



Determination No. 21 of 1986

**Determination under Section 58B of the
Defence Act 1903¹ (Amendment)**

I, JOHN JOSEPH BROWN, the Minister of State for Sport, Recreation and Tourism 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 17 April 1986.

JOHN BROWN

Minister of State for Sport, Recreation and Tourism
for and on behalf of the
Minister of State for Defence

Child Allowance

By No. 87 of 1986 with 3000186

1. Determination 3724, Child Allowance, is amended—

- (a) by inserting in clause 6 “, 7B” after “clause 7, 7A”;
- (b) by inserting after clause 7A the following clause:

“7B. Subject to clauses 28 and 29, a member who—

- (a) is serving on duty in the Netherlands as the New Construction Submarine Combat System Team Leader; and
- (b) is accompanied or whose child boards and resides at a boarding school situated in the Netherlands,

shall be paid Child Allowance in respect of that child at an annual rate calculated in accordance with the formula—

.75 (A)

where A is the amount of Child Allowance in respect of that child specified in the Schedule appropriate to the Netherlands.”;

- (c) by inserting in clauses 11, 13 and 14 “7B,” after, in each case, “clause 6, 7,”; and

- (d) by inserting in clause 15 "7B," after "clause 6, 7," (wherever occurring).

2. Determination 3724 Child Allowance, is further amended as set out in Schedule 1.

Education Assistance Overseas

3. Determination 3725, Education Assistance Overseas, is amended—

- (a) by omitting from clause 8 "Where" and substituting "Subject to Part III, where";
- (b) by inserting before Division 16 the following Division:

Division 15B—Thailand

"34G. Where—

- (a) a member is serving on duty in Thailand;
- (b) the member's child attends the Patana School and that child is undertaking studies at the Thailand level of Junior 1 or a higher level; and
- (c) the approving authority has approved, under clause 8, the cost of remedial teaching for that child as an education expense,

so much, if any, of the cost which the member incurs, during the period that he or she is serving in Thailand, in respect of remedial teaching for that child that exceeds Baht 4000 shall not be an education expense for the purpose of clause 7."; and

- (c) by omitting from Part 2 of the Schedule the entry relating to Thailand and substituting—

"Thailand Patana School; International School".

Child Education Allowance

4. Determination 3726, Child Education Allowance, is amended—

- (a) by omitting "or" from the end of sub-paragraph 4 (d) (ii);
- (b) by inserting after paragraph 4 (d) the following paragraph:
- "(dd) where the member is serving on duty in the Netherlands as the New Construction Submarine Combat System Team Leader—being a boarding school situated in the Netherlands; or";
- (c) by inserting in paragraph 4 (e) "or (dd)" after "paragraph (d)";
- (d) by omitting paragraph 5 (a) and substituting the following paragraph:
- "(a) where the child boards and resides at the school at which he or she is undertaking a course of education—an amount equal to—
- (i) where the member is serving on duty in the Netherlands as the New Construction Submarine Combat System Team Leader—the amount ascertained in accordance with clause 7A; or

- (ii) in any other case—the sum of the amount for boarding ascertained in accordance with paragraph 6 (a) and the amount for tuition ascertained in accordance with clause 7; and”;
- (e) by inserting after clause 7 the following clause:

“7A. The amount for boarding and tuition is, in respect of a member to whom sub-paragraph 5 (a) (i) applies, an amount equal to so much of the amount in Dutch Guilders calculated in accordance with the formula—

$$A - \frac{DB}{C}$$

as does not exceed the amount in Dutch Guilders calculated in accordance with the formula—

$$24550 \frac{B}{C}$$

where—

A is the amount equal to the sum of—

- (a) the fees and compulsory charges, if any, levied on or incurred by the member during the school year in respect of the provision for the child of board and residence at the school (other than so much of those fees and charges as is levied or incurred exclusively in respect of a period in respect of which Child Education Allowance is not payable to the member or during which the school is in vacation); and
- (b) the fees and compulsory charges, if any, levied on or incurred by the member in the school year in respect of the provision of tuition for the child at the school (other than so much of those fees and charges as is levied or incurred exclusively in respect of tuition provided during a period in respect of which Child Education Allowance is not payable to the member);

B is the number of weeks (not including any period in respect of which Child Education Allowance is not payable to the member or during which the school is in vacation) in the school year during which the child boards and resides at the school;

C is the number of weeks in the school year during which tuition is given to students at the school; and

D is the amount, to the nearest Dutch Guilder, of Australian Dollars 819.”;

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- (f) by omitting paragraph 11 (b) and substituting the following paragraphs:

“(b) in the case of a child, other than a child referred to in paragraph (a), who boards and resides at a school in Britain—on and from the day the child commences to board and reside at the school or the date of the member’s departure from Australia to the overseas post, whichever is the later;

(bb) in the case of a child, other than a child referred to in paragraph (a) or (b), who boards and resides at the school at which he or she is undertaking a course of education—

(i) where the member has received, in a year, notification of a posting to an overseas locality in a subsequent year—from the beginning of the school year in that second mentioned year; or

(ii) where the member has received, in a year, notification of a posting to an overseas locality in that same year—from the beginning of the school term that immediately follows the date of notification;”;

- (g) by omitting from paragraph 12 (a) “returns to Australia” and substituting “leaves the overseas post”;

- (h) by omitting from sub-paragraph 12 (b) (ii) “returns to the locality” and substituting “leaves the overseas post”; and

- (i) by inserting in sub-paragraph 12 (b) (iii) “day prior to the” after “on the”.

5. Determination 3726, Child Education Allowance, is further amended as set out in Schedule 2.

Application

6. Determination 3726, Child Education Allowance, as amended by paragraph 4 (f) of this Determination, shall apply in relation to service by a member from and including 24 May 1984.

Transitional

7. Where a member would have been entitled to an amount of Child Education Allowance under Determination 3726, Child Education Allowance, made under section 58B of the *Defence Act 1903* (hereinafter called the first-mentioned Determination) in respect of his or her service in the Netherlands as the New Construction Submarine Combat System Team Leader for a period during the prescribed period had that first-mentioned Determination, as amended by paragraphs 4 (a), 4 (b), 4 (c), 4 (d) and 4 (e) of this Determination, been in force during the prescribed period, there shall be payable to that member an amount of Child Education Allowance calculated in accordance with the formula—

$$A + B - C$$

where—

A is, subject to clause 8, the amount of Child Education Allowance which would have been payable to the member under that first-mentioned Determination as amended by paragraphs 4 (a), 4 (b), 4 (c), 4 (d) and 4 (e) of this Determination;

B is an amount equal to the amount of Child Allowance that would have been payable to the member under Determination 3724, Child Allowance, made under section 58B of the *Defence Act 1903*, if that Determination, as amended by clause 1 of this Determination, had been in force during the prescribed period; and

C is an amount equal to the amount of Child Allowance that was payable to the member under Determination 3724, Child Allowance, made under section 58B of the *Defence Act 1903*, in respect of the prescribed period.

8. Where a member is entitled to an amount of Child Education Allowance under the provisions of clause 7 for a period during the period from and including 3 September 1985 to and including 27 January 1986, the amount of "D" in the formula in paragraph 4 (e) of this determination shall, for the purposes of calculating the amount of Child Education Allowance payable to the member in respect of that period, be deemed to be the amount, to the nearest Dutch Guilder, of Australian Dollars 774.

9. For the purposes of clause 7, "prescribed period" means the period from and including 3 September 1985 to and including the day immediately prior to the day on which this Determination is made.

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:

Column 1 Determination	Column 2 Previous Determinations
Determination 3724, Child Allowance . . .	See Note 1 to No. 5 of 1986 and see also Nos. 5, 9, 16, 17 and 20 of 1986
Determination 3725, Education Assistance Overseas	Nos. 86 and 110 of 1984; Nos. 6, 28, 36, 38, 43 and 45 of 1985; No. 4, 5, 8 and 19 of 1986
Determination 3726, Child Education Allowance	Nos. 57, 66 and 93 of 1984; Nos. 6 and 45 of 1985; No. 4 of 1986

SCHEDULE 1

Clause 2

FURTHER AMENDMENTS

Provisions amended	Amendments
Sub-paragraph (b) (iv) of the definition of "education at secondary level" in clause 2	Omit "his" and substitute "the child's".
Definition of "language training course" in clause 2	Omit "his" (wherever occurring) and substitute "the member's".
Paragraphs 5 (b), 9 (b), 11 (c), 17 (a), 17 (d), 19 (a) and 19 (d); Clauses 6 and 28; Sub-paragraph 11 (b) (ii)	Insert "or her" after "his".
Clauses 6, 8 and 16; Paragraphs 9 (b), 17 (c) and 19 (c)	Omit "he" and substitute "the member".
Sub-paragraph 7 (c) (ii); Clauses 11 and 12	Omit "he" (wherever occurring) and substitute "the member".
Clauses 8 and 12	Insert "or her" after "his" (wherever occurring).
Clause 9	Omit "him" and substitute "the member".
Paragraph 10 (a)	Insert "or she" after "he".
Clause 11	Insert "or her" after "him".
Paragraph 12 (b)	Insert "or her" after "him" (wherever occurring).

SCHEDULE 2

Clause 5

FURTHER AMENDMENTS

3726

Provisions amended	Amendments
Definition of "accompanied" in clause 2	Omit "him" and substitute "the member".
Paragraph 3 (f)	Omit "he" and substitute "the child's".
Clause 4; Paragraph 12 (c)	Insert "or her" after "his" (wherever occurring).
Paragraph 6 (a)	Insert "or she" after "he".
Paragraphs 11 (a), 11 (c), 12 (a) and 20 (b); Clause 14	Omit "his" and substitute "the member's".
Paragraph 12 (b); Clause 13.	Omit "his" (wherever occurring) and substitute "the member's".

Amended by
No. 50 of 1986

EXPLANATORY STATEMENT

DETERMINATION NO. 21 OF 1986

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

Determinations 3724, 3725 and 3726 provide respectively for the payment of Child Allowance, Education Assistance Overseas, and Child Education Allowance to members of the Defence Force who are serving overseas to enable them to meet the additional costs incurred in maintaining and educating their children as a result of that overseas posting.

Paragraph 1(b) of this determination inserts clause 7B into, and paragraphs 1(a), 1(c) and 1(d) make consequential amendments to, Determination 3724 to permit payment of Child Allowance at a reduced rate to a member serving on duty as the New Construction Submarine Combat System Team Leader in the Netherlands. Clause 2 and Schedule 1 make minor amendments to remove discriminatory language from Determination 3724. The date of effect of these amendments is the date of signature of this determination.

Paragraph 3(b) of this determination inserts clause 34G into, and paragraph 3(a) makes a consequential amendment to, Determination 3725, with effect from the date of signature of this determination, to specify the rules for including, as an education expense for the purposes of Education Assistance Overseas, the costs incurred by member's serving in Thailand in respect of remedial teaching for their children. Paragraph 3(c) of this determination makes a minor amendment to Determination 3725 to correct the spelling of the name of a particular approved school.

Paragraphs 4(a), 4(b), 4(c), 4(d) and 4(e) of this determination amend Determination 3726 to permit payment of Child Education Allowance to a member serving on duty as the New Construction Submarine Combat System Team Leader in the Netherlands and to provide a formula for determining the amount of allowance payable to such a member. These amendments apply with effect from the date of signature of this determination but clauses 7 and 8 of this determination provide for payment of Child Education Allowance to such a member at a reduced rate for a transitional period from 3 September 1985 to the day prior to the date of signature of this determination.

Paragraph 4(f) and clause 6 of this determination amend Determination 3726, with effect from 24 May 1984, to change the rules for commencement of Child Education Allowance when a member is notified of a posting overseas. Paragraphs 4(g), 4(h) and 4(i) of this determination amend Determination 3726, with effect from the date of signature of this determination, to make minor changes to the rules for cessation of the allowance when a member returns to Australia. Clause 5 and Schedule 2 of this determination make minor amendments to remove discriminatory language from the Determination 3726.