



DETERMINATION NO. 95 OF 1991

DETERMINATION UNDER SECTION 58B OF THE DEFENCE ACT 1903

I, REX JEFFERY HOY, 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 1 October 1991

R.J. Hoy
First Assistant Secretary
Remuneration and Conditions Division
Department of Industrial Relations

Citation

1. This determination may be cited as Defence Determination 1991/95.

Principal Determination

2. In this determination, Determination 501, Education Allowance, as in force¹ is referred to as the Principal Determination.

Definitions

3. The Principal Determination is amended by inserting after the definition of "member" in clause 2 the following definition -

"relevant Public Service determination' means Public Service Board Determination 1983/10 as in force from time to time:".

Amounts of allowance

4.1 Clause 7 of the Principal Determination is amended by omitting "Subject to clauses 10, 12, 13, 14, 25, 26, 27 and 28," and substituting "Subject to clauses 12, 13, 14, 25, 26, 27 and 28,".

4.2 The Principal Determination is amended by omitting clauses 8, 9, 10 and 11 and substituting the following clauses -

Amount of Boarding Allowance

"8. The amount for boarding is -

- (a) subject to paragraph (aa), where a child boards and resides at the school at which the child is undertaking a course of education - an amount calculated in accordance with paragraph 4.5.7(a) of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member;
- (aa) where the child commences to board and reside at the school at which the child is undertaking a course of education after the member has been notified of a posting -
 - (i) in the case of the academic year in which the child commences to board and reside at the school - an amount calculated in accordance with sub-paragraph 4.5.7(aa)(i) of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member; and
 - (ii) in any other case - an amount calculated in accordance with sub-paragraph 4.5.7(aa)(ii) of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member;
- (b) where the child boards and resides at a guest house, hostel or other commercial boarding establishment - an amount calculated in accordance with paragraph 4.5.7(b) of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member, but

not subject to any limit which may apply to an officer of the Australian Public Service; and

- (c) where the child boards and resides, or resides, at a place other than a school or boarding establishment of a kind referred to in paragraph (a) or (b) – an amount calculated in accordance with paragraph 4.5.7(c) of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member.

Payment of Tuition Allowance

"9. Subject to clause 12, the amount for tuition is an amount calculated in accordance with clause 4.5.8 of the relevant Public Service determination for an officer of the Australian Public Service in the same circumstances as the member.

Reimbursement to be limited to actual costs

"10. A member is not entitled to be reimbursed an amount in excess of the costs reasonably incurred by the member."

Transitional

5. A member who was entitled to be paid an allowance under Determination 501, Education Allowance, for a part or the whole of the inclusive period from 1 January 1991 to the day before the day on which this determination commenced is entitled to be paid an additional allowance equal to the amount by which the allowance which the member was entitled to be paid for a part or the whole of the period, as the case may be, is exceeded by the allowance which the member would have been entitled to be paid if this determination had commenced on 1 January 1991.

Note

1. Determination 0501 was made by Determination 60 of 1984 and has been amended by Determination Nos. 11, 28, 48 and 49 of 1981; 24 of 1982; 37 of 1983; 60 of 1984; 6 of 1985; 4 of 1986; 47 of 1987; 1, 13 and 17 of 1988; 169 of 1989; and 58 of 1990.

EXPLANATORY MEMORANDUM

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Clauses 8, 9, 10 and 11 of Determination 501 provide for the calculation of Education Allowance for members of the Defence Force who leave a child in the child's present school or education system in certain circumstances, in order to prevent serious interference with the later years of the child's secondary education. The basis of the allowance is largely the same as for officers in the Australian Public Service (APS).

This determination amends Determination 501 to adopt by reference for members of the Defence Force future changes to rates of the equivalent allowance applicable to officers of the APS under Division 5 of Part 4 of Public Service Board Determination 1983/10 as amended from time to time by determinations made under section 82D of the *Public Service Act 1922*. This arrangement has been introduced as the means to update rates to reflect the most recent changes in rates for officers of the APS and will avoid the need for future amendments to reflect similar changes.

Clause 5 provides transitional arrangements so that a member is entitled to an additional allowance as if the changes had commenced on 1 January 1991, the same date of effect as the most recent variation in the allowance for officers of the APS introduced on 9 May 1991.

Authority: Section 58B of the
Defence Act 1903