



## Defence Determination 2003/3

I, SUSAN JANE PARR, Director General Personnel Policy and Employment Conditions, Defence Personnel Executive, make this Determination under section 58B of the *Defence Act 1903*.

Dated 6 February 2003

S J PARR  
Director General  
Personnel Policy and Employment Conditions  
Defence Personnel Executive

## 1 Citation

This Determination is Defence Determination 2003/3, Retention bonus – Air Force Logistics Officers.

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

## 2 Amendment

Defence Determination 2000/1, Conditions of Service, as amended,<sup>1</sup> is amended as set out in this Determination.

## 3 After Part 2A of Chapter 2 (Retention bonuses)

*insert*

# Part 2B Retention bonus – Air Force Logistics Officers

### 2.2B.1 Purpose

The purpose of this Part is to establish a bonus scheme to assist in the retention of qualified and experienced Logistics Officers in the Permanent Air Force.

### 2.2B.2 Definitions

In this Part:

***effective service***, for a member, means continuous full-time service for which salary is payable, other than:

- (a) a period of training or a posting that gives rise to a return of service obligation, unless the training is relevant training, or the posting is an overseas posting, that begins after the member signs an undertaking; or
- (b) a period for which a return of service obligation applies, unless that obligation is for relevant training, or for an overseas posting, that begins after the member signs an undertaking; or
- (c) a period of prospective service; or
- (d) a period of detention.

***overseas posting***, for a member, means a posting that is directly relevant to the member's occupation specified in this Part.

***relevant training***, for a member, means postgraduate or other professional or trade training that is directly relevant to the member's occupation specified in this Part.

***undertaking***, for a member, means an undertaking signed by the member in the form of Schedule 1A, to render the required period of effective service beginning on the day ascertained under subclause 2.2B.5 (1).

### 2.2B.3 Members this Part applies to

- (1) A member is an *eligible member* for this Part if the member:
  - (a) is an officer in the Logistics specialisation of the Permanent Air Force with the substantive rank of:
    - (i) Flight Lieutenant with 2 or more years' substantive service in that rank; or
    - (ii) Squadron Leader; or
    - (iii) Wing Commander; and
  - (b) meets the minimum level of readiness for duty as a Logistics Officer in the Permanent Air Force; and
  - (c) is otherwise suitable for continued service as a Logistics Officer in the Permanent Air Force because of the member's efficiency and competence.
- (2) For subparagraph (1) (a) (i), an officer with the rank of Flight Lieutenant who achieves 2 years' substantive service in that rank at any time between 1 January 2003 and 31 December 2005 is also an eligible member, if the member meets the other requirements of subclause (1).
- (3) A member does not cease to be an eligible member by reason only that the member is promoted to a rank higher than Wing Commander.

### 2.2B.4 Members this Part does not apply to

A member who:

- (a) ceases service in the Permanent Naval Forces or the Australian Regular Army; and
- (b) is appointed as an officer in the Permanent Air Force after 11 September 2002, and within 6 months of ceasing service under paragraph (a),

is not an eligible member for the purposes of this Part.

### 2.2B.5 Required period of effective service

- (1) For an eligible member, the required period of effective service is taken to begin on:
  - (a) for a member who signs an undertaking before 31 March 2003 — the day the member would have first become an eligible member under this Part if it had commenced on 1 January 2003; or
  - (b) for any other member — the day the member signs an undertaking, and ends on the completion of 3 years' effective service.
- (2) Members may incur a return of service obligation arising from non-effective service as defined in paragraph (a), (b) or (c) of the definition of *effective service* in clause 2.2B.2. The following table sets out the order in which the member is to complete the different kinds of service obligations in these circumstances.

<b>This type of service obligation ...</b>	<b>is to be completed in full before completing ...</b>
a return of service obligation under paragraph (a) or (b) of the definition of <i>effective service</i>	a required period of service under this Part, or a period of prospective service under paragraph (c) of the definition of <i>effective service</i> .
a required period of service under this Part	a period of prospective service under paragraph (c) of the definition of <i>effective service</i> .

- (3) The required period of effective service under this Part is to be suspended to allow the completion of any return of service obligation under paragraph (a) or (b) of the definition of *effective service*.
- (4) If the member takes leave without pay or part-time leave without pay during the required period of effective service under this Part, the required period of service is to be extended by:
  - (a) for leave without pay — the period of leave without pay granted to the member; and
  - (b) for part-time leave without pay — the total number of working days of absence (ie excluding weekend days and public holidays) in the overall period of part-time leave without pay granted to the member.

#### **2.2B.6 Retention bonus**

- (1) The member becomes entitled to a retention bonus if:
  - (a) the member becomes an eligible member at any time between 1 January 2003 and 31 December 2005; and
  - (b) the member applies in writing for a retention bonus under this Part by signing the undertaking at Schedule 1A to this Determination; and
  - (c) the CDF approves the member's application.
- (2) The entitlement arises on the day the CDF approves the application.
- (3) The amount of the bonus is \$45,000.

#### **2.2B.7 Member has sufficient service remaining to complete undertaking**

- (1) The CDF must not approve a member's application for a retention bonus or offer a member a retention bonus unless the CDF is satisfied that the member is able to fulfil an undertaking.
- (2) For subclause (1), the CDF must have regard to any return of service obligation or period of prospective service which the member is required to complete.

#### **2.2B.8 Discharge of member's undertaking**

- (1) A member's undertaking is not binding on any party unless and until the member's application for a retention bonus is approved.
- (2) The discharge of a member's required period of effective service under an undertaking begins or is taken to have begun (as the case requires) on the day the member signs an undertaking.

#### **2.2B.9 Repayment of gross amount to the Commonwealth**

- (1) If the member ceases (other than for the specified reasons) to be an eligible member at any time before the completion of the required period of effective service, the member must repay to the Commonwealth the gross (pre-tax) amount of the bonus received.

- (2) For subclause (1), the specified reasons are the member's:
- (a) death; or
  - (b) medical incapacity; or
  - (c) involuntary redundancy or retrenchment.

**4 New Schedule 1A**

*before Schedule 1, insert*

the Schedule set out in the Attachment

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**NOTE**

1. Defence Determination 2000/1 as amended to date. For previous amendments see Note to Defence Determination 2003/1, and see also Defence Determinations 2003/1 and 2.

**ATTACHMENT**

# Schedule 1A Retention bonus – application and undertaking to serve

I, ..... , for the purposes of  
(Name) (Rank) (Service number)  
Part 2B of Chapter 2 of Defence Determination 2000/1, Conditions of Service, undertake to render 3 years' effective service beginning on the date of signature of this undertaking, or, if I sign the undertaking before 31 March 2003, beginning on the deemed date of eligibility of .....2003, in the Logistics specialisation of the Permanent Air Force, having  
(Day and month)  
regard to the provisions relating to any period of prospective service or return of service obligation as set out in that Part.

I acknowledge that the provisions of Part 2B of Chapter 2 of Defence Determination 2000/1, Conditions of Service, have been brought to my notice and that I fully understand them.

I acknowledge that the required period of effective service excludes any period which is not effective service as defined in clause 2.2B.2 of the Determination.

I acknowledge that under the Determination I am liable to repay to the Commonwealth the gross (ie pre-tax) amount of the total retention bonus paid to me if I do not complete the required period of 3 years' effective service, except by reason of death, medical incapacity, involuntary redundancy or retrenchment.

I acknowledge that this undertaking is not binding unless and until my retention bonus is approved.

I have/have not\* sought independent legal advice in relation to this undertaking.

I have/have not\* sought independent financial advice in relation to this undertaking.

Dated this ..... day of ..... 200.....

.....  
Signed

.....  
Witness  
Name (printed) .....  
Address .....  
.....  
Occupation .....  
Date .....

\* delete whichever is not applicable.

I approve this application under Part 2B of Chapter 2 of Defence Determination 2000/1, Conditions of Service.

.....  
Authorised person  
for and on behalf of  
the Chief of the Defence Force

# EXPLANATORY STATEMENT

## Defence Determination 2003/3

This Determination amends Defence Determination 2000/1, Conditions of Service (the Principal Determination), made under section 58B of the *Defence Act 1903* (the Act). Chapter 2 of the Principal Determination sets out provisions dealing with matters relating to salary for members of the Australian Defence Force (ADF).

The purpose of this Determination is to establish a bonus scheme to help retain logistics officers in the Permanent Air Force.

Clause 1 of this Determination sets out the manner in which this Determination may be cited.

This Determination commences on the day on which it is made, as provided by subsection 58B (4) of the Act. However, a deeming provision in new clause 2.2B.5 provides for the period of effective service to begin up to 5 weeks earlier for those members who would have been eligible to sign an undertaking to participate in the bonus scheme from 1 January 2003 had this Determination commenced at that time.

Clause 2 specifies that the amendments are made to the Principal Determination, as amended.

Clause 3 inserts a new Part 2B into the Principal Determination. The new Part contains a scheme to provide officers of the Permanent Air Force who specialise in logistics and who commit to provide 3 years of service in that field, with a retention bonus of \$45,000. New clause 2.2B.3 provides detailed information about which members are eligible to apply to participate in the scheme. Clause 2.2B.4 provides an exclusion for some members to prevent members in the logistics field from transferring into the Air Force from the Navy or Army in order to apply for the bonus.

New clause 2.2B.5 contains a description of the types of service that need to be rendered in order to satisfy the obligation of 3 years service that a member commits to when they sign the undertaking:

- Subclause 2.2B.5 (1) prescribes the date from which the obligation to perform 3 years of service starts. A deeming provision is included so that those members who would have been eligible to begin during the first 3 months of the scheme can be deemed to have done so from the date of first eligibility. This is to ensure that those members who began work at the start of the year are not required to do more than 3 years' service due to the commencement of the new Part at a slightly later date. It also allows those inaugural participants to take time to consider whether they should make a commitment to the scheme, without the added pressure of time passing while they examine the undertaking included in this Determination. These members are not advantaged over later applicants as they were performing the relevant duty in advance of the scheme's actual operation, following 1 January 2003.
- Subclause 2.2B.5 (2) and the following table provide a hierarchy of service obligations that will assist members to calculate the time that it will take them to complete their 3 years' commitment under this bonus scheme.

New clause 2.2B.6 describes the conditions that must be satisfied in order for a member to receive the retention bonus of \$45,000. Given the large amount of money and significant commitment required for the bonus to be paid, new clause 2.2B.7 requires that the Chief of the Defence Force (CDF) have regard to any obstacles to a member's performance of the required 3 years' service. Clause 2.2B.9 provides that in the event that a member fails to complete the required 3 years' service, the gross (ie pre-tax) amount of the bonus is to be repaid to the Commonwealth; a limited list of exemptions is provided in subclause 2.2B.9 (2).

Clause 4 of this Determination inserts a new Schedule 1A to the Principal Determination. Schedule 1A contains the form of undertaking which must be signed by a member wishing to participate in the bonus scheme.

Criteria are provided for the exercise of discretions under the Principal Determination, as amended by this Determination. Adverse decisions are subject to merits review under the ADF redress of grievance system, including an appeal to the Defence Force Ombudsman.

Authority: Section 58B of the  
*Defence Act 1903*