

EXPLANATORY STATEMENT

STATUTORY RULES 1983 NO 41

ISSUED BY THE AUTHORITY OF THE MINISTER FOR DEFENCE

CADET FORCES REGULATIONS (AMENDMENT)

The Cadet Forces Regulations, made under the Defence Act 1903, the Naval Defence Act 1910 and the Air Force Act 1923, provide for the organisation and administration of the Naval Reserve Cadets, the Australian Cadet Corps and the Air Training Corps.

This Statutory Rule inserts a new Part III in the Cadet Forces Regulations to provide a scheme of compensation for members of the cadet forces who sustain loss of or damage to clothing or personal effects where the loss or damage is attributable to their service. The scheme is based on similar arrangements introduced for the Permanent and Reserve Forces in 1980.

Regulation 16, for the purpose of Part III, defines service of a cadet as attendance at activities or training provided by his unit.

Regulation 17 contains the substance of the scheme.

Sub-regulation (1) provides for compensation to be paid where a member sustains loss of, or damage to, clothing or personal effects where the loss or damage is attributable to his service.

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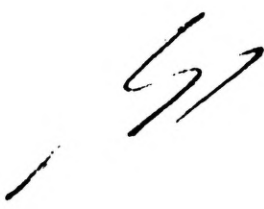
Paragraph (2)(a) provides for the amount of compensation to be reduced correspondingly where an amount of damages or compensation is payable, otherwise than in accordance with the regulation, or an amount of insurance is payable in respect of the loss or damage.

Paragraph (2)(b) provides for compensation payable under the regulation to be reduced where a member's negligence has contributed to his loss or damage.

Sub-regulation (3) provides that, where the loss or damage occurs through the member protecting Commonwealth property, through a fault or defect in Commonwealth property, or through an act or omission of a Commonwealth employee, compensation is not payable if the clothing or effects are replaced or repaired at Commonwealth expense.

Sub-regulation (4) provides that, where the loss or damage occurs in circumstances other than those set out in sub-regulation (3), compensation is not payable where any of the following conditions apply:

- (a) the loss or damage was caused by the member's negligence;
- (b) he could reasonably have been expected to insure against the loss or damage;



- (c) he could reasonably be expected to take proceedings to recover the amount;
- (d) he has received, or is entitled to receive, from a person liable an amount equal to the loss or damage;
- (e) proceedings have been instituted to recover the amount and those proceedings have not finally been disposed of; or
- (f) the clothing or effects are replaced or repaired at Commonwealth expense.

Sub-regulation (5) preserves a member's right to recover damages from the Commonwealth or any other person. Where a member subsequently obtained damages in respect of the loss, the Commonwealth would be able to recover from him the amount of the damages or the amount paid to him under the regulation, whichever was the lesser.

Sub-regulation (6) defines the "Commonwealth", for the purpose of regulation 17, to include statutory authorities.

The amendments have effect from the date of gazettal of the Statutory Rule.

S.R. 316/82

