



Determination No. 84 of 1986

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

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 28 October 1986.

JOHN BROWN

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

Citation

1. This Determination may be cited as Determination 3721, Rental and Utilities Contribution.¹

Definitions

2. In this Determination, unless the contrary intention appears—
“accompanied”, in relation to a member, means—

- (a) a member whose spouse—
 - (i) travels to the locality of an overseas post at Commonwealth expense; and
 - (ii) resides with the member in the locality of his or her overseas post; or
- (b) a member who, while at an overseas post—
 - (i) marries; or
 - (ii) cohabits with a person who is of the opposite sex to the member and who lives with the member as the

*Determination 3721, Rental and Utilities
Contribution 1986 No. 84*

husband or wife of the member on a *bona fide* domestic basis although not legally married to the member, and whose spouse resides with the member in the locality of his or her overseas post and will travel at Commonwealth expense from that locality;

“allowance group”, in relation to a member, means the allowance group that is or would, if the member were entitled to Overseas Living Allowance, be applicable to the member under Determination 3714, Overseas Living Allowance;

“Chief of Staff” means a Chief of Staff other than the Chief of the Defence Force;

“child”, in relation to a member, means a child (whether born in or outside wedlock), a step-child or a legally adopted child of—

- (a) the member;
- (b) a person who has ceased to be legally married to the member;
- (c) a person who has lived on a permanent and *bona fide* domestic basis as the member’s spouse;
- (d) the spouse of the member;
- (e) a person who has ceased to be legally married to the spouse of the member; or
- (f) a person who has lived with the member’s spouse on a permanent and *bona fide* domestic basis as a spouse,

who—

- (g) is less than 21 years of age; or
- (h) is 21 years of age or over and is, through illness or infirmity, wholly or substantially dependent on the member;

“*de facto* spouse” has the same meaning as in Determination 0114, Trainee’s Dependant Allowance;

“intended”, in relation to a period of duty or the duration of a language training course, means intended by the appropriate authority within the arm of the Defence Force to which the member belongs;

“intermediate term duty” means duty at an overseas post or duty with the United Nations for a period which is intended to be more than 6 months but less than 12 months;

“long term duty” means duty at an overseas post or duty with the United Nations for a period which is intended to be 12 months or more;

“member” means a member rendering continuous full-time service who is serving on intermediate term duty or long term duty, but does not include a member who—

- (a) has been awarded a Graduate Scholarship by the Rotary Foundation of Rotary International and is undertaking studies in an overseas country under that scholarship; or

- (b) has been selected by the Australian Rhodes Scholarship Selection Committee of the Rhodes Scholarship Trust as a Rhodes Scholar elect and, as a result, is undertaking studies at Oxford University, England;

“mission” means a diplomatic, consular or trade mission;

“overseas” means outside Australia;

“overseas post” means any office or other establishment of the Commonwealth, including a mission in a country overseas, or any appointment, station or place in a country overseas, in which, or at which, a member is required by the Commonwealth to serve for any purpose.

Interpretation

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

- (a) “spouse”, except where used in paragraph (c) or paragraph (f) (second occurring) of the definition of “child” in clause 2, includes “*de facto* spouse”; and
- (b) a reference to a Determination is a reference to a Determination made under section 58B of the *Defence Act 1903*.

4. For the purposes of this Determination where an amount for Rental and Utilities Contribution would, but for clause 9, be deducted from the salary of a member under this Determination, the member shall be regarded as the spouse of a member.

Approving Authorities

5. A Chief of Staff may, either generally or otherwise as provided in the instrument of appointment, in writing and signed by the Chief of Staff, appoint—

- (a) in the case of the Chief of Naval Staff—an officer who holds a rank in the Navy not below the rank of Lieutenant;
- (b) in the case of the Chief of the General Staff—an officer who holds a rank in the Army not below the rank of Captain; or
- (c) in the case of the Chief of the Air Staff—an officer who holds a rank in the Air Force not below the rank of Flight Lieutenant,

to be an approving authority for the purposes of paragraphs 12 (c), 13 (c) and 14 (c).

6. The approving authority for the purposes of—

- (a) paragraphs 12 (c), 13 (c) and 14 (c) shall be—

(i) the person from time to time holding or performing the duties of an office or appointment in the Industrial Division of the Department of Defence titled—

- (A) First Assistant Secretary, Industrial Division;
- (B) Director General Service Conditions Branch; or
- (C) Director Conditions of Service (A); or

*Determination 3721, Rental and Utilities
Contribution 1986 No. 84*

- (ii) a person appointed by a Chief of Staff under clause 5; and
- (b) clause 10, paragraphs 12 (d), 13 (d) and 14 (d) shall be the person from time to time holding or performing the duties of an office or appointment in the Industrial Division of the Department of Defence titled—
 - (i) First Assistant Secretary, Industrial Division;
 - (ii) Director General Service Conditions Branch; or
 - (iii) Director Conditions of Service (A).

Rental and Utilities Contribution

7. Subject to this Determination, where a member is serving on intermediate or long term duty at an overseas post an amount, called "Rental and Utilities Contribution", shall be deducted from his or her salary at the rate per week specified in column 2 of the Schedule if the member is an accompanied member or a member who is accompanied at Commonwealth expense by a child who is 12 years of age or more, or in column 3 of that Schedule if the member is an unaccompanied member, opposite to the member's allowance group specified in column 1 of the Schedule.

8. Nothing in clause 7 shall prejudice the right of the Commonwealth to recover by other means the amount of Rental and Utilities Contribution due by the member to the Commonwealth under this Determination.

Member Accompanied by Spouse who is Also a Member

9. Where—

- (a) a member is serving on intermediate or long term duty at an overseas post;
- (b) the member is accompanied at the overseas post by his or her spouse who is also a member; and
- (c) an amount of Rental and Utilities Contribution would, but for this clause, be deducted from the salary of both members,

the amount shall not be deducted from the salary of the member who is paid Overseas Living Allowance at a rate specified in column 5 of Schedule 2 of Determination 3714, Overseas Living Allowance.

Member Accompanied by APS Spouse

10. Notwithstanding the provisions of clause 7, where—

- (a) a member is serving on intermediate or long term duty at an overseas post;
- (b) the member is accompanied by his or her spouse who is an officer of the Australian Public Service; and
- (c) an amount is deducted from the salary of the spouse under the *Public Service Act 1922* under similar conditions to those which apply to the deduction of an amount of Rental and Utilities Contribution under this Determination,

the approving authority shall, having regard to—

- (d) the amount of Rental and Utilities Contribution that would otherwise be deducted from the member's salary; and
- (e) the amount that is deducted from the salary of the spouse under the *Public Service Act 1922*,

determine the amount, if any, of Rental and Utilities Contribution to be deducted from the salary of the member, but that amount shall not exceed the amount that would otherwise be deducted from the salary of the member.

Member Not Entitled to be Accompanied

11. Where a member is serving on intermediate term duty at an overseas post and the member would, if he or she were serving on long term duty at that overseas post, be entitled to be accompanied by his or her spouse at Commonwealth expense, an amount of Rental and Utilities Contribution shall not be deducted from the salary of the member.

Member Precedes Spouse to Overseas Post

12. Where—

- (a) a member to whom this Determination applies will be accompanied but precedes his or her spouse to the locality of his or her overseas post; and
- (b) the member's spouse did not travel with the member to the overseas post because a child of the member is completing an academic term or year at the school which the child attended immediately prior to the member's posting overseas,

and where the approving authority is satisfied that it is necessary for the member's spouse to remain in Australia with the child, the approving authority may waive payment of the amount of Rental and Utilities Contribution by the member for a period not exceeding—

- (c) 12 weeks; and
- (d) where the period specified in paragraph (c) is insufficient—an additional 1 week.

Spouse Absent from Overseas Post

13. Where—

- (a) the spouse of an accompanied member to whom this Determination applies precedes the member from the locality of the member's overseas post; and
- (b) the member's spouse departed from the locality of the overseas post prior to the member because a child of the member is commencing school at a new locality at the beginning of an academic term or year,

and where the approving authority is satisfied that it is necessary for the member's spouse to be with the child, the approving authority may, in

respect of the period commencing on the 29th consecutive day of the absence from the locality of the overseas post by the spouse, waive payment of the amount of Rental and Utilities Contribution by the member for a period not exceeding—

- (c) 8 weeks; and
- (d) where the period specified in paragraph (c) is insufficient—an additional 1 week.

14. Where—

- (a) the spouse of an accompanied member to whom this Determination applies temporarily leaves the locality of the member's overseas post during the member's period of duty at that overseas post; and
- (b) the member's spouse is temporarily absent from the locality of the overseas post because—
 - (i) the member's spouse travels at Commonwealth expense for compassionate reasons;
 - (ii) the member's spouse travels at Commonwealth expense to enable supervision of the enrolment of a child of the member at a boarding school in Australia; or
 - (iii) the member's spouse travels at Commonwealth expense for personal medical reasons or to escort the member, or a child of the member, who requires medical treatment away from the locality of the overseas post,

and where the approving authority is satisfied that it is necessary for the member's spouse to so travel, the approving authority may, in respect of the period commencing on the 29th consecutive day of the absence from the locality of the overseas post by the spouse, waive payment of the amount of Rental and Utilities Contribution by the member for a period not exceeding—

- (c) 8 weeks; and
- (d) where the period specified in paragraph (c) is insufficient—an additional 1 week.

Amount to be Deducted Fortnightly

15. The weekly amount of Rental and Utilities Contribution to be deducted from the salary of a member under this Determination shall be deducted fortnightly.

Calculation of Fortnightly and Daily Amounts

16. The amount of Rental and Utilities Contribution to be deducted from the salary of a member in respect of a fortnight shall be calculated in accordance with the formula—

2A

where A is the weekly amount to be deducted from the salary of the member under this Determination.

17. Subject to clause 18 the amount of Rental and Utilities Contribution to be deducted from the salary of a member in respect of a period of less than a fortnight shall be calculated in accordance with the formula—

$$\frac{F \times X}{14}$$

where—

F is the amount of Rental and Utilities Contribution to be deducted from the salary of the member in respect of a fortnight ascertained in accordance with the formula specified in clause 16; and

X is the number of days in the period.

18. Where an amount calculated in accordance with clause 17 includes a fraction of a cent, that fraction of a cent shall—

(a) if the fraction is one half or greater—be deemed to be a whole cent; or

(b) if the fraction is less than one half—be disregarded.

Application

19. This Determination shall apply in relation to a service by a member on and after—

(a) the day on which the member becomes entitled to an allowance under Determination 3714, Overseas Living Allowance; or

(b) 3 November 1988,

whichever is the earlier.

NOTE

1. Previous amendments to Determination 3721, Rental and Utilities Contribution: Nil.

Determination 3721, Rental and Utilities
Contribution 1986 No. 84

THE SCHEDULE

Clause 7

RENTAL AND UTILITIES CONTRIBUTIONS

Column 1	Column 2	Column 3
Allowance group	Rate per week	Rate per week
	\$	\$
1	54.00	36.00
2	55.00	37.00
3	57.00	38.00
4	60.00	40.00
5	62.00	41.00
6	68.00	45.00
7	71.00	47.00
9	83.00	55.00
11	89.00	59.00
12	96.00	64.00
14	108.00	72.00
15	111.00	74.00
16	115.00	77.00

EXPLANATORY STATEMENT

DETERMINATION NO. 84 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.

The Public Service Board has recently introduced a revised and restructured package of overseas allowances and conditions to apply to officers of the Australian Public Service (APS) serving overseas. This package included phase in provisions where a member who left Australia prior to 1 July 1986 on posting would otherwise suffer a decrease below a predetermined amount. This determination is one of 8 determinations which flow on the revised package to members of the Defence Force.

A member of the Defence Force who is serving on duty in an overseas country for more than 6 months is required to contribute a specified amount towards the cost of his or her residential accommodation in that country. Determination 3721, Rental and Utilities Contribution, allows the Commonwealth to deduct this contribution from the member's salary.

The determination specifies in clause 7 and the Schedule the amount to be deducted from a member according to his or her allowance group and depending on whether the member is accompanied or unaccompanied. Where a member is accompanied by his or her spouse who is also a member, clause 9 of the determination provides that the deduction will only apply to one member. Where a member is accompanied by his or her spouse who

is an officer of the APS and who is required to make a similar contribution under the Public Service Act 1922, clause 10 of the determination permits an approving authority to determine the amount to be deducted from the member's salary; but this amount is not to exceed the amount that would otherwise have been deducted from his or her salary.

Clause 11 of the determination precludes a deduction from the salary of a member who would be accompanied if serving overseas for more than 12 months but who is serving overseas for only between 6 and 12 months.

In certain circumstances the determination permits an approving authority to waive the contribution for a specified period where a member precedes his or her spouse to an overseas country or where the spouse of the member leaves the overseas country.

Clause 19 applies the provisions of the determination to a member on and from the day on which the member becomes entitled to the new overseas package, but no later than 3 November 1988.