



DEFENCE DETERMINATION 1994/21

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 13 May 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 1994/21.

2. Application and interpretation

2.1 This Determination applies to a member ceasing to be a member on 12 May 1994 by reason of transfer to the Australian Public Service under section 81B of the *Public Service Act 1922*.

2.2 In this Determination a reference to a member ceasing to be a member is to be read as a reference to a member ceasing to be a member by reason of the transfer specified in subclause 2.1.

3. Election not to receive payments

3.1 A member may elect not to be paid the amounts which the member would otherwise be, or have been, entitled to be paid on ceasing to be a member -

- (a) in respect of recreation leave;
- (b) in respect of long service leave; and
- (c) as an allowance in relation to recreation leave bonus.

4. Manner and time of election

4.1 An election may be made under clause 3 at any time until the expiration of 27 May 1994.

4.2 An election under clause 3 must be received no later than 3 June 1994 by the unit responsible for the processing of the member's discharge.

5. Effect of election on recreation leave credit

5.1 A member who makes an election under clause 3 is taken, on ceasing to be a member, to have no entitlement to be credited with recreation leave under clauses 7 to 9 of Determination 2601, Recreation Leave.

EXPLANATORY MEMORANDUM
DEFENCE DETERMINATION 1994/21

Defence Act 1903

This Determination applies to certain members of the Australian Defence Force (ADF) transferred to the Australian Public Service (APS) under section 81B of the *Public Service Act 1922*.

Section 81B deals with transfer of functions to the APS from non-APS employers, and the associated transfer of the staff who perform the functions. Special powers are provided to appoint persons and determine their terms and conditions of employment in the APS. Where such transfers occur, instruments made under section 81B allow a person's leave and related credits from the former employer to be carried across to the APS.

This Determination therefore provides the relevant members with an opportunity to elect to waive entitlements which they would otherwise have had to payment in lieu of recreation leave, recreation leave bonus and long service leave on ceasing ADF service. The entitlements of members who make such an election are fully preserved under section 81B on their transfer to the APS.

Clause 2 of this Determination identifies the members affected and provides an interpretation of the basis on which their ADF service ceases.

Clause 3 provides the election for the members to waive the specified entitlements on cessation.

Clause 4 sets out the dates by which elections are to be made and received.

Clause 5 provides that members who make an election are not entitled to be credited with pro-rata recreation leave for the part year served in the ADF since the last annual leave credit. Such leave is credited to them under section 81B on transfer to the APS.

Authority: Section 58B of the
Defence Act 1903