



DEFENCE DETERMINATION 1996/2

DETERMINATION UNDER THE DEFENCE ACT 1903

I, THOMAS FISHER, Acting 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 14 February 1996

T. FISHER
Acting First Assistant Secretary
Government Authorities and Defence Division
Department of Industrial Relations

1. Citation

1.1 This Determination may be cited as Defence Determination 1996/2.

2. Purpose

2.1 The purpose of this Determination is to assist in the retention of qualified and experienced Air Traffic Controllers.

3. Definitions

3.1 In this Determination:

"approach rating", in relation to a member, means an endorsement as 'P' (proficient) against an Approach Control entry in the member's 'Royal Australian Air Force Air Traffic Control Record of Training and Proficiency';

"period of prospective service" has the same meaning as in Part 8 of the *Military Superannuation and Benefits Act 1991*;

"return of service obligation" has the same meaning as in Part 8 of the *Military Superannuation and Benefits Act 1991*;

"undertaking", in relation to a member, means an undertaking, signed by the member in the form of the Schedule to this Determination, to render a period of continued full-time service of 5 years in the Australian Defence Force.

4. Application

4.1 This Determination applies to a member who:

- (a) is rendering full-time service for which salary is payable;
- (b) meets the medical fitness standards for duty as an Air Traffic Controller in the Australian Defence Force;
- (c) in the opinion of the Chief of the Defence Force, is otherwise suitable for continued service;
- (d) holds the rank of Lieutenant Colonel or a lower rank;
- (e) holds or has held an approach rating; and
- (f) is certified by the Chief of the Defence Force as liable to perform duty as an Air Traffic Controller.

5. Air Traffic Controller retention bonus

5.1 If:

- (a) this Determination applies to a member;
- (b) the member applies in writing for a retention bonus and signs an undertaking; and
- (c) the Chief of the Defence Force approves the member's application,

the member is entitled to a retention bonus of \$70,000.

6. Sufficient remaining service

6.1 The Chief of the Defence Force is not to approve a member's application for a retention bonus unless the Chief of the Defence Force is satisfied that the member is able to fulfil an undertaking, having regard to:

- (a) any period of prospective service or return of service obligation of the member; and
- (b) the retiring age at which the member must cease full-time service.

7. Period of continued service

7.1 A member's undertaking is not binding on any party unless and until the member's application for a retention bonus is approved.

7.2 A member's period of continued full-time service of 5 years under this Determination begins or is taken to have begun, as the case requires, on:

- (a) the day on which the member signs an undertaking; or
- (b) if that day occurs during a period of prospective service or a return of service obligation of the member - the day after the member completes any period of prospective service and any return of service obligation, as the case may be.

7.3 A member's period of continued full-time service of 5 years under this Determination is suspended during:

- (a) a period of prospective service of the member;
- (b) the period for which a return of service obligation applies to the member; and
- (c) a period of more than 21 days' leave without pay granted to the member.

7.4 If a period of continued service of 5 years under this Determination is suspended under subclause 7.3, the period of service recommences on the day after a period referred to in paragraphs 7.3(a), (b) and (c) expires.

8. Repayment

8.1 If a member has been paid an Air Traffic Controller Retention Bonus and ceases, otherwise than by reason of the member's death, medical incapacity, redundancy or retrenchment, to render full-time service before fulfilling the member's undertaking, the member is to repay to the Commonwealth an amount calculated as follows:

\$70,000 x Uncompleted portion of service
1826

where "uncompleted portion of service" means the period in days by which the period, or the sum of the periods, of service rendered by the member in accordance with the member's undertaking falls short of 1826 days.

9. Deduction of amount repayable from final moneys

9.1 Without prejudice to the right of the Commonwealth to recover by other means an amount payable to the Commonwealth under clause 8, that amount may be deducted from any moneys that are, or become, payable to the member under the *Defence Act 1903*.

SCHEDULE

AIR TRAFFIC CONTROLLER RETENTION BONUS

UNDERTAKING TO SERVE

I, _____, for the purposes of Defence Determination 1996/2 undertake to render a period of continued full-time service of 5 years in the Australian Defence Force beginning on or after the date of signature of this undertaking, having regard to the provisions relating to any period of prospective service or return of service obligation as set out in clause 7 of the Determination.

I acknowledge that the provisions of Defence Determination 1996/2 have been brought to my notice and that I fully understand them.

I acknowledge that the period of continued full-time service of 5 years that I undertake to render under Defence Determination 1996/2 will be suspended while I complete any intervening service obligations that may arise under the *Military Superannuation and Benefits Act 1991*, other return of service obligations as defined in that Act, or periods of leave without pay of more than 21 days.

I acknowledge that, under Defence Determination 1996/2, I am liable as specified in that Determination to repay to the Commonwealth part of the gross (ie pre-tax) amount of an Air Traffic Controller Retention Bonus paid to me if I do not complete the period of continued full-time service of 5 years, except by reason of death, medical incapacity, redundancy or retrenchment.

I acknowledge that this undertaking is not binding unless and until my application for an Air Traffic Controller Retention Bonus is approved.

Dated this _____ day of _____ 199

.....
Signed

.....
Witness

Name (printed)

Address

Occupation

EXPLANATORY MEMORANDUM
DEFENCE DETERMINATION 1996/2
Defence Act 1903

This Determination implements a retention bonus for certain qualified and experienced Air Traffic Controllers (ATCs) in the Australian Defence Force (ADF).

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

Clause 2 sets out the purpose of the Determination.

Clause 3 defines certain terms used in the Determination.

Clause 4 sets out the basis on which the Determination applies to a member.

Clause 5 authorises payment of a bonus to an eligible member who meets the specified conditions (including signature of an undertaking, in the form of the Schedule, to render a period of continued full-time service of 5 years in the ADF) and whose application is approved by the Chief of the Defence Force (CDF).

Clause 6 provides that the CDF is not to approve an application unless the CDF is satisfied that the member is able to complete such an undertaking, having regard to any separate service commitments that the member has incurred under Part 8 of the *Military Superannuation and Benefits Act 1991* or in the form of other return of service obligations as defined in Part 8 of that Act, and to the retiring age at which the member must cease full-time service.

Clause 7 sets out the manner in which a member's undertaking for a period of continued full-time service of 5 years under this Determination is to be observed, as follows:

- . subclause 7.1 provides that the undertaking is not binding until approval of a member's application for a retention bonus;
- . subclause 7.2 provides for commencement of the period of continued service;

- . subclause 7.3 provides for the period of continued service to be suspended during the period of any separate service commitments that the member has incurred under Part 8 of the *Military Superannuation and Benefits Act 1991* or in the form of other return of service obligations as defined in Part 8 of that Act, or during a period of more than 21 days' leave without pay; and
- . subclause 7.4 provides for the recommencement of the period of continued service following suspension under subclause 7.3.

Clause 8 creates a liability for pro-rata repayment of the gross (ie pre-tax) amount of retention bonus if a member does not complete the period of continued full-time service of 5 years, except by reason of death, medical incapacity, redundancy or retrenchment. The amount of bonus repayable is in the same proportion as the uncompleted portion of service (in days) bears to a period of 5 years (expressed in days).

Clause 9 authorises deduction of an amount repayable to the Commonwealth from a member's final entitlements.

The Schedule sets out the form of a member's undertaking to render a period of continued full-time service of 5 years in the ADF.

Authority: Section 58B of the
Defence Act 1903