Defence Determination 1998/9

I, NICHOLAS JEFFERSON FORD, Director General Financial Conditions, Defence Personnel Executive, Department of Defence, acting under a delegation made by the Minister for Workplace Relations and Small Business under regulation 72A of the Defence Force Regulations, make the following Determination under section 58B of the Defence Act 1903.

Dated 6 March 1998

N.J. FORD
Air Commodore
Director General Financial Conditions
Defence Personnel Executive
Department of Defence
1. **Citation**
   1.1 This Determination may be cited as Defence Determination 1998/9.

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

2. **Amendment**
   2.1 Defence Determination 1997/12 is amended as set out in this Determination.

3. **Heading of Part A**
   3.1 Before clause 1, insert the heading “PART A - Preliminary”.

4. **Clause 3 (Definitions)**
   4.1 Omit “cadet.”, substitute “cadet;”.
   4.2 Add at the end:
   
   “‘the CDF’ means the Chief of the Defence Force.”.

5. **Heading of Part B**
   5.1 Before clause 4, insert the heading “PART B - Financial entitlements in relation to leave etc.”.

6. **Clause 4 (Financial entitlements on death of member)**
   6.1 Omit “the Chief of the Defence Force”, substitute “the CDF”.

7. **Clause 5 (Presumed date of death)**
   7.1 Omit “the Chief of the Defence Force”, substitute “the CDF”.
   7.2 Renumber as clause 3A and insert after clause 3.

8. **Clause 6 (Persons entitled to payment)**
   8.1 Omit “the Chief of the Defence Force” (wherever occurring), substitute “the CDF”.
   8.2 Omit “this Determination” (wherever occurring), substitute “this Part”.

9. **New Part C**
   9.1 Add at the end:

   “PART C - Bereavement payment

   Definition
   7.1 In this Part, ‘dependent person’, in relation to a deceased member, means a person who was financially dependent on the member during the notional pay period.
Notional pay period
“8.1 For the purposes of this Part, a reference to the notional pay period, in relation to a deceased member, is a reference to the fortnight ending on the day immediately before the day on which the member died.

Gross fortnightly pay
“9.1 Subject to subclause 9.2, a reference in this Part to gross fortnightly pay, in relation to a deceased member, is a reference to an amount equal to the sum of the fortnightly instalments of salary and allowances to which the member would have been entitled for the notional pay period, including any portion of that amount which the member would have been liable to pay as an instalment of:

(a) income tax;
(b) superannuation; or
(c) a debt due to the Commonwealth.

“9.2 If the gross fortnightly pay calculated under subclause 9.1 is less than the average amount of gross fortnightly pay (calculated in a similar manner) to which the member was entitled for all the completed pay periods in the member’s last 3 months of service, then a reference in this Part to gross fortnightly pay becomes a reference to that average amount.

Application
“10.1 This Part applies in relation to a member who dies while rendering, during the whole or a part of the notional pay period, continuous full-time service for which salary is payable.

Bereavement payment
“11.1 If this Part applies in relation to a deceased member, the CDF must authorise payment to a dependent person in accordance with clause 12 of an amount of bereavement payment calculated under the following formula:

\[
\text{Gross fortnightly pay} \times 4.
\]

“11.2 An amount of bereavement payment to which a dependent person is entitled under this clause is payable in 4 equal fortnightly instalments, beginning on the first day of the pay period next following the member’s death.

Persons entitled to payment
“12.1 The CDF may authorise payment of an amount of bereavement payment in accordance with clause 6 as if the amount were payable under clause 4.

“12.2 For the purposes of this Part, a reference in clause 6 to a dependant is a reference to a dependent person.
“12.3 If, on the death of a member, there is no dependent person and an amount of bereavement payment would therefore be payable to the member’s legal personal representative, this Part does not authorise the amount to be paid in relation to the member.”.
EXPLANATORY STATEMENT

Defence Determination 1998/9

Defence Act 1903

This Determination authorises a bereavement payment equivalent to four fortnightly pays to provide transitional financial assistance for dependants of Defence Force members who die while rendering continuous full-time service.

The provisions are contained in a new Part C which is inserted into an existing Principal Determination (Defence Determination 1997/12) dealing with financial entitlements on the death of a member.

Clauses 1 to 8 of this Determination set out formal provisions and make minor consequential changes to the Principal Determination arising from the inclusion of the new Part.

Clause 9 inserts the new Part C authorising bereavement payment. The effect of the new provisions is as follows:

- Clause 7 defines a term used in the new Part.

- Clause 8 establishes a notional pay period for the purpose of assessing the amount of bereavement payment. This corresponds to the last complete fortnight of the member’s service.

- Clause 9 sets out an interpretation of the concept of gross fortnightly pay used in calculating the entitlement. The concept is based on the deceased member’s gross fortnightly pay for the notional pay period. Provision is made for the average amount of gross fortnightly pay during the member’s final three months of service to be substituted in cases where the amount for the notional pay period is below the average.

- Clause 10 specifies the deceased members to whom the new Part applies.

- Clause 11 authorises payment in accordance with clause 12 of an amount of bereavement payment set at four times the specified amount of gross fortnightly pay. Payment is to be made in equal instalments on the four Defence Force paydays following the member’s death.

- Clause 12 provides for the CDF to authorise payment of an amount of bereavement payment to dependent persons. The provision adopts (with modifications) an existing procedure set out in clause 6 of the Principal Determination for certain financial entitlements in relation to leave. The modifications authorise payment to dependent persons as defined in the new Part, and provide that payment is not authorised in cases where payment would otherwise be made to the member’s estate.
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*