



DEFENCE DETERMINATION 1994/27

DETERMINATION UNDER THE DEFENCE ACT 1903

I, MERYL ANNETTE STANTON, First Assistant Secretary, Government Authorities and Defence Division, Department of Industrial Relations, acting under a delegation made by the Minister for Industrial Relations under Defence Force Regulation 72A, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 23 June 1994

M. STANTON
First Assistant Secretary
Government Authorities and Defence Division
Department of Industrial Relations

1. Citation

1.1 This Determination may be cited as Defence Determination 1994/27.

2. Definitions

2.1 In this Determination -

"deployment" means service overseas by members assigned for duty with a United Nations mission or a similar multinational force declared to be warlike or non-warlike service by the Minister for Defence;

"leave" means recreation leave or war service leave, as the case may be;

"operational area", in relation to a deployment, means the area which has been declared in writing by the Chief of the Defence Force to be the operational area for the purposes of the deployment;

"the Minister" means the Minister for Defence Science and Personnel;

"threat level" means a threat assessment category defined in documents issued by the Defence Intelligence Organisation and headed -

DIO THREAT ASSESSMENTS
SITUATIONAL HAZARDS - DEFINITIONS

DIO THREAT ASSESSMENTS
ENVIRONMENTAL HAZARDS - DEFINITIONS

as attached to Memorandum DGSC 2380/93 dated 9 November 1993 to the Department of Industrial Relations from the Director General Service Conditions in the Headquarters, Australian Defence Force.

3. Entitlement to Deployment Allowance

3.1 A member who is assigned for duty with a deployment is entitled to be paid Deployment Allowance for each day or part of a day during the period commencing on the first day on which the member enters the operational area and ending on the day on which the member leaves the operational area on ceasing that duty.

3.2 Except to the extent authorised by subclause 3.3, a member is not entitled to be paid Deployment Allowance for any whole day on which the member is outside the operational area.

3.3 A member who is on leave during the period referred to in subclause 3.1 is entitled to be paid Deployment Allowance for any period of such leave that does not exceed the leave credit accrued by the member for the period of service with the deployment.

4. Rate of allowance

4.1 The rate at which Deployment Allowance is payable to a member for a deployment is the sum of the rates specified in column 2 of Parts A and B of the Schedule opposite the threat levels approved by the Minister under subclauses 4.2 and 4.3.

4.2 For the purposes of Part A of the Schedule, the Minister is to approve whichever threat level, in the Minister's opinion most closely approximates the level of military threat from situational hazards to members engaged in the deployment, having regard to advice from the Chief of the Defence Force on -

- (a) the political and military situation in the operational area and its stability;
- (b) the activities and aims of military forces and other armed groups present in the area;
- (c) any introduced military hazards including mines, unexploded ordnance and booby traps;

- (d) the incidence of violent crime, civil disturbance, terrorism, insurgency and insurrection; and
- (e) any other military factor relevant to the security of members on the deployment.

4.3 For the purposes of Part B of the Schedule, the Minister is to approve whichever threat level in the Minister's opinion most closely approximates the level of hardship from environmental hazards to members engaged in the deployment, having regard to advice from the Chief of the Defence Force on -

- (a) the risk to members' health, taking account of the incidence and nature of any diseases and the quality and availability of health services, medical facilities, support infrastructure and the means of medical evacuation;
- (b) the topography and climate and the extent of any pollution and natural hazards;
- (c) the extent and quality of the civil infrastructure, including water supplies, accommodation and public sanitation;
- (d) the extent of any insect, plant and animal hazards;
- (e) the risk of road accidents and the traffic conditions;
- (f) the prevalent language and social conditions; and
- (g) any other environmental factor relevant to the well-being of members on the deployment.

5. Additional rate of allowance in special circumstances

5.1 Where the Minister is satisfied that there are special circumstances which affect the assessment of a deployment under subclauses 4.2 and 4.3, having regard to advice from the Chief of the Defence Force on -

- (a) the nature of the deployment;
- (b) the command arrangements for the deployment;
- (c) a comparison of the circumstances of the deployment with those of other deployments undertaken by the Australian Defence Force; and
- (d) any other factor relevant to the deployment,

the Minister may increase the rate of allowance authorised under clause 4 by the sum of additional amounts not exceeding -

- (e) \$9 a day for special circumstances relating to the military threat from situational hazards assessed under subclause 4.2; and
- (f) \$4 a day for special circumstances relating to hardship from environmental hazards assessed under subclause 4.3.

6. Allowance payable during absence on leave after cessation of duty with deployment

6.1 A member who was assigned for duty with a deployment and who commences a period of leave immediately after ceasing duty with the deployment is entitled to be paid Deployment Allowance for a period equal to whichever is the lesser of -

- (a) the period of the leave granted to the member;
- (b) the period of the unused leave credits accrued for service with the deployment; and
- (c) the period of leave that would be accrued by the member for 12 months' service with the deployment.

6.2 The rate of Deployment Allowance payable to a member under subclause 6.1 is to be the rate which was payable to the member during the period of service for which the leave was accrued.

6.3 Where a member ceases duty with a deployment but is prevented from -

- (a) immediately commencing a period of leave; or
- (b) completing a period of leave, or otherwise utilising leave credits,

by reason of the member's injury or illness or immediate service requirements, the period during which the injury or illness or service requirements prevent the member from taking leave is to be ignored for the purpose of applying subclause 6.1 to the member and any separate periods of leave are to be treated as one period.

7. Overseas allowances not payable

7.1 For the purposes of a determination other than Determination 2601, Recreation Leave, and Overseas Defence Determination 1993/24, a member who is entitled to be paid Deployment Allowance is not to be taken, by reason only of being assigned for duty in the operational area, to be overseas for the period the member is so entitled.

7.2 Subclause 7.1 does not preclude payment of Difficult Post Allowance on any day when a member is not entitled to be paid Deployment Allowance.

7.3 For the purpose of payment of Difficult Post Allowance, a member is to be taken to have been paid Difficult Post Allowance during any period for which the member was entitled to be paid Deployment Allowance.

SCHEDULE

RATE OF DEPLOYMENT ALLOWANCE

PART A - Situational hazards - military threat

Column 1	Column 2
Threat level	Rate of allowance \$ a day
Very low	-
Low	11
Medium	21
High	31
Very high	41

PART B - Environmental hazards - hardship

Column 1	Column 2
Threat level	Rate of allowance \$ a day
Very low	-
Low	6
Medium	11
High	16
Very high	21

EXPLANATORY MEMORANDUM
DEFENCE DETERMINATION 1994/27

Defence Act 1903

This Determination establishes an entitlement to Deployment Allowance and related conditions of service for Australian Defence Force (ADF) members assigned for duty with a United Nations (UN) mission or a similar multinational force. The entitlement arises where a deployment is declared warlike or non-warlike by the Minister for Defence for various purposes related to conditions of service, taxation and veterans' entitlements.

Since 1990, several determinations have been made under section 58B of the *Defence Act 1903* to authorise conditions of service for members assigned to UN and other deployments around the world. The purpose of this Determination is to establish certainty by setting out a framework of conditions to apply to such deployments in all future circumstances. The Determination includes some standard features which have been developed in those individual determinations (in particular at clauses 3, 6 and 7).

The Determination grants to the Minister for Defence Science and Personnel, acting on the advice of the Chief of the Defence Force (CDF), the discretion to authorise the level of Deployment Allowance applicable to each deployment in accordance with the framework laid down by the Determination.

The framework limits the Minister's discretions and establishes criteria under which they are exercised. Although the discretions relate to deployments rather than to individual cases, it is open to members to seek redress of any grievance arising from this Determination in accordance with normal grievance procedures which include a right of appeal to the Defence Force Ombudsman.

Clause 2 of this Determination defines certain terms used, including:

- **"operational area"** - since this Determination is intended to apply to members assigned to any UN or similar deployment in the future, there is an inherent need for flexibility in specifying geographic areas to which the Determination relates; the definition therefore adopts the concept of the operational area declared by the CDF in each case for military purposes relating to the deployment; and

"threat level", which refers to threat assessment categories defined in specific Defence Intelligence Organisation (DIO) documents; these categories are used in the procedures specified in clause 4 whereby a rate of allowance is established for each deployment. The DIO documents are classified for security reasons and advice is that their public disclosure would prejudice the safety and security of Australians serving overseas. They are therefore not able to be tabled in the Parliament or included with the Determination.

Clause 3 authorises payment of Deployment Allowance to members assigned for duty on a deployment; it deals with absences from the operational area and periods of leave taken during a deployment.

Clause 4 provides a framework for the selection of the level of Deployment Allowance to be paid, within the limits of the prescribed monetary amounts and other parameters laid down in the Determination. Decisions on the level of allowance are to be made by the Minister on advice from the CDF about factors affecting the security and welfare of members on the deployment.

Clause 5 permits the Minister, on advice from the CDF, to authorise an additional amount of Deployment Allowance where there are special circumstances affecting a deployment.

Clause 6 defines the circumstances where Deployment Allowance may be payable during leave immediately following cessation of duty on the deployment.

Clause 7 precludes eligibility for overseas conditions (except additional recreation leave and travelling allowance) where a member is overseas only in connection with a deployment, and makes special provision for the payment of Difficult Post Allowance under certain circumstances.

The Schedule specifies ranges of daily amounts payable for military threat and hardship, corresponding to the threat level approved by the Minister under each heading on advice from the CDF on the security and well-being of members on the deployment.

Authority: Section 58B of the
Defence Act 1903