



Determination No. 9 of 1988

Determination under Section 58B of the Defence Act 1903

I, RALPH WILLIS, the Minister of State for Industrial Relations, hereby make the following Determination under section 58B of the *Defence Act 1903*.

Dated 22 February 1988.

RALPH WILLIS
Minister of State for Industrial Relations

Citation

1. This Determination may be cited as Determination 0511, Extra Tuition Allowance.¹

Definitions

2. In this Determination, unless the contrary intention appears—
- “coaching college or institution” means a coaching college or institution that provides tuition which is of a standard to coach a child to a level acceptable to the principal of the child’s new school;
- “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 20 years of age at the commencement of the school year in respect of which Extra Tuition Allowance is payable under this Determination;
- (h) is wholly or substantially dependent on the member; and
- (j) has not qualified in education at matriculation standard or an equivalent standard;

“family”, in relation to a member, means one or more of the following persons who normally reside with the member:

- (a) the spouse of the member;
- (b) a child;
- (c) where the member is widowed, unmarried, permanently separated, divorced or the member's spouse is invalided—a housekeeper or a person acting as a guardian to a child; and
- (d) any other person who would be included in a member's family for the purposes of a removal at Commonwealth expense;

“member” means a member rendering continuous full-time service;

“primary school” means—

- (a) a school that provides primary education in a State or Territory and is conducted by or on behalf of the government of the State or Territory; or
- (b) a non-government school—
 - (i) that provides primary education in a State or Territory;
 - (ii) that is not conducted for the profit of a person; and
 - (iii) that—
 - (A) is recognised as a primary school under a law of a State or Territory by the Minister responsible for education in that State or Territory by virtue of the approval, certification or registration (including provisional approval, certification or registration) of that school as a primary school; or
 - (B) is recognised by that Minister or the Minister for Education as a primary school in respect of which government capital or recurrent grants are payable;

“qualified teacher” means a person who possesses teaching qualifications acceptable to a Department of Education;

“removal”, in relation to a member or a member's family, means a removal within Australia of the furniture or effects, or both, of the member or the family of the member at the expense, or partly at the expense, of the Commonwealth;

“school hours” means a period during which tuition is ordinarily given to students at school on a day;

“secondary school” means—

- (a) a school that provides secondary education in a State or Territory (including a secondary college or a senior college) and is conducted by or on behalf of the government of the State or Territory; or
- (b) a non-government school—
 - (i) that provides secondary education in a State or Territory;
 - (ii) that is not conducted for the profit of a person; and
 - (iii) that—
 - (A) is recognised as a secondary school under a law of a State or Territory by the Minister responsible for education in that State or Territory by virtue of the approval, certification or registration (including provisional approval, certification or registration) of that school as a secondary school;
 - (B) is recognised by that Minister or the Minister for Education as a secondary school in respect of which government capital or recurrent grants are payable; or
 - (C) is recognised by the Minister responsible for education in that State or Territory as a secondary school in respect of whose students government bursaries or allowances are payable.

Interpretation

3. In this Determination—

- (a) the expression “*de facto* spouse” has the same meaning as in Determination 0114, Trainee’s Dependant Allowance, made under section 58B of the *Defence Act 1903*;
- (b) “spouse”, other than in paragraph (c) or (f) (last occurring) of the definition of “child” in clause 2, includes “*de facto* spouse”; and
- (c) the corresponding ranks of members shall be ascertained by reference to Defence Regulation 8.

Extra Tuition Allowance

4. Where—

- (a) the family of a member has been granted a removal and, as a result of that removal, it is necessary for the member to arrange for his or her child to cease full-time education at a school and to commence full-time education at another school (hereinafter called the second-mentioned school);

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- (b) the child is in the last or second-last year of primary school, or is attending secondary school;
 - (c) the child requires extra tuition outside school hours in an academic subject which—
 - (i) the child was undertaking at the first-mentioned school; or
 - (ii) is a compulsory subject at the second-mentioned school, in order to attain a standard in that subject that is acceptable at the second-mentioned school;
 - (d) the principal of the second-mentioned school certifies—
 - (i) that the child requires extra tuition to correct short-term detriment to scholastic achievement resulting from attendance at the second-mentioned school; and
 - (ii) that the school is unable to provide the extra tuition within its normal resources;
 - (e) the extra tuition is carried out by—
 - (i) a qualified teacher; or
 - (ii) an accredited coaching college or institution; and
 - (f) the extra tuition commences within six months of the date on which the child commences to attend the second-mentioned school,
- an allowance called "Extra Tuition Allowance" is payable to the member.

Amount of Allowance

5. The amount per week of Extra Tuition Allowance payable to a member under clause 4 shall be an amount equal to the lesser of—

- (a) 85% of the demonstrated expenditure incurred by that member in respect of a week for the extra tuition referred to in clause 4; or
- (b) \$40.00.

Dual Entitlement

6. Where the spouse of a member is also a member and both members would, but for this clause, have an entitlement to Extra Tuition Allowance under this Determination in respect of a child—

- (a) in the case where both members hold the same or a corresponding rank—the member with the lower seniority in that rank; or
 - (b) in any other case—the member who holds the lower rank,
- shall not be entitled to Extra Tuition Allowance under this Determination in respect of that child.

Allowance not Payable

7. Where a child of a member receives extra tuition for a period or periods which exceed 6 weeks, Extra Tuition Allowance is not payable to the member in respect of that child for that excess period.

Application

8. This Determination shall apply in relation to service by a member on or after 5 November 1987.

NOTE

1. Previous amendments to Determination 0511, Extra Tuition Allowance: Nil.

EXPLANATORY STATEMENT

DETERMINATION NO. 9 OF 1988

ISSUED BY THE AUTHORITY OF THE MINISTER FOR INDUSTRIAL RELATIONS

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 called Extra Tuition Allowance to a member of the Defence Force to partly recompense him or her for costs incurred when, as a result of a transfer to a new locality, his or her child suffers short term detriment to schooling and requires professional tuition in certain academic subjects.

Clause 4 of this determination specifies the basic qualifying conditions for payment of the allowance. Clause 5 of this determination specifies the amount of allowance that is payable. Clauses 6 and 7 of this determination preclude payment to two members in respect of the same child and for periods in excess of 6 weeks.

The date of effect of this determination is 5 November 1987.