



Determination No. 78 of 1985.

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

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

Dated 30 December 1985.

K. C. Beazley  
Minister of State for Defence

### Temporary Rental Allowance

1. Determination 0503, Temporary Rental Allowance, is amended—
  - (a) by inserting in the definition of “rental” in clause 2 “or a tariff for a serviced flat or other similar establishment” after “dwelling” (second occurring);
  - (b) by omitting from paragraph 6 (a) “paragraph 12 (d)” and substituting “paragraphs 12 (d) and 27 (d), sub-paragraph 27 (e) (i)”;
  - (c) by omitting from paragraph 6 (b) “27, 28,”;
  - (d) by omitting “and” from the end of paragraph 6 (b);
  - (e) by inserting after paragraph 6 (c) the following word and paragraph:  
“; and (d) for the purposes of clause 27—the person from time to time holding or performing the duties of the office or appointment in the Department of Defence titled—
    - (i) First Assistant Secretary, Industrial Division;  
or
    - (ii) Director General, Industrial Division, Service Conditions Branch.”;
  - (f) by omitting from clause 7 “paragraph 12 (d)” and substituting “paragraphs 12 (d) and 27 (d), sub-paragraph 27 (e) (i)”;
  - (g) by omitting from clause 7 “27, 28,”;
  - (h) by omitting from paragraph 12 (e) “by the required amount” and substituting “by an amount that does not exceed the actual rental paid by the member”;
  - (i) by inserting in clause 13 “, other than circumstances referred to in paragraph 12 (b)” after “circumstances”;

- (j) by omitting "and" from the end of paragraph 14 (c);
- (k) by inserting after paragraph 14 (d) the following word and paragraph:
  - “; and (e) in respect of an approval under paragraph 12 (e), the amount of rental paid by the member and the amount of rental which could reasonably be expected to be charged for the residence occupied by the member.”;

- (l) by omitting clauses 27 and 28 and substituting the following clause:

“27. Where—

- (a) a member resides in accommodation for an extended period which does not exceed 3 months in the locality of posting;
- (b) that accommodation is accommodation in respect of which Temporary Accommodation Allowance would, if payment of TRA were not approved under this clause, be payable to the member under Determination 0504, Temporary Accommodation Allowance; and
- (c) the member has not been granted a removal to that accommodation,

the approving authority may—

(d) having regard to—

- (i) the length of time for which the member will remain in the accommodation;
- (ii) the period of time that the member had available to conduct a search for suitable rental accommodation within his or her rental ceiling;
- (iii) whether or not the member accepted the cheapest suitable residence; and
- (iv) the reasons, if any, that make it necessary for the member to restrict his or her search for a suitable residence to a particular area,

approve payment of TRA to the member; and

(e) having regard to the rental charged for the accommodation and the amount of Temporary Accommodation Allowance that would otherwise be payable to the member, increase the rental ceiling applicable to the member to an amount—

- (i) that does not exceed 200% of the rental ceiling that would otherwise be applicable to the member; or
- (ii) where 200% of the rental ceiling applicable to the member is insufficient—that does not exceed the actual rental paid by the member for that accommodation.”;

- (m) by omitting from clause 54 “in a locality of posting”; and
- (n) by omitting from clause 54 “in respect of those costs” (first occurring) and substituting “under this Determination”.

**Temporary Accommodation Allowance**

2. Determination 0504, Temporary Accommodation Allowance, is amended by inserting after clause 37 the following clause:

“37A. Temporary Accommodation Allowance is not payable in respect of any period for which the payment of Temporary Rental Allowance has been approved under clause 27 of Determination 0503, Temporary Rental Allowance.”.

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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:

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Column 1 Determination	Column 2 Previous Determinations
Determination 0503, Temporary Rental Allowance	Nos. 91 and 112 of 1984; Nos. 19, 20, 40, 43 and 56 of 1985
Determination 0504, Temporary Accommodation Allowance	Nos. 92 and 112 of 1984; Nos. 1, 16, 19 and 43 of 1985.

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EXPLANATORY STATEMENT

DETERMINATION NO. 78 OF 1985

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.

Determination 0503, Temporary Rental Allowance, provides for payment of an allowance where a member and family are moved at Commonwealth expense from one locality to another locality within Australia and they are obliged to rent private accommodation at the new locality. The rate of allowance payable to a member is based on a maximum level of reimbursement of rental costs incurred by the member less a specified contribution by the member towards that rental.

Paragraph 1(a) of this determination amends clause 2 of Determination 0503 to extend the definition of "rental" to include a tariff charged for a serviced flat or other similar establishment.

Clauses 27 and 28 of Determination 0503 permit an approving authority to approve payment of Temporary Rental Allowance (TRA) when a member is required to remain in a serviced flat, in respect of which the member would otherwise be entitled to Temporary Accommodation Allowance, for a prolonged period but not exceeding 3 months. The maximum level of reimbursement may also be increased in these circumstances up to 200% of the maximum level of reimbursement that would otherwise apply to the member.

Paragraph 1(1) of this determination amends Determination 0503 by omitting clauses 27 and 28 and substituting a new clause 27:

- a. to clarify the rules for approving payment of TRA in these circumstances and for increasing the maximum level of reimbursement up to the 200% level; and

- b. to insert a provision whereby an approving authority within the Department of Defence can increase the maximum level of reimbursement to an amount in excess of the 200% where the circumstances justify such an increase.

Paragraphs 1(b) to 1(g) of this determination amend clauses 6 and 7 of Determination 0503 consequent upon the amendment at paragraph 1(1) of this determination to restrict the current approving authorities to increasing the maximum level of reimbursement under clause 27 up to the 200% referred to in that clause and to specify the appropriate approving authorities for the purposes of increasing the maximum level of reimbursement beyond the 200% level.

Clauses 12 and 13 of Determination 0503 permit an approving authority to increase the maximum level of reimbursement in certain circumstances. Clause 54 of Determination 0503 permits an approving authority to approve payment of TRA to a member whose circumstances would not otherwise lead to an entitlement under the general rules.

Paragraphs 1(h) and 1(i) of this determination amend clauses 12 and 13 of Determination 0503 to:

- a. make it clear that the approving authority can increase the maximum level of reimbursement under paragraph 12(e) by an amount not exceeding the actual rental paid by the member; and
- b. make it clear that an approval to increase the maximum level of reimbursement under clause 13 is only permissible in circumstances other than those covered by clause 12.

Paragraphs 1(j) and 1(k) of this determination insert in clause 14 of Determination 0503 an additional matter to which the approving authority must have regard in giving an approval under paragraph 12(e).

Paragraphs 1(m) and 1(n) of this determination amend clause 54 of Determination 0503 to make it clear that approvals can be given under this clause only in respect of members who would otherwise not be entitled to TRA.

Determination 0504, Temporary Accommodation Allowance, provides for payment of an allowance where a member and family are moved at Commonwealth expense from one locality to another locality in Australia and, due to that move, it is necessary to accommodate the member and family in a house of accommodation such as a hotel, motel or serviced flat for a short period.

Clause 2 of this determination amends Determination 0504 to preclude payment of this allowance to a member who resides in a serviced flat or other similar establishment and for whom the payment of Temporary Rental Allowance has been approved under Determination 0503.

The date of effect of this determination is the date on which it was signed.