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Statutory Rules 1983 No. 1

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## Cadet Forces Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulation under the *Defence Act 1903*, the *Naval Defence Act 1910* and the *Air Force Act 1923*.

Dated 14 April 1983.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

(Sgd) G. Scholes

Minister of State for Defence

After Part II of the Cadet Forces Regulations the following part is inserted:

### “PART III—COMPENSATION FOR LOSS OF OR DAMAGE TO CLOTHING OR PERSONAL EFFECTS OF MEMBERS

#### Interpretation

“16. In this Part, a reference to the service of a member shall, in relation to a member who is a cadet, be read as a reference to the attendance of the member at activities of, or training provided by, the unit in which he is enrolled.

#### Compensation for loss of, or damage to, clothing or personal effects

“17. (1) Subject to sub-regulation (2), where—

(a) a member sustains loss of, or damage to, clothing or personal effects; and

(b) the loss or damage is attributable to the service of the member,

the member shall be paid in respect of the loss or damage an amount equal to the amount required to compensate the member fully for the loss or damage sustained by him.

“(2) The amount that would, but for this sub-regulation, be payable to a member in respect of the loss of, or damage to, his clothing or personal effects shall be reduced by the sum of—

- (a) any amount paid or payable to the member otherwise than in accordance with this regulation by way of damages or compensation for that loss or damage or under a contract of insurance in respect of that loss or damage; and
- (b) any amount by which it is reasonable to reduce that first-mentioned amount because the member contributed to the loss or damage by his failure to take the precautions that he might reasonably have been expected to have taken to avoid the loss or damage.

“(3) Where the loss of, or damage to, the clothing or personal effects of a member—

- (a) occurs while he is protecting or endeavouring to protect the property of the Commonwealth from loss or damage;
- (b) is caused by a fault or a defect in goods or other property belonging to the Commonwealth; or
- (c) results from an act of, or omission by, another member or any other person employed by the Commonwealth,

that loss or damage shall be deemed not to be attributable to the service of the member if the clothing is, or is to be, or the personal effects are, or are to be, replaced or repaired at the expense of the Commonwealth.

“(4) Where the loss of, or damage to, the clothing or personal effects of a member is sustained by the member in circumstances other than those set out in paragraph (3) (a), (b) or (c), that loss or damage shall be deemed not to be attributable to the service of the member where—

- (a) the loss or damage would not have occurred if he had taken the precautions that he might reasonably have been expected to have taken to avoid the loss or damage;
- (b) he could reasonably have been expected to have insured himself against loss or damage occurring in the circumstances in which the loss or damage occurred;
- (c) he could reasonably be expected to take proceedings for the recovery of an amount equal to the amount of the loss or damage sustained by him from a person who may be liable to the member for the loss or damage;
- (d) he has received, or is entitled to receive, from a person liable to the member for the loss or damage an amount equal to the amount of the loss or damage;
- (e) proceedings have been instituted by the member against a person who may be liable to the member for the loss or damage sustained by him and those proceedings have not been finally disposed of; or
- (f) the clothing or personal effects are to be, or have been, replaced or repaired at the expense of the Commonwealth.

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“(5) Nothing in this regulation affects any rights a member may have to recover damages from the Commonwealth or from any other person in respect of the loss or damage, but if, after an amount has been paid to a member under this regulation, the member recovers damages in respect of the loss or damage, an amount equal to the amount paid under this regulation, or, if that amount is greater than the amount recovered as damages, an amount equal to the amount recovered as damages, is recoverable from the member as a debt due to the Commonwealth.

“(6) In this regulation, ‘Commonwealth’ includes a body corporate (not being an incorporated company, society or association) incorporated for a public purpose by or under a law of the Commonwealth or of a Territory.”

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 2 1983.
2. Statutory Rules 1977 No. 206 as amended by 1977 No. 275; 1978 No. 175; 1979 Nos. 8 and 248; 1980 No. 334.

21 April /