



DEFENCE DETERMINATION 1995/37

DETERMINATION UNDER THE DEFENCE ACT 1903

I, MERYL ANNETTE STANTON, First Assistant Secretary, Government Authorities and Defence Division, Department of Industrial Relations, acting under a delegation made by the Minister for Industrial Relations under Defence Force Regulation 72A, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 22 December 1995

M. STANTON
First Assistant Secretary
Government Authorities and Defence Division
Department of Industrial Relations

PART A - Preliminary

1. Citation

1.1 This Determination may be cited as Defence Determination 1995/37

PART B - Amendment to Determination 114

2. Amendment

2.1 Determination 114, Trainee's Dependant Allowance, as amended¹, is amended as set out in this Part.

3. Clause 2 (Definitions)

3.1 Definition of "child":

Delete the definition.

3.2 Definition of "de facto spouse":

Delete the definition.

3.3 Definition of "dependant":

Delete the definition.

4. Clause 2A (Interpretation)

4.1 Delete the clause.

5. New clause 3

5.1 After clause 2, insert:

Interpretation - "dependant"

"3. A person who -

(a) lives with a trainee;

(b) is under 16 years of age; and

(c) is wholly or substantially dependant on the trainee,

is taken, for the purposes of this Determination, to be a dependant of the trainee."

6. Clause 4F (Interpretation)

6.1 Delete the clause.

PART C - Amendment to Determination 501

7. Amendment

7.1 Determination 501, Education Allowance², as amended, is amended as set out in this Part.

8. Clause 2 (Definitions)

8.1 Definition of "child":

Delete the definition.

9. Clause 3 (Interpretation)

9.1 Paragraph 3(a):

Delete the paragraph.

9.2 Paragraph 3(b):

Delete the paragraph.

9.3 Paragraph 3(f):

Delete the paragraph.

10. New clause 19AA

10.1 Before clause 19, insert:

Eligible child - age and educational level

"19AA. Education Allowance is not payable to a member for a child unless the child -

- (a) is under 20 years of age at the beginning of the school year for which the Allowance is payable; and
- (b) has not qualified in education at matriculation standard or an equivalent standard."

PART D - Amendment to Determination 502

11. Amendment

11.1 Determination 502, Scholarship Allowance, as amended³, is amended as set out in this Part.

12. Clause 2 (Definitions)

12.1 Definition of "child":
Delete the definition.

13. Clause 3 (Interpretation)

13.1 Delete the clause, substitute:

Eligible child - age and educational level

"3. Scholarship Allowance is not payable to a member for a child unless the child -

- (a) is under 20 years of age at the beginning of the school year for which the Allowance is payable; and
- (b) has not qualified in education at matriculation standard or an equivalent standard."

PART E - Amendment to Determination 510

14. Amendment

14.1 Determination 510, Child Care Reimbursement Allowance, as amended⁴, is amended as set out in this Part.

15. Clause 2 (Definitions)

15.1 Definition of "child":
Delete the definition.

16. Clause 3 (Interpretation)

16.1 Delete the clause, substitute -

Eligible child - age and residence

"3. Child Care Reimbursement Allowance is not payable to a member for a child unless the child -

- (a) is under 11 years of age at the time of the removal for which the Allowance is paid; and
- (b) normally lives with the member."

PART F - Amendment to Determination 511

17. Amendment

17.1 Determination 511, Extra Tuition Allowance, as amended⁵, is amended as set out in this Part.

18. Clause 2 (Definitions)

18.1 Definition of "child":
Delete the definition.

19. Clause 3 (Interpretation)

19.1 Delete the clause, substitute:

Eligible child - age and educational level

"3. Extra Tuition Allowance is not payable to a member for a child unless the child -

- (a) is under 20 years of age at the beginning of the school year for which the Allowance is payable; and
- (b) has not qualified in education at matriculation standard or an equivalent standard."

PART G - Amendment to Determination 2610

20. Amendment

20.1 Determination 2610, Reunion Travel, as amended⁶, is amended as set out in this Part.

21. Clause 2 (Definitions)

21.1 Definition of "child":
Delete the definition.

21.2 Definition of "dependant":
Delete the definition.

22. Clause 3 (Interpretation)

22.1 Paragraph 3(a):
Delete the paragraph.

22.2 Paragraph 3(b):
Delete the paragraph.

22.3 Paragraph 3(d):
Delete the paragraph.

23. Clause 4 (Approving authorities)

23.1 Delete the clause.

24. Clause 5 (Person taken to be dependant of member)

24.1 Delete "The approving authority may approve a person referred to in paragraph (c) of the definition of 'dependant' in clause 2 to be a dependant", substitute "The Chief of the Defence Force may approve a person as a dependant".

25. New clause 6

25.1 After clause 5, insert:

Dependant of member - eligibility

"6. A person is not taken to be a dependant of a member, for the purposes of this Determination, unless the person normally lives with the member."

PART H - Amendment of Defence Determination 1991/45

26. Amendment

26.1 Defence Determination 1991/45, as amended⁷, is amended as set out in this Part.

27. Meaning of certain words

27.1 Definition of "child":
Delete "dependant", substitute "dependent".

Notes:

1. Determination 114, as amended to date. For previous amendments see Note to Determination 21 of 1995 and see also Determination No. 21 of 1995.
2. Determination 501 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; 58 of 1990; 95 of 1991; 13 of 1992; 4 and 31 of 1993; and 40, 45 and 60 of 1994.
3. Determination 502 was made by Determination 61 of 1984 and has been amended by Determination 31 of 1993.
4. Determination 510, as amended to date. For previous amendments see Note to Determination 25 of 1995 and see also Determination No. 25 of 1995.
5. Determination 511, as amended to date. For previous amendments see Note to Determination 25 of 1995 and see also Determination No. 25 of 1995.
6. Determination 2610 was made by Determination 10 of 1988 and has been amended by Determination Nos. 17, 24 and 46 of 1988; and 210 of 1989.
7. Determination 45 of 1991, as amended to date. For previous amendments see Note to Determination 10 of 1995 and see also Determination Nos 10, 11, 15, 27 and 34 of 1995.

EXPLANATORY MEMORANDUM

DEFENCE DETERMINATION 1995/37

Defence Act 1903

This Determination amends the following determinations made under section 58B of the *Defence Act 1903*:

- 114 - Trainee's Dependant Allowance;
- 501 - Education Allowance;
- 502 - Scholarship Allowance;
- 510 - Child Care Reimbursement Allowance;
- 511 - Extra Tuition Allowance;
- 2610 - Reunion Travel; and
- 1991/45 - setting out definitions and interpretations for use with other Defence determinations.

Part B amends Determination 114 by deleting redundant definitions of "child", "de facto spouse" and "dependant"; deleting redundant interpretations of "spouse" and references to determinations; and inserting an interpretation of "dependant" to maintain a special aspect of the former definition.

Part C amends Determination 501 by deleting a redundant definition of "child" and interpretations of "de facto spouse", "spouse" and references to determinations; and inserting a provision to maintain two special aspects of the former definition of "child".

Part D amends Determination 502 by deleting a redundant definition of "child" and interpretations of "de facto spouse" and "spouse"; and inserting a provision to maintain two special aspects of the former definition of "child".

Part E amends Determination 510 by deleting a redundant definition of "child" and interpretations of "de facto spouse", "spouse" and "corresponding ranks"; and inserting a provision to maintain two special aspects of the former definition of "child".

Part F amends Determination 511 by deleting a redundant definition of "child" and interpretations of "de facto spouse", "spouse" and "corresponding ranks"; and inserting a

provision to maintain two special aspects of the former definition of "child".

Part G amends Determination 2610 by deleting redundant definitions of "child" and "dependant" and interpretations of "de facto spouse", "spouse" and "corresponding ranks"; deleting a redundant provision setting out approving authorities; amending a related discretion by substituting the Chief of the Defence Force as the person authorised to approve persons as dependants; and inserting a provision to maintain a special aspect of the former definition of "dependant".

Part H amends Defence Determination 1991/45 by making a minor typographical amendment.

The repealed definitions and interpretations were not needed to permit the proper operation of the Determinations. Their deletion will allow the general definitions of "child", "dependant", "rank" and "spouse" provided in Defence Determination 1991/45 to take effect.

Authority: Section 58B of the
Defence Act 1903