 250	14
251 - 270	15
271 - 290	16
291 - 310	17
311 - 330	18
331 - 350	19
351 or more	20

### **8.1.5 Part day credits**

- (1) Leave under this Part can only be granted as whole days, which reduce the member's accrued recreation leave credits by the number of days of leave granted.
- (2) A part day credit remaining after a grant of leave is retained by the member.

### **8.1.6 Leave day for shift worker**

A member on continuous full-time service who is on a shift roster accrues recreation leave under this Part at the same rate as other members.

## ***Division 2 Basic recreation leave***

### **8.1.7 Commencement and transitional recreation leave**

- (1) The basic recreation leave credit for a member at 31 December 2003 is to be determined by applying the formula in clause 8.1.7 of Defence Determination 2003/21, Conditions of Service, as it was in force on 31 December 2003, as if the member had ceased to be a member on that day.
- (2) Any basic recreation leave credit determined under subclause (1) that has not previously been credited to the member, is to be credited to the member.
- (3) From 1 January 2004, the arrangements in this Part are to apply to the accrual and crediting of basic recreation leave for eligible members.

*Note:* See special arrangements for trainees under Division 4 of this Part.

- (4) The following table shows how the steps in subclauses (1) to (3) apply the transitional arrangements to members:

	<b>Step</b>	<b>Action</b>
1.	Find out how much leave a member has accrued at 31 December 2003.	a. Deem the member to have ceased to be a member on 31 December 2003. b. Then apply the formula in clause 8.1.7, as it was in force on 31 December 2003. The text of clause 8.1.7 is reproduced in the Note at the end of this clause.
2.	Credit the leave to the member.	The member is credited with any leave that has not already been credited to them.
3.	Begin using the new accrual system under clause 8.1.8.	The member is credited with basic recreation leave on a fortnightly basis.

*Note:* The following provision is clause 8.1.7 of Defence Determination 2003/21, Conditions of Service, as it was in force on 31 December 2003.

#### **8.1.7 Recreation leave credit – ceasing to be a member**

- (1) This clause applies to a member who ceases to be a member during a leave year (other than a member to whom clause 8.1.14 applies).
- (2) On the day the member ceases to be a member, the member must be given recreation leave credit of the number of days worked out using the formula:

$$\frac{20 \times A}{12} + \frac{B + C - D}{18} + E$$

where:

- A** is the number of completed months of service rendered by the member during the leave year.
- B** for a member who began service on a day other than the first day of a month — is the number of days of service rendered by the member in that month, treating February as if it were a month of 30 days.
- C** for a member who ceases to be a member on a day (other than the last day) of a month (other than the month in which the member began continuous full-time service) — is the number of days of service rendered by the member in that month.
- D** is:
- (a) if B + C is less than 30 days — B + C; and
- (b) if B + C is 30 days or more — the number of days by which B + C exceeds 30 days.
- E** is the number of days of additional recreation leave credit that the member would have been given if the member were a member on the last day of the leave year.
- (3) For the purpose of determining recreation leave due on termination of service (and consequently the amount to apply for ‘payment instead of recreation leave’), incomplete months in a member’s first and last years of service are to be aggregated:
- (a) the sum of 30 days or more so aggregated is taken to comprise an additional completed month of service; and
- (b) February is taken to be a 30 day month for service beginning in that month.
- (4) If a member is discharged from one arm of the Defence Force and enlists in another arm of the Defence Force without any break in service (that is, the member is discharged on one day and reappointed on the next day), the member is taken not to have terminated their service.

#### *Example*

The provisions relating to leave and payment instead (in lieu) of leave on termination of service do not apply to a member covered by subclause (4).

### **8.1.8 Entitlement to basic recreation leave credit**

- (1) Members are entitled to a basic recreation leave credit total of 20 days per year.
- (2) The credit accrues fortnightly throughout the year on each pay day.
- (3) A member is entitled to receive credit for a part of a fortnight worked, calculated on a pro rata basis.

### **8.1.9 Grant of recreation leave credit**

- (1) A member's application for basic recreation leave may be granted by a supervisor not below the rank Warrant Officer Class 2 or classification Australian Public Service level 4 in the member's chain of command.

*Note:* As part of their duties, commanding officers have a responsibility to manage leave. This means they take all practical steps to:

- a. identify times when operational requirements would allow members to apply for and be granted leave; and
- b. inform members of these opportunities.

They must also give reasonable consideration to each application from a member to use recreation leave credits.

- (2) The supervisor must:
  - (a) inform the member of a decision to grant or to refuse to grant leave as soon as practicable; and
  - (b) provide the member's original application to the relevant administrator for record-keeping and audit purposes.

*Example*

The **relevant administrator** could be the Unit Orderly Room, Military Personnel Administration Centre or Ship's Office that is responsible for administration of the individual member's leave.

## **Division 3 Additional recreation leave**

### **8.1.10 Purpose and general limits**

- (1) The purpose of additional recreation leave credit is to provide an additional leave entitlement to members to compensate for the effects of service over time:
  - (a) in the field;
  - (b) in physically and mentally demanding flying and flight duties;
  - (c) under a continuous full time shipboard routine.
- (2) A member who would be entitled to accrue more than one kind of additional leave under clauses 8.1.11, 8.1.12 or 8.1.13 for the same period is only entitled to accrue additional leave under one of those clauses at a time, up to a total combined maximum of 10 days per year.

### **8.1.11 Additional recreation leave credit for field service**

- (1) The purpose of additional recreation leave credit for field service is to provide an additional entitlement to eligible members to compensate for the cumulative effects of service in the field.
- (2) This clause applies to a member who, in a leave year:
  - (a) is entitled to field allowance or the daily rate of special action forces allowance (disability); or

- (b) serves with the Special Air Service Regiment and is entitled to special action forces allowance (disability) at the annual rate.
- (3) Immediately after the last day of the leave year, the member must be given additional recreation leave credit of:
- (a) if paragraph (2) (a) applies — one day for every 10 days of entitlement to the allowance (up to 10 days' credit); and
  - (b) if paragraph (2) (b) applies — the number of days worked out using the formula:

$$10 \cdot \frac{A}{12}$$

where:

**A** is the number of completed months, or total periods of 30 days, of continuous service with the Special Air Service Regiment in the leave year.

- (4) Pro-rata credits do not accrue in respect of additional recreation leave credited under paragraph (2) (a). Credits of whole days are to apply to every 10 days of accumulative service attracting eligibility for field allowance or the daily rate of special action forces allowance (disability).

*Example*

The rate of accrual using the formula at paragraph 8.1.11 (3) (b) is 0.83 of a day of additional leave to be credited for each completed month of service. If paragraph 8.1.11 (2) (b) applies, incomplete months of service during a leave year are to be aggregated:

- (a) the sum of 30 days so aggregated comprises an additional month of service for calculating the credit of additional recreation leave; and
- (b) any periods of service so aggregated that are less than 30 days does not attract a credit of additional recreation leave.

### 8.1.12 Additional recreation leave credit for flying duties

- (1) The purpose of additional recreation leave credit for flying duties is to provide an additional entitlement to eligible members to overcome the physical and mental demands of flying duties or flight duties.
- (2) This clause applies to a member who, in a leave year:
  - (a) is entitled to flying allowance or flight duties allowance; and
  - (b) is employed on flying duties or flight duties.
- (3) Immediately after the last day of the leave year, the member must be given additional recreation leave credit worked out using the following table:

<b>Member on flying duties or flight duties for whole leave year</b>	<b>Flying hours or flights</b>	<b>Additional credit</b>
	100 flying hours or 100 flights completed in leave year	10 days
	at least 50 but less than 100 flying hours, or at least 50 but less than 100 flights completed in leave year	the greater of: Ten-twelfths of a day for each month in which 10 or more flying hours or 10 or more flights completed; and 5 days
	less than 50 flying hours or less than 50 flights completed in leave year	ten-twelfths of a day for each month in which 10 or more flying hours or 10 or more flights completed
	at least 100 flying hours or at least 100 flights completed in the part of leave year	ten-twelfths of a day for each completed month of flying duties or flight duties
<b>Member on flying duties or flight duties for part of leave year (other than member who renders non-effective service in leave year)</b>	at least 50 but less than 100 flying hours, or at least 50 but less than 100 flights completed in the part of leave year	the greater of: ten-twelfths of a day for each month in which 10 or more flying hours or 10 or more flights completed; and five-twelfths of a day for each completed month of flying duties or flight duties
	less than 50 flying hours or less than 50 flights completed in the part of leave year	ten-twelfths of a day for each month in which 10 or more flight hours or 10 or more flights completed
	at least 100 flying hours or at least 100 flights completed in leave year or the part of leave year	ten-twelfths of a day for each period, or total period, of 30 days' service in leave year or part of leave year

Member who is on flying duties or flight duties and who renders non-effective service in leave year or part of leave year	Flying hours or flights	Additional credit
	at least 50, but less than 100 flying hours or at least 50, but less than 100 flights completed in leave year or the part of leave year	the greater of: ten-twelfths of a day for each month in which 10 or more flying hours or 120 or more flights completed; and five-twelfths of a day for each period, or total period, of 30 days' service in leave year or the part of leave year
	less than 50 flying hours or less than 50 flights completed in leave year or part of leave year	ten-twelfths of a day for each month in which 10 or more flying hours or 10 or more flights completed

### 8.1.13 Additional recreation leave credit for sea service

- (1) The purpose of additional recreation leave credit for sea service is to provide an additional entitlement to eligible members to compensate for shipboard routine, seven day/24 hour rostering and the inability of members to utilise off-duty periods out of their duty environment.
- (2) This clause applies to a member who, in a leave year:
  - (a) serves in a seagoing ship or seagoing submarine; or
  - (b) serves in the sea training group or the fleet supply team; or
  - (c) serves in a clearance diving team.
- (3) Immediately after the last day of the leave year, the member must be given additional recreation leave credit of:
  - (a) if the service mentioned in subclause (2) is for the whole leave year — 10 days; and
  - (b) if the service is for a continuous period of at least one month but less than a leave year — ten-twelfths of a day for each completed month of that service in the leave year; and
  - (c) if the service extends overnight but is for less than one month — ten-twelfths of a day for each total period of 30 days of that service in the leave year.
- (4) If a member has rendered non-effective service in a period of service mentioned in subclause (2), for working out the member's additional recreation leave credit for the leave year under this clause, the service mentioned in subclause (1) is taken to be reduced by one month for each total period of 30 days' non-effective service in the leave year.
- (5) For **continuous sea service for a period of 30 days or more**, incomplete months at the beginning and end of the period are to be aggregated:
  - (a) the sum of 30 days or more so aggregated is to comprise an additional month of service for calculating the credit of additional recreation leave; and
  - (b) any periods of service with an aggregated total less than 30 days do not attract a credit of additional recreation leave.
- (6) **Non-continuous periods of sea service of less than a month**, within a leave year, are to be aggregated. For the purpose of aggregating service in respect of additional recreation leave:
  - (a) return day trips are not to be taken into account; and

- (b) in respect of overnight trips, both days are to count towards qualifying service; and
- (c) the sum of 30 days so aggregated is to comprise an additional completed month of service for calculating the credit of additional recreation leave for sea service.

#### 8.1.14 Additional recreation leave credit for service in a relevant locality

- (1) The purpose of additional recreation leave credit for service in a relevant locality is to provide an additional entitlement to eligible members to offset the uncongenial nature of service in geographically remote or climatically inhospitable localities.
- (2) In this clause, a *relevant locality* is a locality listed in Annex 8.1.A.
- (3) Immediately after the last day of the leave year, the member must be given additional recreation leave credit of:
  - (a) if the member serves in a relevant locality for the whole of the leave year — the number of days mentioned in Annex 8.1.A for the locality (or if service is in more than one locality, the greatest number of days mentioned in the Annex for the localities in which the member serves); and
  - (b) if the member serves in a relevant locality for a continuous period of at least one month but less than a leave year — the number of days worked out using the formula:

$$A \times \frac{B}{12}$$

where:

- A** is the number of days mentioned in Annex 8.1.A for the locality (or if service is in more than one locality, the greatest number of days mentioned in the Annex for the localities in which the member serves).
- B** is the number of completed months of service rendered by the member in a relevant locality; and
- (c) if the period of the member's service in a relevant locality during the leave year includes part of a month — the number of days worked out using the formula:

$$\frac{A}{12} \times \frac{B}{30}$$

where:

- A** is the number of days mentioned in Annex 8.1.A for the locality (or if service is in more than one locality, the greatest number of days mentioned in the Annex for the localities in which the member serves).
- B** is the number of days of service in a relevant locality in the part of a month.

- (4) If the member has rendered non-effective service in a leave year in a relevant locality, for working out additional recreation leave credit for the leave year under this clause, the period of the member's service in the relevant locality is taken to be reduced by one month for each total period of 30 days' non-effective service in the leave year.
- (5) Incomplete months in a member's first and last months of service in a relevant locality are to be aggregated:

- (a) the sum of 30 days so aggregated is to comprise an additional completed month of remote locality service for calculating the credit of additional recreation leave; and
  - (b) any periods of service with an aggregated total less than 30 days do not attract a credit of additional recreation leave.
- (6) If the member serves in more than one relevant locality during a month, then the relevant locality for working out the entitlement to additional leave credit for that month under this clause is the relevant locality which attracts the highest rate of credit.

*Note:* All enquires regarding other overseas localities that may attract additional recreation leave should be forwarded to Director Service Conditions.

### **8.1.15 Additional recreation leave credit for prolonged duty**

- (1) The purpose of additional recreation leave credit for prolonged duty is to provide an additional entitlement to eligible members to compensate for long or arduous duty where additional remuneration or other absence has not been granted.
- (2) Additional recreation leave for prolonged duty is not to be credited in respect of a period of long or arduous duty when short absence has been previously taken in recompense for the same occurrence.
- (3) This clause applies to a member who, in a leave year:
  - (a) performs duties outside the member's usual hours of duty; and
  - (b) is not given additional remuneration or any authorised absence for the performance of those duties.
- (4) The CDF may approve up to five days' additional recreation leave credit as soon as practicable after the last day of the leave year.
- (5) For subclause (4), the CDF must have regard to the extent to which the duties performed outside the member's usual hours:
  - (a) were more arduous than duties performed in the member's usual hours; and
  - (b) could have been performed in the member's usual hours.

**Division 4 Additional leave for training (“trainee leave”)**

**8.1.16 Purpose**

Additional recreation leave for training (sometimes called *trainee leave*) is intended to assist members who are required to take course breaks that exceed their available recreation leave credit.

**8.1.17 Commencement and transitional trainee leave before 1 January 2004**

- (1) A *trainee* (see clause 1.2.2) does not accrue recreation leave until 1 January 2004.
- (2) On 1 January 2004, the *trainee leave* for course breaks is to be acquitted against the member’s accrued recreation leave credit (as determined under the transitional arrangements in clause 8.1.7 of this Determination) using the process in clause 8.1.14 of Defence Determination 2003/21, Conditions of Service, as it was in force on 31 December 2003. Any recreation leave credit held by the trainee or member undergoing training on 1 January 2004 must be reduced by the amount of trainee leave taken by the trainee in their course as at that date.
- (3) Once the acquittal process under subclause (2) is complete, the member’s trainee leave needs will then be dealt with under the arrangements made in this Division.
- (4) The following table shows how the steps in subclauses (1) to (3) apply the transitional arrangements to members:

	<b>Step</b>	<b>Action</b>
1.	Find out how much leave a member has accrued at 31 December 2003.	a. Deem the member to have ceased to be a member on 31 December 2003. b. Then apply the formula in clause 8.1.7, as it was in force on 31 December 2003. The text of clause 8.1.7 is reproduced in the Note at the end of clause 8.1.7.
2.	Credit the leave to the member.	The member is credited with any leave that has not already been credited to them.
3.	Acquit the leave credits against trainee leave taken.	Reduce the recreation leave credit by the amount of trainee leave taken by the member using the formula in clause 8.1.14, as it was in force on 31 December 2003. The text of clause 8.1.14 is reproduced in the Note at the end of this clause.
4.	Begin using the new accrual system under clause 8.1.8.	The member is credited with basic recreation leave on a fortnightly basis.
5.	Begin using the new trainee leave system under clause 8.1.18.	The member gets trainee leave when their recreation leave credit is insufficient to cover the period of a course break.

*Note:* The following provision is clause 8.1.14 of Defence Determination 2003/21, Conditions of Service, as it was in force on 31 December 2003.

**8.1.14 Recreation leave credit after training**

- (1) This clause applies to a member who ceases to be a trainee or member undergoing training:
  - (a) by finishing a course of basic recruit training; or
  - (b) by graduating from the institution at which the member undergoes training; or
  - (c) because of early removal from a course of training.

- (2) When the member ceases to be a trainee or member undergoing training, the member must be given recreation leave credit of the number of days worked out using the formula:

$$20 \times \left( A + \frac{B}{12} \right) - C$$

where:

**A** is the number of completed leave years of service as a trainee or member undergoing training.

**B** for any year in which the member renders service as a trainee or member undergoing training for less than a full leave year — is the sum of:

- (a) the completed months of service as a trainee or member undergoing training in the leave year; and
- (b) if the member ceases to be a trainee or member undergoing training during a month that is not a completed month — that month.

**C** is the number of days (other than Saturdays, Sundays or public holidays) the member was granted trainee leave.

- (3) Any credit obtained as a result of applying this formula is to be credited to the member.
- (4) If the application of the formula to a member results in a debit of leave, the debit is taken not to exist.
- (5) For the purpose of determining the number of days of trainee leave granted ('C'), the total trainee leave (clause 8.6.6) is to be debited by (in addition to Saturdays, Sundays and public holidays) the travelling leave that would have been granted if the leave had been granted as recreation leave (see clause 8.6.10).

### **8.1.18 Members who are eligible for trainee leave on or after 1 January 2004**

From 1 January 2004, a member who is required by their Service to attend a course of training and who:

- (a) is not required to attend the course of training during a course break; and
- (b) does not have enough recreation leave or examination leave credit to take over the period of the course break,

is entitled to take *trainee leave* for the balance of the course break.

#### *Example*

A member who accrues two days of recreation leave and then is required to go on a course break for five days would be able to take two days of recreation leave and 3 days of trainee leave to cover the absence.

#### *Non-example*

A member who begins a course of training with a basic recreation leave credit of 10 days is required to use that credit before they can be given trainee leave for a course break.

### **8.1.19 Member on part-time leave without pay not eligible**

A member who is granted part-time leave without pay to assist with attendance at a training course is not eligible for trainee leave.

## **Division 5**

## **Administration and payment for recreation leave**

### **8.1.20 Maximum accrual period**

- (1) If it is not granted as leave, a member's recreation leave credit expires three years after the end of the leave year for which it accrued.
- (2) The CDF may defer the expiration of the leave credit by an additional year, if satisfied that leave was not able to be granted to the member within the three-year accrual period owing to the commanding officer's need for the member to remain on duty to meet Service requirements.

### **8.1.21 Recreation leave taken not to have been granted**

- (1) If a member:
  - (a) is on a period of recreation leave; and
  - (b) is ill or injured; and
  - (c) provides a medical practitioner's certificate stating that the member was not fit for duty for that full day,then that period of recreation leave is to be recredited to the member.
- (2) A member on a period of recreation leave is to be recredited for the leave any day after the member:
  - (a) is recalled to duty; or
  - (b) dies.

### **8.1.22 Salary for recreation leave**

- (1) Unless clause 8.1.23 applies, salary for a member for a period of recreation leave is salary at the applicable rate for the member's substantive rank and, if applicable, the member's pay group.

### **8.1.23 Salary for recreation leave – member on higher duties, temporary or acting rank**

If:

- (a) immediately before the *start day*, a member held a temporary or acting rank or was entitled to higher duties allowance; and
- (b) the direction to perform at that rank is not rescinded or revoked in relation to a period of leave,

salary for the member for the period of recreation leave is salary at the rate applicable from time to time for the temporary or acting rank and, if applicable, the member's pay group.

### **8.1.24 Member entitled to payment of an allowance while on recreation leave**

- (1) For this clause, an annual rate for each of the following allowances is a *relevant allowance*:
  - (a) adventurous training instructor allowance;
  - (b) diving allowance;
  - (c) flight duties allowance payable in circumstances where clause 5 of Determination No. 4 of 1992, Flight Duties Allowance, applies;

- (d) flying allowance;
  - (e) paratrooper allowance;
  - (f) seagoing allowance;
  - (g) special action forces allowance;
  - (h) specialist operations allowance;
  - (i) submarine service allowance;
  - (j) submarine escape allowance.
- (2) A member who is entitled to a relevant allowance for the day before the *start day* is entitled to the allowance during a period of recreation leave.
- (3) A member who is not entitled to a relevant allowance for the day before the *start day* is taken to be entitled if, for the whole of the period between the day on which the member was last entitled to the allowance and the start day, the member:
- (a) was on travelling leave; or
  - (b) was ill or in hospital; or
  - (c) was prevented from taking recreation leave because they were required to remain on duty; or
  - (d) for an officer – was involved in retirement proceedings that resulted in the member’s retirement from the Defence Force because the member was physically or mentally incapacitated; or
  - (e) for a member other than an officer – was involved in discharge proceedings that resulted in the member’s discharge from the Defence Force because the member was medically unfit.

### **8.1.25 Maximum payment of allowance while on recreation leave**

The maximum period of recreation leave for which a member can be paid a relevant allowance is the period of credit that the member accrued while they were entitled to the allowance.

*Example*

A member who accrues 20 days of recreation leave credit while on board a seagoing vessel and entitled to seagoing allowance and who then took leave would be entitled to be paid the allowance for up to 20 days of recreation leave. If the same member took 30 days of recreation leave, then the allowance would stop being paid after the first 20 days.

### **8.1.26 Member seconded or attached for duty**

- (1) This clause applies to a member who is seconded or attached for a period of duty with:
- (a) the armed forces of a country other than Australia; or
  - (b) the UN; or
  - (c) a treaty organisation; or
  - (d) a Commonwealth government department (other than the Department of Defence); or
  - (e) any other body established or constituted under a law of the Commonwealth or a State or Territory (other than an external Territory).
- (2) Instead of recreation leave credit or additional recreation leave credit that, but for this subclause, the member would be given for the period of duty, the member must be given the recreation leave entitlement authorised by the body to which the member has been seconded or attached for the period.

- (3) However, if the recreation leave credit or additional recreation leave credit that would be given to the member for the period of duty, but for subclause (2), is in excess of recreation leave granted to the member in accordance with the entitlement authorised by the body, the member must be given recreation leave credit equal to the excess.

### **8.1.27 Maximum leave credit on ceasing to be a member**

On the day a person ceases to be a member, the member is entitled to credit for:

- (a) their accrued recreation leave, up to a maximum of four years' credit; and
- (b) any additional leave accrued as a result of a CDF decision under subclause 8.1.20 (2).

### **8.1.28 Payment instead of recreation leave**

- (1) This clause applies if a member ceases to be a member other than because of the member's death.

*Note:* For entitlements on the death of a member, see Part 6 of Chapter 10.

- (2) The member must be paid an amount equal to salary for the member's period of recreation leave credit and two days for each period of five days credit.
- (3) The maximum period of recreation leave credit that can be paid to a member under this clause is the sum of either:
  - (a) the most recent complete three leave years' accrued credit; and
  - (b) any credit that has accrued to the member in the current leave year ; and
  - (c) any additional amount of credit that the CDF has approved under subclause 8.1.20 (2).
- (4) Any accrued recreation leave credit additional to the amount mentioned in subclause (3) that has not been granted as leave expires when the member ceases to be a member.
- (5) In this clause, **salary**, for a member, means:
  - (a) unless paragraph (b) applies — salary at the applicable rate for the member's substantive rank and, if applicable, the member's pay group; and
  - (b) if the member held a temporary or acting rank or was entitled to higher duties allowance:
    - (i) for the year before the start day; or
    - (ii) on the day before the start day and for a period of, or periods totalling, three of the five years immediately before that day —  
salary at the applicable rate for the temporary or acting rank held immediately before the start day (or, if the member held more than 1 temporary or acting rank during the period or periods, the lower or lowest rank held) and, if applicable, the member's pay group; and
  - (c) an allowance listed in subclause 8.1.24 (1) that would have been payable for a period of recreation leave taken by the member beginning on the start day.

### **8.1.29 Liability for excess leave on termination**

- (1) If a member has been granted recreation leave that exceeds the amount of recreation leave credit that the member held before they ceased to be a member, salary is not payable to the member for any part of the period of the excess.
- (2) If the member has received salary for any part of the period of the excess, the member must repay to the Commonwealth an amount equal to the amount of that salary unless the member:
  - (a) was required to take the leave for Service reasons; or
  - (b) has died.
- (3) Without limiting the ability of the Commonwealth to otherwise recover an amount payable by a person under subclause (3), the amount may be deducted from moneys that are, or become, payable to the person in relation to service.

---

#### **NOTE**

1. Defence Determination 2003/21 commenced on 1 August 2003 and has been amended by Defence Determinations 2003/20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.

# EXPLANATORY STATEMENT

## Defence Determination 2003/37

This Determination amends Defence Determination 2000/1, Conditions of Service (the Principal Determination), made under section 58B of the *Defence Act 1903* (the Act). Part 1 of Chapter 8 of the Principal Determination sets out provisions dealing with recreation leave for members of the Australian Defence Force (ADF).

The purpose of this Determination is to provide simplified accrual and administration for recreation leave. This supports the Department of Defence's adoption of an electronic personnel system that can calculate leave on a fortnightly basis in line with pay cycles.

Clause 1 of this Determination sets out the manner in which this Determination may be cited.

Clause 2 specifies that the amendments are made to the Principal Determination, as amended.

Clause 3 provides that this Determination commences on 1 January 2004.

Clause 4 substitutes a new Part 1 of Chapter 8 of the Principal Determination. The Part is divided into five Divisions to assist navigation of the various entitlements and to provide a clearer distinction between the separate entitlements and the general administrative provisions that relate to the different forms of recreation leave. The Divisions are as follows:

- Division 1 Purpose, definitions, administration.
- Division 2 Basic recreation leave.
- Division 3 Additional recreation leave.
- Division 4 Additional leave for training ("trainee leave").
- Division 5 Administration and payment for recreation leave.

The new Part includes a clause 8.1.7 and clause 8.1.17 that contain transitional arrangements in order to assist all members of the ADF to understand how the new system of accrual and crediting of recreation leave will be introduced. Because of the complexity of the arrangements, tables have been included that broadly outline the actions that will be taken to implement the new scheme.

New Division 2 clause 8.1.8 provides an entitlement of 20 days recreation leave per year. This total entitlement remains unchanged. However, from 1 January 2004, that leave will accrue on a fortnightly basis. This will allow members to take their leave as it accrues rather than waiting for the end of a year or making complex arrangements for the crediting of leave in advance of its accrual.

This new arrangement will be administered by the electronic pay system, PMKeys. This has allowed considerable simplification of the basic recreation leave provisions in that complex formulae are no longer necessary to work out leave accrual. It also has the advantage that members may apply to take the leave that they are entitled to as they accrue it and will be able to keep a better record of their leave balance at any point in time.

Clause 8.1.9 provides a direct power to supervisors to grant leave rather than relying on authorisations. This allows the supervisor to take direct responsibility for managing workflows and assisting members to take leave. An administrative note has been included to

ensure supervisors are informed of some of the ways that they can do this. In addition a new subclause 8.1.9 (2) places an incidental obligation on supervisors to inform members of their decisions and to report these for recording and audit, in line with recommendations related to processing of leave applications (Australian National Audit Office Financial Statements Audit 2002/2003, Recommendation 5.2, The processing of leave application requests – military and civilian).

Division 3 is largely unchanged from the previous set of entitlements on additional recreation leave. New clause 8.1.10 places the existing general limits on accrual of additional recreation leave for field, flying and seagoing service clearly ahead of the entitlement clauses so that members will be immediately aware of those limitations. The other significant change to additional recreation leave is that clause 8.1.14 has been amended to reflect the separation of the domestic and overseas leave provisions that occurred on the commencement of the Principal Determination on 1 August 2003. These changes are consequential in nature and do not otherwise affect the entitlement to additional leave for service in a remote location.

Division 4 provides a new trainee leave entitlement for members of the ADF who are required by their Service to undertake a course of study, known in the Principal Determination as “members undergoing training” and “trainees”. Previously these two groups of members were treated differently in relation to accrual of basic recreation leave and access to trainee leave. With the introduction of the new accrual system for basic recreation leave there is no need to continue with this distinction. New clause 8.1.18 provides a simple mechanism to provide leave to those members who do not have sufficient accrued recreation leave credit to cover a course break. This is equitable in that all members are treated alike and given sufficient paid leave to enable them to take course breaks as required for individual courses once they have exhausted their recreation leave credits. The new system recognises that recreation leave is a resource to assist members to take these breaks. It also removes the need for complex ‘acquittal’ processes after a course ends, to deal with leave that has been stored and not used during course breaks.

New Division 5 provides some simplification and streamlining for existing rules on the administration and payment in lieu processes for recreation leave. Specific changes include:

- clause 8.1.23 simplifies the process for recognising higher duties for the purpose of leave payments;
- references to allowances updated in clause 8.1.24;
- an example added to help administrators to work out when a member is entitled to a relevant allowance during recreation leave.

Criteria are provided for the exercise of discretions under the new Part of the Principal Determination. Adverse decisions are subject to merits review under the ADF redress of grievance system, including an appeal to the Defence Force Ombudsman.

Authority: Section 58B of the  
*Defence Act 1903*