



Determination No. 41 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 27 June 1986.

JOHN BROWN

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

Trainee's Dependant Allowance

1. Determination 0114, Trainee's Dependant Allowance, is amended—
 - (a) by omitting the definition of "cohabit" from clause 2;
 - (b) by omitting the definition of "*de facto* spouse" from clause 2 and substituting the following definition:

“*de facto* spouse’, in relation to a person, means a person of the opposite sex to the first-mentioned person who lives with the first-mentioned person as the husband or wife of that person on a *bona fide* domestic basis although not legally married to that person;” and
 - (c) by omitting clauses 3, 4, 4A, 4B, 4C, 4D and 4E.

Application

2. Subject to clause 3, this determination shall apply on and from 1 July 1986.
3. Where—
 - (a) on 30 June 1986, a member satisfied the conditions specified in clause 3 of Determination 0114, Trainee's Dependant Allowance, as in force immediately prior to the making of this determination; and

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- (b) on, or on and after, 1 July 1986, the member continues to satisfy the conditions specified in clause 3 of Determination 0114, Trainee's Dependant Allowance, as in force immediately prior to the making of this determination,

the provisions of this Determination shall apply in respect of that member on and after the day immediately following the day on which the member ceases to satisfy the conditions specified in clause 3 of Determination 0114, Trainee's Dependant Allowance, as in force prior to 1 July 1986.

NOTE

1. Previous amendments to Determination 0114, Trainee's Dependant Allowance: Nos. 1 and 45 of 1981; No. 13 of 1982; No. 37 of 1983; No. 112 of 1984.

EXPLANATORY STATEMENT

DETERMINATION NO. 41 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 permits the Minister to make determinations on conditions of service for members of the Defence Force.

Determination 0114, Trainee's Dependant Allowance, provides for payment of an allowance to trainees who are married or who have a de facto spouse and whose salary during training is less than that of a member who holds the rank of Seaman, Private or Aircraftman and to whom pay level 1 is appropriate.

Determination 0114 previously prescribed certain rules whereby a person may have been accepted as the de facto spouse of a member for the purposes of entitlement to the allowance. Acceptance of such a relationship under these prescribed rules was based on the period of cohabitation, whether there were any children under the care of the couple and whether there was any legal impediment to marriage.

The definition of "de facto spouse" in Determination 0114 is used as a source for the meaning of this term in various other determinations made under section 58B of the Defence Act 1903.

This determination amends Determination 0114 by omitting the definition of de facto spouse and the prescribed rules for accepting a person as the de facto spouse of a member and substituting the definition of de facto spouse that is prescribed in the Sex Discrimination Act 1984. The amendment is necessary to comply with the provisions of the Sex Discrimination Act.

The date of effect is 1 July 1986 except for those members, in respect of whom a person was accepted as a de facto spouse under the current provisions and would have continued to be accepted under those provisions prior to the making of this determination, in which case the date of effect is the day immediately following the day the member ceases to be accepted under the current provisions.