Defence Determination 1998/29

I, NICHOLAS JEFFERSON FORD, Director General Financial Conditions, Defence Personnel Executive, acting under a delegation made by the Minister for Defence under regulation 72A of the Defence Force Regulations, make the following Determination under section 58B of the Defence Act 1903.

Dated 13 August 1998

N.J. FORD
Air Commodore
Director General Financial Conditions
Defence Personnel Executive
[ref026]
1. **Citation**

1.1 This Determination may be cited as Defence Determination 1998/29, Gratuity for Members of the Emergency Forces (Amendment).

[NOTE: This Determination commences on the day on which it is made: see *Defence Act 1903*, subsection 58B(4).]

2. **Amendment**

2.1 Determination 0798, Gratuity for Members of the Emergency Reserve, is amended as set out in this Determination.

3. **Heading**

3.1 Omit “RESERVE”, substitute “FORCES”.

4. **Clause 1 (Citation)**

4.1 Omit “Reserve.”, substitute “Forces.”.

5. **Clause 2 (Definition)**

5.1 Omit the clause.

6. **Clause 3 (Gratuity for Members of the Emergency Reserve)**

6.1 Omit the clause, substitute:

**Gratuity for members of the Emergency Forces**

“3. If a member of the Emergency Forces begins to render continuous full-time service by reason of those Forces or part of those Forces having been called out for continuous full-time service under section 50D of the *Defence Act 1903*, the member is entitled to a gratuity of $110.”.
EXPLANATORY STATEMENT

Defence Determination 1998/29

Defence Act 1903

Determination 0798, Gratuity for Members of the Emergency Reserve, formerly authorised the payment of a gratuity to members of the Emergency Reserve in the event of their being called out for continuous full-time service under Defence legislation (section 46 of the Defence Act 1903 (the Act), section 32 of the Naval Defence Act 1910, and subsection 4H(2) of the Air Force Act 1923).

The call-out provisions of the Defence legislation were amended by the Defence Legislation Amendment Act 1987 (the Amendment Act), which received Royal Assent on 5 June 1987 and introduced a new tri-service power under the Act (section 50D). This provision empowers the Governor-General to call-out the Emergency Forces or any part of those Forces for the defence of Australia. Section 32 of the Naval Defence Act 1910 and subsection 4H(2) of the Air Force Act 1923 still exist, but they no longer contain any call-out powers.

Determination 0798 was not amended at the time, as the commencement of the relevant provisions of the Amendment Act was subject to proclamation. The date of commencement, 1 July 1988, was subsequently fixed by the Governor-General in Council on 24 June 1988. The oversight in not consequentially amending Determination 0798 has had no practical significance, however, as the Reserve Forces have not been called out since that time.

This Determination amends Determination 0798 by substituting references to the Emergency Forces for the Emergency Reserve, and section 50D of the Act for references to outdated provisions in Defence legislation that formerly provided for the calling out of the Emergency Reserve.

Clauses 3 and 4 amend the heading and citation of the Principal Determination respectively, to align their terminology with that currently used in the Act.

Clause 5 omits a redundant definition of ‘Emergency Reserve’. The interpretation of the term ‘Emergency Forces’ relies on the definition set out in section 4 of the Act.

Clause 6 rewrites a provision that formerly provided for the payment of a gratuity to members of the Emergency Reserve who are called out for continuous full-time service, by incorporating references to the Emergency Forces and section 50D of the Act.

This Determination commences on the day on which it is made, as provided by subsection 58B(4) of the Act.

Authority: Section 58B of the Defence Act 1903