

AUSTRALIA

Defence Determination 1997/9

I, SHERIDAN ELIZABETH EVANS, Acting Assistant Secretary, Government Authorities Branch, Australian Government Employment Group, 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 27 February 1997

SHERIDAN EVANS
Acting Assistant Secretary
Government Authorities Branch
Australian Government Employment Group
Department of Industrial Relations

1. Citation

1.1 This Determination may be cited as Defence Determination 1997/9.

[NOTE: This Determination commences on the day on which it is made: see Defence Act 1903, subsection 58B(4).]

2. Amendment

2.1 Determination 2601, Recreation Leave, as amended¹, is amended as set out in this Determination.

3. New clause 25A

3.1 After clause 25, insert;

[ref069]

Recreation leave not granted

“25A. If:

- (a) a period of recreation leave is reccredited to a member in a leave year under clause 25; and
- (b) the period or part of the period of recreation leave is not granted to the member in that leave year.

the member’s recreation leave credit is to be reduced at the end of that leave year by the period of recreation leave not granted.”.

NOTES

1. Determination 2601 was made by Determination 19 of 1980 and has been amended by Determination Nos. 12, 17, 36, 42 and 60 of 1981; 4, 11, 22, 24, 32 and 53 of 1982; 10, 12, 21, 23, 35 and 37 of 1983; 3, 5, 8, 33, 37, 40, 50, 53, 64, 78, 96, 110 and 112 of 1984; 37, 47 and 60 of 1985; 29, 87 and 94 of 1986; 17, 20, 21, 25, 65 and 77 of 1987; 11, 17, 45, 46, 54, 65 and 77 of 1988; 6, 18, 38, 75, 104, 110, 117, 148, 171, 200 and 204 of 1989; 51, 123, 141, 166 and 191 of 1990; 84, 78, 100, 104, 105, 107 and 110 of 1991; 12, 19, 21, 22, 29, 31, 34, 39, 53 and 59 of 1992; 3, 11, 20, 32 and 40 of 1993; 34 and 56 of 1994; 6, 14, 23, 27 and 30 of 1995; 5, 7, 10, 21, 36 and 40 of 1996. The Determination has also been amended by Determination Nos. 1 and 6 of 1988 made under section 58H.

EXPLANATORY STATEMENT

Defence Determination 1997/9

Defence Act 1903

Determination 2601, Recreation Leave, (the Principal Determination) was made on 27 June 1980 under section 58B of the Defence Act 1903 to authorise accrual and granting of recreation leave for members of the Australian Defence Force (ADF). Leave years in the ADF correspond to financial years; members are credited on 1 July each year with recreation leave in relation to service in the preceding leave year.

Clause 23 of the Principal Determination provides for an unused recreation leave credit to lapse at the end of the leave year in which it was first credited to a member.

A discretion is provided under which the Chief of the Defence Force (CDF) or delegate of the CDF may recredit the lapsed leave at the beginning of the next leave year. Clause 25 currently provides for the leave to lapse again if it remains unused at the end of that second leave year, unless a similar discretion is exercised. At the end of the third leave year, immediately before the third anniversary of the original credit, the policy intention is that the leave should finally lapse.

Owing to a drafting oversight when the Principal Determination was originally made, however, no provision was made for the final lapsing of the leave. This has given rise to uncertainty about the availability of the credits in the fourth and subsequent leave years. Accordingly, the Determination is being amended to make the position clear.

Clause 3 of this Determination amends the Principal Determination by inserting a new clause to authorise the lapsing of the relevant credit at the end of the leave year in which the leave is recredited to a member for the second time, using the discretionary powers referred to above. There is no provision for any further discretionary recredit.

This Determination commences on the day on which it is made, as provided by subsection 58B(4) of the Defence Act 1903.

Authority: Section 58B of the
Defence Act 1903

