



Determination No. 29 of 1983

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## Determination under Section 58B of the Defence Act 1903

I, KIM CHRISTIAN BEAZLEY, the Minister of State for Aviation acting for and on behalf of the Minister of State for Defence, hereby make the following Determination under section 58B of the *Defence Act 1903*.

Dated 28 November 1983.

KIM C. BEAZLEY  
Minister of State for Aviation  
for and on behalf of the  
Minister of State for Defence

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### Citation

1. This Determination may be cited as Determination 2001, Allowance for Loss on Sale of Vehicle.<sup>1</sup>

### Definitions

2. In this Determination, unless the contrary intention appears—

“member” means a member rendering continuous full-time service and, in respect of a removal on the termination of a member’s service, includes a former member;

“motor vehicle” means a registered and roadworthy motor vehicle including a truck, a motor scooter or a motor cycle, with or without sidecar;

“removal”, in relation to a member, means the transportation at Commonwealth expense of a vehicle between localities within Australia, and “removed” has a corresponding meaning;

“towable vehicle” means a towable trailer, caravan or boat and trailer;

“vehicle” means a motor vehicle or a towable vehicle.

### Interpretation

#### 3. In this Determination—

- (a) the expression “*de facto* spouse” has the same meaning as in Determination 0114, Married Trainee’s Allowance, made under section 58B of the *Defence Act 1903*;
- (b) “spouse” includes “*de facto* spouse”; and
- (c) “corresponding rank” has the same meaning as in Determination 0104, Higher Duties Allowance, made under section 58B of the *Defence Act 1903*.

### Allowance for Loss on Sale of Vehicle

#### 4. Subject to clauses 6 and 7, where a vehicle is to be removed and—

- (a) a member; or
- (b) in the case of the death of a member—a person legally entitled to take possession of the vehicle,

elects to sell the vehicle in lieu of that removal, that member or that person shall be paid an allowance called “Allowance for Loss on Sale of Vehicle”.

### Amount of Allowance

#### 5. The amount of Allowance for Loss on Sale of Vehicle payable is an amount equal to—

- (a) the cost which would have been incurred by the Commonwealth had the vehicle been removed; or
- (b) the amount, if any, by which the value placed on the vehicle at a valuation conducted on behalf of the Department exceeds an amount equal to an amount calculated in accordance with the formula—

$$A - B$$

where—

A is equal to—

- (i) the amount received on sale of the vehicle; or
  - (ii) the highest amount offered for the vehicle,
- whichever is greater; and

B is equal to the amount of incidental expenses incurred by the member in selling the vehicle,

whichever is the lesser.

### Sale of Vehicle

6. Allowance for Loss on Sale of Vehicle shall not be paid to a member or, in the case of the death of a member, to a person legally entitled to take possession of the vehicle unless—

- (a) evidence of—
  - (i) the amount of the valuation; and

- (ii) the amounts of the components in the formula referred to in paragraph 5 (b),  
is furnished to the Department;
- (b) the sale was conducted on a wholly commercial basis;
  - (c) that member or that person took reasonable steps to obtain the best possible price; and
  - (d) the value of the vehicle did not alter substantially between the date of the valuation and the date of the sale.

**Allowance Not Payable**

7. Where—

- (a) the spouse of a member is also a member; and
- (b) both members would, but for this clause, have an entitlement to an allowance under this Determination in respect of the same vehicle,

the allowance is not payable to—

- (c) where both members hold different ranks or corresponding different ranks—the member who holds the lower rank or corresponding lower rank; or
- (d) where both members hold the same rank or corresponding same rank—the member with the lower seniority in that rank.

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**NOTE**

- 1. Previous amendments to Determination 2001, Allowance for Loss on Sale of Vehicle: NIL.

EXPLANATORY STATEMENT  
DETERMINATION NO. 29 OF 1983  
ISSUED BY THE AUTHORITY OF THE MINISTER FOR DEFENCE  
UNDER SECTION 58B OF THE DEFENCE ACT 1903

Section 58B of the Defence Act 1903 allows the Minister to make determinations on conditions of service for members of the Defence Force.

This determination provides for payment of an allowance to members of the Defence Force who, being entitled to have their vehicles removed at public expense, elect to sell the vehicles in lieu of that removal.

This determination consolidates the legal cover for allowances for loss on sale of motor vehicles and towable items in the one tri-service determination made under section 58B of the Defence Act 1903. It replaces Military Financial Regulation 133, the various determinations which provided for payment of this allowance under Air Force Regulation 608 and Ministerial approvals for payment of the allowance to members of the Navy.

The date of effect is the date of signature of the determination.