



DEFENCE DETERMINATION 1994/40

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 8 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 1994/40.

2. Commencement

2.1 This Determination is to be taken to have commenced on 1 January 1994.

3. Amendment

3.1 Determination 501, Education Allowance, as amended¹, is amended as set out in this Determination.

Note

1. Determination 501 was made by Determination 60 of 1984 and has been amended by Determination Nos. 11, 28, 48 and 49 of 1981; 24 of 1982; 37 of 1983; 60 of 1984; 6 of 1985; 4 of 1986; 47 of 1987; 1, 13 and 17 of 1988; 169 of 1989; 58 of 1990; 95 of 1991; 13 of 1992 and 4 and 31 of 1993.

4. Clause 14 (Period of payment)

4.1 After "clauses", insert "14A,".

5. New clause 14A

5.1 After clause 14, insert:

Education Allowance to continue in special circumstances

"14A. Where -

- (a) but for this clause, paragraph 14(a) or clause 15 would apply to a member; and
- (b) the Chief of the Defence Force is satisfied that it is not reasonable for a child to reside with the member or the member's family, having regard to -
 - (i) the welfare of the child;
 - (ii) the particular family circumstances; and
 - (iii) any other factor relevant to continuation of the member's entitlement to Education Allowance,

paragraph 14(a) and clause 15 do not apply to the member for such period as the Chief of the Defence Force declares is reasonable in the circumstances."

EXPLANATORY MEMORANDUM
DEFENCE DETERMINATION 1994/40

Defence Act 1903

Defence Determination 501, Education Allowance (the Principal Determination), provides assistance with boarding and tuition costs under certain circumstances for members of the Australian Defence Force whose children attend school away from home.

Clause 14 of the Principal Determination sets out the circumstances under which Education Allowance ceases to be payable, including (in paragraph (a)) the return of a member or family to live at the locality where a child is attending school. Clause 15 provides for the allowance to continue for limited periods in such cases if the child is attending secondary school.

Clause 5 of this Determination inserts a new clause which provides a discretion for the Chief of the Defence Force to modify the effect of the cessation provisions in situations where it is not reasonable for the child to reside with the member or the member's family.

Clause 4 of this Determination makes a minor consequential amendment.

A date of effect of 1 January 1994 is provided to encompass the current school year.

The retrospective application of this Determination does not affect the rights of a person (other than the Commonwealth) in a manner prejudicial to that person, nor does it impose any liability on such person.

Authority: Section 58B of the
Defence Act 1903