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 5 May 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 1998/18.

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

2. **Amendment**

2.1 Determination 2609, Liability of Member for Excess Leave on Termination of Service, as amended¹, is amended as set out in this Determination.

3. **Clause 2 (Definitions)**

3.1 Definitions of “member” and “recreation leave”:
Omit the definitions.

4. **Clause 3 (Approving authority)**

4.1 Omit the clause.

5. **Clause 5 (Liability not to apply)**

5.1 Paragraph 5(a):
Omit the paragraph, substitute:

“(a) in relation to a member who ceases to be a member by reason of the member’s death or by reason that the Chief of the Defence Force, after consideration of all the circumstances of the case, directs that, for the purposes of this clause, the member is to be presumed to have died; and”.

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**NOTE**

1. Determination 2609 was made by Determination No. 73 of 1984 and has been amended by Determination Nos. 54 of 1988 and 32 of 1993.
EXPLANATORY STATEMENT

Defence Determination 1998/18

Defence Act 1903

This Determination amends Determination 2609, Liability of Member for Excess Leave on Termination of Service, which allows the Commonwealth to withhold or recover salary from a member of the Defence Force on the termination of full-time service to the extent of any recreation leave granted to the member in excess of the member’s leave credits at the time of separation.

The main purpose of this Determination is to delete a redundant provision relating to approving authorities. It also takes the opportunity to delete redundant definitions and to simplify a provision of Determination 2609.

Clauses 1 and 2 of this Determination deal with preliminary matters.

Clause 3 deletes redundant definitions.

Clause 4 deletes redundant provisions regarding the appointment of approving authorities.

Clause 5 revises a clause which provides that this liability does not apply to a member in the case of death or presumed death. The amendment substitutes the Chief of the Defence Force as the approving authority for the presumption of death for this purpose. Criteria are included for the exercise of the discretion, and adverse decisions are subject to grievance procedures including appeal to the Defence Force Ombudsman.

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