



DEFENCE DETERMINATION 1994/35

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 12 September 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 1994/35.

2. Amendment

2.1 Determination 2606, War Service Leave, as amended¹, is amended as set out in this Determination.

3. Clause 2 (Definitions)

3.1 Definitions of "month" and "operational service":
Delete the definitions.

Note

1. Determination 2606 was made by Determination 8 of 1982 and has been amended by Determination Nos. 23 of 1983; 20 of 1987; 65 of 1988; 75 and 123 of 1989 and 32 and 43 of 1993.

3.2 Insert the following definitions:

"'operational area' means an area which has been declared in writing by the Chief of the Defence Force to be an operational area;

'warlike service' means service in an operational area declared to be warlike service by the Minister for Defence."

4. **New clause 3**

4.1 After clause 2, insert:

Period of warlike service

"3.1 Where during a period of warlike service a member is absent from an operational area, the member is taken to remain in the operational area during the first 14 days of the absence."

5. **Clause 5 (Credit of War Service Leave)**

5.1 Delete the clause, substitute:

"5.1 A member is entitled to be credited with War Service Leave at the rate of 1½ days for each completed month in a period of warlike service rendered by the member."

6. **Clauses 5A and 5B (Credit of War Service Leave)**

6.1 Delete the clauses.

7. **Clauses 8 and 9 (Determination of period of special service)**

7.1 Delete the clauses.

8. **New clause 8**

8.1 After clause 7, insert:

Grant of War Service Leave

"8.1 No deduction from a member's War Service Leave credit is to be made for a Saturday, Sunday or public holiday occurring during a period of War Service Leave granted to the member."

EXPLANATORY MEMORANDUM
DEFENCE DETERMINATION 1994/35

Defence Act 1903

Determination 2606, War Service Leave, provides for the credit, grant and payment in lieu of War Service Leave (WSL) to full-time members of the Australian Defence Force who render warlike service.

This Determination amends Determination 2606 to take account of new concepts introduced by Determination 1994/27 of 23 June 1994, which implemented a revised method of establishing allowances for overseas deployments with United Nations and other similar multinational forces.

The opportunity is also taken to simplify provisions authorising credit of WSL and the period of service for which WSL accrues.

Clause 3 of this Determination deletes the definition of "month", thereby allowing the definition set out in subsection 22(1) of the *Acts Interpretation Act 1901* to apply by virtue of paragraph 46(1)(a) of that Act. This avoids certain complications in authorising accrual of WSL using the former definition, which relied on the named months of the year.

Clause 3 also replaces the redundant term "operational service" with definitions of two new terms used in Determination 1994/27.

Clause 4 inserts an interpretation provision which maintains, in a simplified form, the principle that short breaks in continuity of eligible service are ignored for accrual of WSL.

Clause 5 simplifies a provision authorising credit of WSL.

Clause 6 deletes two redundant clauses which dealt with complications in accrual of WSL which arose from the former definition of "month".

Clause 7 deletes two redundant clauses which provided for eligible service to be assessed on the basis of length of absence from Australia. Eligibility is now based on length of warlike service.

Clause 8 inserts a provision which prevents deduction from credits of weekend days and public holidays occurring during a period of WSL. This takes account of the 7-day-week nature of ADF service by placing deduction from WSL credits on the same basis as for certain other forms of leave, including Recreation Leave.

Authority: Section 58B of the
Defence Act 1903