

2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Defence Amendment (Parliamentary
Approval of Overseas Service) Bill 2010**

No. , 2010

(Mr Bandt)

**A Bill for an Act to amend the *Defence Act 1903* to
provide for parliamentary approval of overseas
service by members of the Defence Force**

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2 **A Bill for an Act to amend the *Defence Act 1903* to**
3 **provide for parliamentary approval of overseas**
4 **service by members of the Defence Force**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Defence Amendment (Parliamentary*
8 *Approval of Overseas Service) Act 2010.*

9 **2 Commencement**

10 This Act commences on the day on which it receives the Royal
11 Assent.

1

3 Schedule(s)

2

Each Act that is specified in a Schedule to this Act is amended or

3

repealed as set out in the applicable items in the Schedule

4

concerned, and any other item in a Schedule to this Act has effect

5

according to its terms.

1
2 **Schedule 1—Amendment of the Defence Act**
3 **1903**

4 **1 Section 50C**

5 Repeal the section.

6 **2 After Part III, Division 3**

7 Insert:

8 **Division 3A—The Service of the Defence Force**

9 **50C Parliamentary approval of service of members of Defence Force**

- 10 (1) Members of the Defence Force may serve within the territorial
11 limits of Australia.
- 12 (2) Subject to this section, members of the Defence Force may not
13 serve beyond the territorial limits of Australia except in accordance
14 with a resolution, which is in effect and agreed to by each House of
15 the Parliament, authorising the service.
- 16 (3) The Governor-General may by proclamation declare that an
17 emergency exists requiring the service beyond the territorial limits
18 of Australia of members of the Defence Force, and such service
19 may occur in accordance with such proclamation.
- 20 (4) A proclamation under subsection (3) shall not be made except on
21 the written advice of the Prime Minister to the Governor-General
22 explaining the circumstances of emergency which render it
23 inexpedient to seek a resolution pursuant to subsection (2) before
24 deploying members of the Defence Force beyond the territorial
25 limits of Australia.
- 26 (5) A proclamation and advice under subsections (3) and (4) shall be
27 published within 24 hours after the proclamation is made.
- 28 (6) A proclamation under subsection (3) shall be laid before each
29 House of the Parliament within 2 days after it is made, together
30 with a report (with copies for each member and senator) setting
31 out:

- 1 (a) the advice referred to in subsection (4);
2 (b) the reasons for the proposed deployment;
3 (c) the legal authority for the proposed deployment;
4 (d) the expected geographical extent of the proposed
5 deployment;
6 (e) the expected duration of the proposed deployment; and
7 (f) the number of members of the Defence Force proposed to be
8 deployed.
- 9 (7) If the Parliament is in session when a proclamation under
10 subsection (3) is made, but either House of the Parliament is
11 adjourned for an indefinite period of time or for a period of time
12 which will expire more than 2 days after the making of the
13 proclamation, the Presiding Officer of that House within the
14 meaning of the *Parliamentary Presiding Officers Act 1965*, or the
15 person who is deemed to be the Presiding Officer of that House for
16 the purpose of that Act, shall summon that House to meet within 2
17 days after the making of the proclamation, in spite of anything
18 contained in the resolution of adjournment of that House.
- 19 (8) If:
20 (a) the Parliament is not in session when a proclamation under
21 subsection (3) is made; or
22 (b) the Parliament is prorogued within 7 days after the
23 proclamation is made;
24 then:
25 (c) the proclamation shall cease to have effect at the expiration
26 of 7 days after the proclamation is made; and
27 (d) no proclamation the same in substance as that proclamation
28 shall be made until the day on which the Parliament next
29 meets.
- 30 (9) If:
31 (a) when a proclamation is made under subsection (3) the House
32 of Representatives has been dissolved or has expired and the
33 day appointed for the return of the writs for the general
34 election has not occurred; or
35 (b) the House expires within 7 days after the proclamation is
36 made;

1 the proclamation shall cease to have effect at the expiration of 7
2 days after the day appointed for the return of the writs for the
3 general election.

4 (10) While members of the Defence Force are deployed beyond the
5 territorial limits of Australia under this section, the Minister shall
6 report in writing to each House of the Parliament on the first sitting
7 day of that House after the commencement of each of the months
8 of February, April, June, August, October and December of each
9 year, commencing within 2 months after each deployment,
10 including in the report information on:

- 11 (a) the status of each such deployment, including its legality,
12 scope and anticipated duration;
- 13 (b) what efforts have been, are being, or are to be, made, to
14 resolve the circumstances which required such deployment;
- 15 (c) whether there is any reason why the Parliament should not
16 resolve to terminate such deployment.

17 (11) For the purpose of this section, service beyond the territorial limits
18 of Australia does not include service by members of the Defence
19 Force:

- 20 (a) pursuant to their temporary attachment as provided by
21 section 116B; or
- 22 (b) as part of an Australian diplomatic or consular mission; or
- 23 (c) on an Australian vessel or aircraft not engaged in hostilities
24 or in operations during which hostilities are likely to occur;
25 or
- 26 (d) for the purpose of their education or training; or
- 27 (e) for purposes related to the procurement of equipment or
28 stores.