Defence Determination 1998/23

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 June 1998

Air Commodore
Director General Financial Conditions
Defence Personnel Executive
Department of Defence

[ref132]
PART A - Preliminary

1. Citation

1.1 This Determination may be cited as Defence Determination 1998/23, Leave Without Pay (Consequential Amendments).

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

PART B - Amendment of Determination 0104

2. Amendment

2.1 Determination 0104, Higher Duties Allowance, as amended, is amended as set out in this Part.

3. Clause 4 (Entitlement to Higher Duties Allowance)

3.1 Omit “A member who is directed to perform higher duties is entitled to be paid Higher Duties Allowance”, substitute “If a member (other than a member on part-time leave without pay) is directed to perform higher duties, the member is entitled to Higher Duties Allowance”.

PART C - Amendment of Determination 0503

4. Amendment

4.1 Determination 0503, Temporary Rental Allowance, as amended, is amended as set out in this Part.

5. Clause 9 (Rate of Allowance)

5.1 Definition of “B”:

Omit the definition, substitute:

“B is:

(a) in the case of a member who is granted more than 5 days of part-time leave without pay in each pay period during the period of leave - a rental contribution equal to 150 per cent of the amount specified in column 3 of Schedule 4 to Defence Determination 1996/16 opposite the member’s rank group; and

(b) in any other case - the rental contribution applicable to the member as specified in column 3 of that Schedule opposite the member’s rank group.”.
6. **New clause 53A**
   6.1 After clause 53, insert:

**Member on leave without pay not entitled to TRA in certain circumstances**

“53A. A member who is granted a period of leave without pay is not entitled to TRA during the period, unless:

(a) the member is on part-time leave without pay;

(b) the member is on maternity leave without pay; or

(c) the Chief of the Defence Force approves the member’s entitlement to TRA for a period specified in the approval, having regard to any extraordinary or exceptional reasons for which the leave without pay was granted.”.

**PART D - Amendment of Determination 0507**

7. **Amendment**
   7.1 Determination 0507, Living Out Allowance, as amended, is amended as set out in this Part.

8. **Clause 11 (Rate of Living Out Allowance)**
   8.1 Paragraph 11(a):
   After “required”, insert “to live out”.

   8.2 Paragraph 11(b):
   After “permitted”, insert “to live out”.

   8.3 Omit all the words after paragraph 11(b), substitute “the member is entitled to Living Out Allowance at a weekly rate calculated under the formula:

   \[
   \text{Admissible expenditure} - (\text{Charge for rations and quarters} \times 7)
   \]

   where:

   ‘admissible expenditure’ means the admissible expenditure specified in clause 5 in relation to the member for a week;

   ‘charge for rations and quarters’ means the daily charge that would be applicable to the member from time to time under Determination 2501, Charge for Rations and Quarters, if the member lived in.”.
9. **Clause 21 (Allowance not payable)**

9.1 Insert at the beginning “Except to the extent authorised under clauses 9, 10 and 11 of Determination 2608, Leave Without Pay,“.

**PART E - Amendment of Determination 2501**

10. **Amendment**

10.1 Determination 2501, Charge for Rations and Quarters, as amended\(^4\), is amended as set out in this Part.

11. **Clause 6 (Charge for Rations and Quarters)**

11.1 Omit all the words after “in service accommodation,”, substitute “of:

   (a) in the case of a member who is granted part-time leave without pay on more than 5 days in each pay period during the period of leave - an amount equal to 150 per cent of the amount specified in column 2 of Part 1 of Schedule 9 to Defence Determination 1996/16 opposite the description of the member in column 1;

   (b) in the case of a member who is granted leave without pay of a kind that is not part-time leave without pay - the sum of the amounts specified in column 2 of Part 2 of that Schedule for the member’s category of accommodation and for each meal that the member takes on that day; and

   (c) in any other case - the amount specified in column 2 of Part 1 of that Schedule opposite the description of the member in column 1.”.

11.2 Add at the end:

“6.2 In spite of paragraph 6.1(b), if:

   (a) a member is granted leave without pay of a kind that is not part-time leave without pay for a period; and

   (b) the Chief of the Defence Force approves that paragraph 6.1(b) should not apply to the member for a period specified in the approval, having regard to any extraordinary or exceptional reasons for which the leave without pay was granted,

   the member’s charge for rations and quarters is to be assessed under paragraph 6.1(c) for that specified period.”.
PART F - Amendment of Determination 2602

12. Amendment
12.1 Determination 2602, Leave for Members under Training, as amended, is amended as set out in this Part.

13. Clause 2 (Definition)
13.1 Omit the clause, substitute:

Application

“2. This Determination applies to a trainee rendering continuous full-time service, other than:

(a) a trainee who was a member before becoming a trainee, and to whom clause 22 of Determination 0101, Increments and related matters, applies; and

(b) a trainee who is on part-time leave without pay.”.

14. Clause 6 (Trainee leave)
14.1 Omit the clause, substitute:

Leave for trainee who was a member before becoming a trainee

“6. The Chief of the Defence Force may grant leave to a member described in paragraph 2(a) for a period for which the member is not required to attend the member’s training establishment, if the member is not granted recreation leave for the period.”.

PART G - Amendment of Defence Determination 1991/45

15. Amendment
15.1 Defence Determination 1991/45, as amended, is amended as set out in this Part.

16. Clause 3 ( Meaning of certain words)
16.1 Before the definition of “category M member”, insert:

“‘allowance’ means an allowance authorised by a determination made under section 58B of the Defence Act 1903;”.

16.2 After the definition of “married quarters”, insert:

“‘part-time leave without pay’ means a period of leave without pay equal to (or periods of such leave the sum of which is equal to) not less than 1 day and not more than 13 days of such leave in each pay period during the period of leave;”.
16.3 After the definition of “relevant Defence determination”, insert:

“‘salary’ means salary authorised by Determination No. 6 of 1992, Salaries;”.

17. New clause 9
17.1 Add at the end:

Return of service obligation

“9. For the purposes of a determination, an eligible member is subject to a return of service obligation if:

(a) the member:

   (i) is engaged in, or has completed, a course of training, a period of employment on special duties or a period of service outside Australia; or

   (ii) was appointed outside Australia and the member’s transport, or the member’s family’s transport, to Australia was at the expense of the Commonwealth; and

(b) because of the member’s being, or having been, engaged as described in subparagraph 9(a)(i), or having been appointed outside Australia as described in subparagraph 9(a)(ii), the member is required to complete a period of service determined by the Chief of Navy, Chief of Army or Chief of Air Force (as the case may be).”.

PART H - Amendment of Defence Determination 1996/16

18. Amendment
18.1 Defence Determination 1996/16, as amended, is amended as set out in this Part.

19. Schedule 9 (Charge for Rations and Quarters)
19.1 Omit the Schedule, substitute the Schedule set out in the Attachment to this Determination.

NOTES

1. Determination 104 as amended to date. For previous amendments see Note to Determination 13 of 1996 and see also Determination No. 13 of 1996.

2. Determination 503, as amended to date. For previous amendments see Note to Determination No. 19 of 1998 and see also Determination No. 19 of 1998.
3. Determination 507 as amended to date. For previous amendments see Note to Determination No. 31 of 1995 and see also Determination 31 of 1995.

4. Determination 2501 as amended to date. For previous amendments see Note to Determination No. 15 of 1997 and see also Determinations 15 and 41 of 1997.

5. Determination 2602 as amended to date. For previous amendments see Note to Determination No. 32 of 1993 and see also Determination Nos. 32 and 40 of 1993.

6. Defence Determination 1991/45 as amended to date. For previous amendments see Note to Determination No. 21 of 1997 and see also Determination Nos. 21, 36 and 40 of 1997.

7. Defence Determination 1996/16, as amended to date. For previous amendments see Note to Determination No. 1 of 1998 and see also Determination Nos. 1, 13, 17, 19 and 20 of 1998.
## SCHEDULE 9

**CHARGE FOR RATIONS AND QUARTERS**

**PART 1 - Member other than member on leave without pay**

<table>
<thead>
<tr>
<th>Description of member</th>
<th>Amount $ a day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporal or lower rank, trainee (^1)</td>
<td>9.80</td>
</tr>
<tr>
<td>Sergeant or higher non-commissioned rank</td>
<td>12.10</td>
</tr>
<tr>
<td>Officer (other than trainee (^1))</td>
<td>13.05</td>
</tr>
</tbody>
</table>

[NOTE 1: “Trainee” is defined in Defence Determination 1991/45.]
PART 2 - Member on leave without pay

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<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amenity</td>
<td>Amount $ a day</td>
</tr>
</tbody>
</table>

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### Category of accommodation

- Dormitory room: 5.00
- Shared room: 10.00
- Single room with shared facilities: 12.00
- Single room with private facilities: 14.00
- Additional charge if housekeeping services are provided with the accommodation: 5.00

### Meals

#### Officers and Warrant Officers

- Breakfast: 10.70
- Lunch: 11.40
- Dinner: 20.70

#### Other ranks

- Breakfast: 6.40
- Lunch: 6.85
- Dinner: 12.40
EXPLANATORY STATEMENT

Defence Determination 1998/23

Defence Act 1903

This Determination complements Defence Determination 1998/22, Leave Without Pay (Amendment), which inserts provisions dealing with part-time leave without pay for members of the Australian Defence Force (ADF) into Determination 2608, Leave Without Pay.

This Determination makes consequential amendments to the following determinations made under section 58B of the Defence Act 1903 (the Act) which are affected by the introduction of part-time leave without pay:

- Determination 0104, Higher Duties Allowance
- Determination 0503, Temporary Rental Allowance (TRA)
- Determination 0507, Living Out Allowance
- Determination 2501, Charge for Rations and Quarters
- Determination 2602, Leave for Members under Training
- Defence Determination 1991/45 - general definitions and interpretation
- Defence Determination 1996/16 - rates of allowances and contributions.

Part A of this Determination sets out preliminary matters.

Part B amends Determination 0104 to reflect the principle that members on part-time leave without pay will not be directed to perform higher duties.

Part C amends Determination 0503 by providing that the rent contribution payable by a member who is granted more than 5 days’ part-time leave without pay in a fortnightly pay period is to be 50 per cent higher than that ordinarily payable by members in the same rank group. A provision is inserted precluding an entitlement to TRA by members on leave without pay, with three specified exceptions.

Part D amends Determination 0507 by simplifying a provision setting out the entitlement to Living Out Allowance without substantively changing its effect, and including reference to provisions under which the allowance may remain payable to members on leave without pay even though they may not be entitled to salary.

Part E amends Determination 2501 by providing that the charge for rations and quarters payable by a member who is granted more than 5 days’ part-time leave without pay in a fortnightly pay period is to be 50 per cent higher than that normally payable by members in the same category. Provision is also made for members on full-time leave without pay who continue to occupy living-in accommodation to pay contributions for accommodation and meals at the same rates as those applicable to officers of the
Australian Public Service who occupy such accommodation. A discretion is included for 
the Chief of the Defence Force to waive the additional charge for members on full-time 
leave without pay in special circumstances.

Part F amends Determination 2602 by substituting an application clause for a former 
definition of “trainee”; the only substantive change is the insertion of trainees who are 
on part-time leave without pay into the category of members to whom Determination 
2602 does not apply. Part F also simplifies and includes a necessary cross-reference in 
a provision authorising the grant of leave in special circumstances to certain trainees 
who are not entitled to trainee leave under the main provisions of Determination 2602.

Part G amends Defence Determination 1991/45 by including general definitions of 
“allowance”, “part-time leave without pay” and “salary” for use with other determinations 
made under section 58B of the Act, and by including a general interpretation provision 
dealing with return of service obligations (a concept referred to in Defence 
Determination 1998/22, Leave Without Pay (Amendment), in establishing the part-time 
leave without pay scheme).

Part H amends Defence Determination 1996/16 by substituting a revised schedule of 
charges for rations and quarters, including a new Part 2 setting out the rates applicable to 
members on full-time leave without pay who occupy living-in accommodation.

Criteria are provided for the exercise of discretions where necessary, 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 Act. The Determination is made and commences on the same 
day as Defence Determination 1998/22, Leave Without Pay (Amendment).

Authority: Section 58B of the 
Defence Act 1903