



DETERMINATION NO. 89 OF 1989

DETERMINATION UNDER SECTION 58B OF THE DEFENCE ACT 1903

I, MICHAEL GRAHAM COGHLAN, Acting First Assistant Secretary, Australian Government Employment Remuneration and Conditions Division, Department of Industrial Relations, pursuant to a delegation made by the Minister of State for Industrial Relations under Defence Force Regulation 72A, hereby make the following Determination under section 58B of the Defence Act 1903.

Dated 7 July 1989

M.G. Coghlan

Acting First Assistant Secretary
Australian Government Employment
Remuneration and Conditions Division
Department of Industrial Relations

Citation

1. This determination may be cited as Overseas Defence Determination 1989/89.

Commencement

2. This determination shall be deemed to have come into operation on 8 June 1989.

Principal Determination

3. In this determination Defence Determination 2002 Loss on Sale of Motor Vehicle on Posting Overseas as in force¹ is referred to as the Principal Determination.

Loss on Sale of Motor Vehicle on Posting Overseas

4. The Principal Determination is amended by omitting clauses 6 to 11 inclusive and substituting the following clauses -

Sale of Motor Vehicle

"6.1 Where -

- (a) a member who is posted overseas, or a dependant of the member whose fare to accompany the member on the posting is being paid by the Commonwealth has a pecuniary interest in a motor vehicle and sells that vehicle in Australia as a consequence of being so posted or accompanying a member on posting;
- (b) the vehicle was purchased by the member or the dependant of the member, or the member or dependant acquired a pecuniary interest in the vehicle, before the member was notified in writing of the posting;
- (c) the member and any dependant of the member whose fares to accompany the member on posting have been paid by the Commonwealth has not imported into Australia a vehicle purchased in another country by the member or dependant within the preceding seven years without incurring the full amount of taxes and duties which would ordinarily be payable in that country on such a purchase; and
- (d) the price the member obtained on the sale of the vehicle is less than the price generally prevailing in the market for a vehicle of the same model and age and in a similar condition,

the member shall be entitled to be reimbursed an amount equal to whichever is the lesser of the amount of the loss necessarily incurred and \$A1300.

"6.2 A member shall not be entitled to be reimbursed in accordance with sub-clause 6.1 unless, having regard to -

- (a) the timing and extent to which the member advertised the vehicle for sale;
- (b) the manner in which the member sought to dispose of the vehicle;
- (c) the nature and extent of offers made for the vehicle;
- (d) particulars of the sale effected by the member; and
- (e) any other relevant factor,

the member has made reasonable endeavours to dispose of the vehicle without incurring a loss.

"6.3 This clause shall not apply to more than one vehicle in respect of a posting.

Maximum Reimbursement to be Reduced

"7.1 Where a member has been advised to anticipate a posting overseas and, after being so advised, purchased a motor vehicle after the day one year before the day on which the member departs from Australia on posting, the maximum amount of reimbursement in accordance sub-clause 6.1 shall be \$A650.

"7.2 Where the approving authority certifies, having regard to -

- (a) the nature of the duties performed by the member;
- (b) the nature of the previous duties performed by the member;
- (c) the anticipated career pattern of the member in relation to the duration, frequency, and timing of overseas postings; and
- (d) any other relevant factor,

that the member is required to regularly undertake overseas postings, sub-clause 7.1 shall apply to the member as if the period of one year were a period of six months."

NOTE

- 1 Determination 2002 as amended to date. For previous amendments see Determination Nos. 20 and 61 of 1987, 65 of 1988.

EXPLANATORY MEMORANDUM

DETERMINATION NO. 89 OF 1989

Defence Act 1903

This determination amends Determination 2002 Loss on Sale of Motor Vehicle on Posting Overseas as in force by changing the level of reimbursement payable to a member who incurs a loss on the sale of a motor vehicle as a consequence of being posted overseas. The revised limit and the textual changes bring the provisions into line with those applying in the APS. The changes commence from 8 June 1989.

Authority: Section 58B of the
Defence Act 1903