



**DETERMINATION NO. 6 OF 1991**

**DETERMINATION UNDER SECTION 58B OF THE DEFENCE ACT 1903**

I, RUTH ALISON CAMPBELL, First Assistant Secretary, 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 16 January 1991

**R.A. Campbell**

First Assistant Secretary  
Remuneration and Conditions Division  
Department of Industrial Relations

**Citation**

1. This determination may be cited as Overseas Defence Determination 1991/6.

**Commencement**

2. This determination is to be taken to have commenced on 20 December 1990.

**PART A**

**Principal Determination**

3. In this Part Determination 3714, Overseas Living Allowance, as in force<sup>1</sup> is referred to as the Principal Determination.

**Disposable salary**

4. Clause 6 of the Principal Determination is amended by omitting ", means" from the definition of Part B disposable salary and substituting "means".

**Additional allowance for member living in**

5. Clause 9 of the Principal Determination is amended by inserting "and" at the end of paragraph (a).

**PART B**

**Principal Determination**

6. In this Part Overseas Defence Determination 1990/191 is referred to as the Principal Determination.

**Transitional - Overseas Living Allowance during current posting**

7.1 Clause 16 of the Principal Determination is amended by -

(a) omitting sub-paragraph 16.2(c)(i) and substituting the following sub-paragraph -

"(i) subject to paragraph (ca) - the amount of personal income tax and Medicare levy liability on an annual income of that amount; and"; and

(b) inserting after paragraph 16.2(c) the following paragraph -

"(ca) for the purposes of sub-paragraph (c)(i), the member's personal income tax liability is assessed -

(i) in the case of a member who is taken to be an officer of the Australian Public Service and is an unaccompanied officer - without allowing any rebate of tax; and

(ii) in the case of a member who is taken to be an officer of the Australian Public Service and is an accompanied officer - allowing only the maximum rebate of tax for a person with a spouse and no other dependants;".

7.2 The Table in Attachment 2 to the Principal Determination is amended by omitting the entries in relation to former allowance categories 15, 16 and 17 and substituting the entries in the following table -

TABLE

Column 1	Column 2
Former allowance category	Allowance category
15	5
16	6
17	7

**Transitional - rent and utilities contribution during current posting**

8. Clause 18 of the Principal Determination is amended by omitting "20 December 1990" and substituting "21 December 1990".

**NOTE**

- 1 Determination 3714 was made by Determination No. 80 of 1986 and has been amended by Determination Nos 88, 90, 99 and 101 of 1986; Nos 8, 9, 10, 17, 20, 23, 26, 30, 31, 37, 38, 40, 41, 43, 50, 51, 54, 55, 57, 58, 59, 60, 64, 66, 71, 72, 77, 78, 81, 82, 83 and 92 of 1987; Nos 3, 4, 6, 8, 15, 17, 20, 26, 27, 30, 31, 32, 33, 34, 39, 40, 41, 42, 46, 50, 53, 54, 56, 57, 62, 63, 65, 66, 67, 70, 71, 75 and 77 of 1988; Nos 1, 3, 4, 5, 14, 36, 37, 50, 64, 70, 73, 77, 78, 81, 85, 86, 98, 103, 108, 116, 117, 122, 127, 140, 152, 167, 174, 177, 182, 188, 198 and 209 of 1989; Nos 13, 16, 19, 25, 32, 36, 48, 49, 53, 54, 59, 60, 66, 72, 75, 78, 81, 91, 102, 108, 111, 115, 120, 123, 127, 135, 138, 145, 147 and 191 of 1990.

EXPLANATORY MEMORANDUM

**DETERMINATION NO. 6 OF 1991**

Defence Act 1903

This determination makes miscellaneous minor amendments to the new provisions relating to Overseas Living Allowance (OLA) which were introduced into Determination 3714 ('the Principal Determination') by Overseas Defence Determination 1990/191, and to the associated transitional arrangements.

The date of effect of these amendments, 20 December 1990, is the same as the date on which the new provisions and transitional arrangements commenced.

Sub-clause 7.1 amends clause 16 of Overseas Defence Determination 1990/191, which authorised a transitional allowance to members on current posting overseas if their new OLA entitlement is less than their former OLA entitlement under the superseded provisions of the Principal Determination. Inherent in the clause 16 process is a comparative test of whether the former OLA entitlement is in fact greater than the new. In reproducing the features of the former OLA scheme for this purpose, sub-clause 16.2 did not correctly reflect the taxation treatment of accompanied members under the former scheme. Clause 7.1 of this determination makes the necessary minor technical correction so that the comparison of former and new OLA entitlements can be made on the proper basis.

Clause 8 amends the date of commencement of a transitional period for the purposes of rent and utilities contributions. Clause 15 of Overseas Defence Determination 1990/191 provided for members to pay the more favourable of two rates of rent contribution for the period 8 November to 20 December 1990 inclusive. Clause 18 of that determination provided for members to pay the more favourable of two rates, assessed on a different basis, for the period from 20 December 1990 until the end of the current posting. It was not intended that these periods should overlap. The clause 15 arrangement provides the more favourable treatment of members, and the overlap has therefore been removed by amending the commencement date of the second transitional period to 21 December 1990.

The amendments made by this determination are in line with similar amendments to the Public Service determinations, and operate from the same date.

The retrospective application of this determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

Authority: Section 58B of the  
Defence Act 1903