Defence Determination 1998/2

I, BRUCE VINCENT FENN CLARK, Assistant Secretary, Workplace Relations Branch, Australian Government Employment Group, Department of Workplace Relations and Small Business, acting under a delegation made by the Minister for Workplace Relations and Small Business under section 58E of the Defence Act 1903, make the following Determination under section 58B of the Defence Act 1903.

Dated 22 January 1998

B.V. CLARK
Assistant Secretary
Workplace Relations Branch
Australian Government Employment Group
Department of Workplace Relations and Small Business

1. Citation
1.1 This Determination may be cited as Defence Determination 1998/2.

2. Commencement
2.1 Subclause 4.2 is to be taken to have commenced on 20 November 1997.

2.2 Subclause 4.3 is to be taken to have commenced on 5 July 1997.

2.3 Subclause 4.6 is to be taken to have commenced on 2 November 1995.

[ref117]
2.4 Subclause 4.7 is to be taken to have commenced on 16 December 1996.

2.5 Subclause 4.8 is to be taken to have commenced on 13 February 1997.

2.6 Subclause 4.9 is to be taken to have commenced on 25 July 1997.

[NOTE: The remaining provisions of this Determination commence on the day on which this Determination is made: see *Defence Act 1903*, subsection 58B(4).]

3. **Amendment**

3.1 Defence Determination 1994/27, as amended\(^1\), is amended as set out in this Determination.

4. **Schedule 1 (Operational areas)**

4.1 Item 1:
Delete the item.

4.2 Item 3, column 2:
Delete “Australian Defence Force support to a Pacific Peacekeeping Force for a Bougainville Peace Conference”, substitute “Australian Defence Force support to the Truce Monitoring Group in Bougainville”.

4.3 Item 4, column 2:
Delete “Operation BANNER”, substitute “Operations BANNER and VISTA”.

4.4 Item 4, column 2:
Delete “Operations BANNER and VISTA”, substitute “Operation BANNER”.

4.5 Item 5:
Delete the item.

4.6 Add at the end:

“8. United Nations Special Commission in Iraq Iraq”.

4.7 Add at the end:

4.8 Add at the end:


4.9 Add at the end:


4.10 Item 10:
Delete the item.

4.11 Item 11:
Delete the item.

_______________________________

NOTE

1. Defence Determination 1994/27 was made on 23 June 1994 and has been amended by Defence Determination No. 57 of 1994 and Nos. 22 and 27 of 1995; No. 5 of 1996.
EXPLANATORY STATEMENT

Defence Determination 1998/2

Defence Act 1903

Defence Determination 1994/27 (the Principal Determination) authorises payment of Deployment Allowance to members of the Australian Defence Force (ADF) assigned for duty with a United Nations mission or similar force.

Schedule 1 to the Principal Determination sets out the operational area associated with each deployment for the purposes of entitlement to the Allowance.

This Determination amends the Schedule by:

- deleting a redundant item relating to the United Nations Assistance Mission in Rwanda;
- updating an item relating to ADF support for the peace process in Bougainville;
- updating an item relating to Cambodia by including reference to Operation VISTA effecting the withdrawal of non-essential Australian personnel;
- deleting a redundant item relating to the United States Led Multi-national Force in Haiti; and
- adding items relating to United Nations missions in Iraq, Guatemala and central Africa and the Stabilisation Force (SFOR) in the former Yugoslavia.

As Operation VISTA in Cambodia and the United Nations missions in Guatemala and central Africa had ceased by the date on which this Determination commenced, the Schedule is simultaneously amended to delete those items with effect from that date.

Clause 2 of this Determination sets out the dates on which certain of these amendments are to be taken to have commenced. In the case of the deployments during 1997 in Bougainville, Cambodia, Guatemala and central Africa (subclauses 4.2, 4.3, 4.8 and 4.9 respectively), the date represents the day on which members commenced duty in the operational area on assignment to the relevant mission, thereby creating a potential entitlement to Deployment Allowance.
In the case of the long-standing deployments in Iraq and the former Yugoslavia (subclauses 4.6 and 4.7 respectively), the date of commencement is the day on which the Minister with responsibility for Defence personnel matters authorised a revised rate of Deployment Allowance under the devolved scheme established by the Principal Determination on 23 June 1994. Prior to the date of the ministerial decision, these deployments were covered by former determinations made before the Principal Determination came into effect. Savings provisions made at the same time as the Principal Determination provided for the effect of these former determinations to lapse once the Minister approved allowance arrangements under the new scheme. It is therefore necessary to include the operational areas for those deployments in the Principal Determination from the date of ministerial decision. This ensures legal authority for payment of the Allowance to members serving in those areas from the date on which the effect of the former determinations lapsed.

The regrettable delays in making the necessary amendments to the Principal Determination arose as a result of administrative oversights and delays in obtaining relevant advice and approvals. Steps have been taken to ensure that such delays do not occur in future. In the case of the deployments referred to in the previous paragraph, the delay results from the once-only effect of a savings provision which was overlooked and which is now spent. The retrospective amendments are all beneficial to members and have the effect of ensuring that there is no prejudice to individual rights accrued over the period of operation of this Determination.

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