



Defence Determination 2007/8

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

Dated 1 March 2007

S R GRZESKOWIAK
Director General
Personnel Policy and Employment Conditions
Personnel Executive

1 Citation

This Determination is Defence Determination 2007/8, Army - Critical employment category retention bonus.

2 Commencement

This Determination commences on 1 March 2007.

3 Amendment

Defence Determination 2005/15, Conditions of Service, as amended¹, is amended as set out in this Determination.

4 Clause 3.5.2 (Contents)

add at the end

Division 20 Army – Critical employment category retention bonus.

5 Chapter 3 Part 5 Division 19 (Army – Expansion and rank retention and completion bonus)

after the Division, insert

Division 20: Army – Critical employment category retention bonus

3.5.195 Purpose

The purpose of this Division is to offer a retention bonus to encourage retention of members and reduce shortfalls in critical trades in the Army.

3.5.196 Member who is eligible for a retention bonus under this Division

A member is eligible for a bonus if they meet all of the following conditions.

- a. The member is in the Australian Regular Army.
- b. The member is offered a retention bonus.
- c. The member agrees to provide two years of effective service using the form at Annex 3.5.U.

See: Annex 3.5.U, Army – Critical employment category retention bonus

- d. The member is paid salary for a pay grade or a pay category that is described in the following table, and also listed in a Schedule to DFRT Determination No. 6 of 1992, Salaries.

Pay group or grade	Category
Pay group 2	Operator, Petroleum, Grade 1
Pay group 3	Operator, Petroleum, Grade 2
	Operator, Plant, Grade 1
Pay group 4	Manager, Petroleum
	Operator Electronic Warfare
	Operator, Petroleum, Grade 3
	Operator, Plant, Grade 2
	Operator, Plant, Grade 3
	Supervisor, Petroleum
Pay group 5	Assistant Detachment Commander Electronic Warfare
	Detachment Commander Electronic Warfare
	Petroleum, Specialist
	Supervisor, Civil
Pay group 6	Assistant Supervisor Electronic Warfare
	Supervisor Electronic Warfare
Pay group 7	Assistant Manager Electronic Warfare
	Supervisor Electronic Warfare
Pay grade 2	Manager Electronic Warfare
	Petroleum Specialist

3.5.197 Member who is not eligible for a bonus under this Division

A member is not eligible to accept the offer of a bonus under this Division if any of the following circumstances apply to them.

- a. The member is a member of the Reserves. This includes a member of the Reserves serving on continuous full-time service.

- b. The member has undertaken to perform a period of service for the purpose of Division 7, Army completion bonus scheme – various pay categories.
- c. The member has undertaken to perform a period of service for the purpose of Division 19, Army – Expansion and rank retention and completion bonus.
- d. The member has undertaken to perform a period of service for the purpose of a trade transfer retention bonus.
- e. The member will reach compulsory retirement age before the end of the period of service they must undertake in return for the bonus payment and the member has not applied to have their service extended to cover the period of service required for the bonus.
- f. The member's fixed period of service will end before the end of the period of service they must undertake in return for the bonus payment and the member has not applied to have their fixed period of service extended to cover the period of service required for the bonus.

3.5.198 How to accept the offer of a retention bonus

1. An eligible member may accept a bonus under this Division any time after they receive an offer, until the latest of the following dates.
 - a. Ninety days after the day the offer is made.
 - b. If the member was deployed when the offer under paragraph a. was made — the day 90 days after the day the member returns to Australia after a deployment.
 - c. A longer period that either the Chief of Army or the Commanding Officer of the Soldier Career Management Agency decides is reasonable, having regard to the member's circumstances.

Example: The Chief of Army decides to extend a member's ability to accept the offer because the member is deployed for six months in an area where there is no ability to send an acceptance form.

2. An acceptance made under this subclause must be on the application form at Parts A to D of Annex 3.5.U.

See: Annex 3.5.U, Army – Critical employment category retention bonus scheme

3.5.199 Service that counts towards a member's retention bonus

1. The two years' service the member undertakes to perform in return for the retention bonus must be served as effective service.

Note: It will take the member longer than two years to finish their two years of effective service if they spend any time on ineffective service.

2. For the purpose of a retention bonus under this Division, **effective service** means service that meets the following conditions.

- a. It is continuous full-time service in the Australian Regular Army.
- b. It is paid.

Exception: Unpaid leave of less than 21 calendar days.

- c. If it is described in the table in subclause 3, it is counted as effective service in the table.

3. The following table lists a range of leave types and activities and sets out how a period of that leave or activity counts towards a member's two-year period of effective service.

Item	Activity	Effect
1.	Part-time leave without pay.	The unpaid component does not count as effective service.
2.	Leave at full pay. Examples: Recreation leave, long service leave taken at full pay.	All of this leave counts as effective service.
3.	Unpaid leave for less than 21 calendar days. Examples: Leave without pay, maternity leave without pay.	
4.	Leave at half pay. Example: Long service leave at half pay.	Half the period of the leave counts as effective service.
5.	Unpaid leave for 21 calendar days or more. Examples: Leave without pay, maternity leave without pay.	No time spent on these types of leave and activity counts as effective service.
6.	Absence without leave.	
7.	Imprisonment, detention or suspension from duty without pay.	
8.	An undertaking for further service under Part 8 of the <i>Military Superannuation and Benefits Act 1991</i> , as preserved by item 4 of Schedule 4 <i>Defence Legislation Amendment Act (No. 1) 2005</i> .	
9.	A period when the member was discharging an initial minimum period of service, a return of service obligation or another undertaking for further service. Exception: An undertaking for further service associated with a promotion.	

See: Clause 3.5.202, Calculating a pro rata repayment of the retention bonus

3.5.200 Payment of the retention bonus

1. A retention bonus of \$25,000 is payable to an eligible member on receipt of the member's completed acceptance form.
2. A member who joins the scheme must serve in the Army until they complete two years of effective service under this Division.
3. The member's two years of effective service commences from whichever of the following dates is relevant.

- a. If the member is offered a bonus for a period of service commencing on a day – that day.
 - b. The day that any requirement in the following list ceases to apply to the member, if the requirement applied to the member when they accepted a bonus under this Division.
 - i. An undertaking for further service under Part 8 of the *Military Superannuation and Benefits Act 1991* (as preserved by item 4 of Schedule 4 *Defence Legislation Amendment Act (No. 1) 2005*).
 - ii. A return of service obligation.
 - iii. An initial minimum period of service.
4. If the member fails to complete the two years of effective service for a reason not listed in clause 3.5.201, then they must repay a part of the bonus, representing the portion of the two years' effective service that has not been performed, to the Commonwealth.

Example: The member leaves the Army to work in the private sector after doing only 12 months' service in return for the retention bonus. They have not done the last 12 months of service and so must repay a portion of the bonus.

The member must repay \$12,500 of the \$25,000 originally paid.

3.5.201 Reasons for pro rata payment

1. If a member fails to complete their required period of service under a bonus in this Division for any of the following reasons, they will not be required to repay the bonus on a pro rata basis.
 - a. The member ceases to serve in Army for a reason that is beyond the member's control.

Example: The member reaches compulsory retirement age, the end of a fixed period of service, or is terminated because of medical unfitness.
 - b. The member transfers from the Australian Regular Army to the Reserves at Army's initiative.

Authority: Chapter 8 Part 2 Division 2 or 3 of the *Defence (Personnel) Regulations 2002*.

Example: A member reaches compulsory retirement age and leaves the Australian Regular Army after their application to extend service is refused. The member is transferred to the Reserves. The member is eligible for a pro rata bonus.
 - c. The member transfers to another trade as a result of a restructure.
 - d. The member must leave the employment category, trade or pay grade because they are promoted to a higher rank.
2. A member will be required to repay the bonus on a pro rata basis if they fail to complete their required period of service for reasons including, but not limited to, any of the following.
 - a. The member resigns from the Permanent Force.
 - b. The member's service is terminated for disciplinary reasons.
 - c. The member voluntarily changes trade.

3.5.202 Calculating a pro rata repayment of the retention bonus

This table shows how to calculate a pro rata amount of retention bonus repayable to the Commonwealth under subclause 3.5.200.4.

Step	Action
1.	Work out the number of calendar days in this period. a. The period starts on the day the member is taken to start their undertaking to serve under this Division. (See: Clause 3.5.200) b. The period ends on the day before the date the member is entitled to be paid the completion bonus.
2.	Work out the number of days of ineffective service the member did in the period in Step 1.
3.	Subtract the outcome of Step 2 from the outcome of Step 1.
4.	Subtract the outcome of Step 3 from 730.
5.	Divide the outcome of Step 4 by 730. This represents the number of days in two calendar years.
6.	Multiply the outcome of Step 5 by \$25,000.
7.	The member must repay the outcome of Step 6.

Example: A member joins the bonus scheme on 1 March 2008. On 1 February 2009 the member is terminated because of medical unfitness. The member had 25 days of leave without pay in September 2008.

Step	Action
1.	There were 337 calendar days between 1 March 2008 and 31 January 2009.
2.	The 25 days the member was on leave without pay was ineffective service.
3.	337 days minus 25 days = 312 days
4.	730 days minus 312 days = 418 days
5.	418 days divided by 730 days = 0.572603
6.	0.572603 multiplied by \$25,000 = \$14,315.07
7.	The member must repay \$14,315.07.

6 Annex 3.5.T (Army – Expansion and rank retention and completion bonus)

insert at the end

the Annex set out in the Attachment to this Determination.

NOTE

1. Defence Determination 2005/15 commenced on 31 May 2005. For previous amendments see Note to Defence Determination 2007/1 and see also Defence Determinations 2007/2, 3, 4, 5, 6 and 7.

ATTACHMENT

Annex 3.5.U: Army – Critical employment category retention bonus scheme

This form is in four parts.

Part A – provides information about the bonus scheme, and is for you to keep.

Part B – your agreement to serve in the rank for two years.

Part C – your election about how the bonus is paid.

Part D – additional payment information if you choose to pay the money into a superannuation fund.

Part A: Information about the retention bonus scheme

This Part provides information about the retention bonus scheme, and is for you to keep.

I am accepting an offer made to me under the Army – Critical employment category retention bonus scheme. This is authorised under Chapter 3 Part 5 Division 20 of Defence Determination 2005/15, Conditions of Service, made under section 58B of the *Defence Act 1903* ('the Determination').

I understand that my acceptance of this retention bonus is subject to the following terms and conditions.

1. I meet the requirements to be eligible to accept a bonus under the Determination.
2. If I have less than two years to serve in the Army I cannot accept a retention bonus, unless I also apply to extend my fixed period of service or my compulsory retirement age.
3. I will be paid a \$25,000 retention bonus on joining the scheme.
4. I must serve two years of effective service if I accept the offer of a retention bonus under this Division.
5. If I leave Army for a reason within my control, I may have to repay a part of the bonus.
6. I may not be asked to repay part of the bonus if I do not complete the two years' service for a reason beyond my control. Examples are if I transfer out of the rank I am in for Service reasons; am retrenched or made redundant; reach the end of a fixed period of service or compulsory retirement age; am discharged for medical reasons; or die.
7. If I start to serve an undertaking for further service under Part 8 of the *Military Superannuation and Benefits Act 1991* (as preserved by item 4 of Schedule 4 of the *Defence Legislation Amendment Act (No. 1) 2005*) ('an MSBS undertaking') before I finish the retention bonus, I may not finish my two-years of service for the retention bonus until after I have completed the MSBS undertaking.
8. If I start to serve an MSBS undertaking for further service after I have accepted the offer of a completion bonus, I will have to complete my two years' service after I finish my MSBS undertaking for further service.
9. I may elect to pay the scheme payments into a superannuation fund using the forms provided at Parts C and D.
10. Effective service for the retention bonus is continuous full-time service for which salary is paid. Leave or other events may not be effective service and may reduce my amount of retention bonus. The table in subclause 3.5.199.3 of the Determination shows what counts as effective service.

Full details of the completion bonus scheme are contained in Chapter 3 Part 5 Division 19 of Defence Determination 2005/15, Conditions of Service.

This acceptance form, and the related parts of Defence Determination 2005/15, is the whole agreement between us about the nature of this scheme. It overrides any other prior understanding or agreement about the scheme. This would include, for instance, things I may have been told about the scheme or things I may have read elsewhere.

Part B: Undertaking to serve two years for a retention bonus

I,.....
 (Rank) (Last name) (Given name)
 ,
 (Service number) (Employee ID)

accept the offer to join the Army – Critical employment category retention bonus scheme.

I agree to serve in the Australian Regular Army for two years.

I acknowledge that the provisions of Chapter 3 Part 5 Division 20 of Defence Determination 2005/15, Conditions of Service ('the Determination'), have been brought to my notice.

Please tick the boxes that apply below.

I have read and understood Part A of this form. Yes [] No []

I have completed the options for payment (see Parts C and D of this form.) Yes [] No []

I have applied to extend my fixed period of service, or have sought extension of my compulsory retirement age beyond the period of service required for the bonus. Yes [] No []

[] This is my first acceptance of a place in the scheme.

[] I am not currently in receipt of any other retention or completion bonus.

[] I am required to serve under these other bonus schemes before I serve my two years for this bonus:

(List any other bonus schemes).....

Dated this day of 20

 Signed

 Printed name

Witness
(This person must not be below the applicant in the chain of command)

 Signed

 Printed name

I,

 (Rank) (Last name) (Given name) (Employee ID)

verify that the member has met all requirements for payment of the retention bonus.

 Approved

Part C: Payment details

.....
(Rank) (Last name) (Given name) (Employee ID)

This form must be submitted along with the acknowledgment and undertaking to serve form (Parts A, B and C).

There are three options for payment.

- Option one: Paid into the member's normal pay account. The amounts will be taxed at the applicable tax rate at the time of payment.
- Option two: As an employer contribution to superannuation. This election is made once, but you will later be able to vary this election.
- Option three: As a combination of these.

All members are strongly advised to seek professional financial advice when making this decision. ADF members are not qualified to provide this advice.

Retention bonus payment

I choose this payment method for my retention bonus:

- Option one:** [] Paid into my normal pay account. The amounts will be taxed at the applicable tax rate at the time of payment.
- Option two:** [] The full amount paid as an employer contribution to superannuation. I have nominated a superannuation fund in Part D of this form.
- Option three:** []
 1. _____% of the bonus payment as an employer contribution to superannuation. I have nominated a superannuation fund in Part D of this form.
 2. The balance of the amount paid into my normal pay account. These will be taxed at the applicable tax rate.

*Tick one box. Only select **one** of the options.*

EXPLANATORY STATEMENT

Defence Determination 2007/8

This Determination amends Defence Determination 2005/15, Conditions of Service (the Principal Determination), made under section 58B of the Defence Act 1903 (the Act). Chapter 3 of the Principal Determination sets out provisions dealing with salaries and bonuses for members of the Australian Defence Force (ADF).

This Determination provides for a retention bonus scheme for members of Army in critical employment categories. The payment is designed to encourage members to stay in their employment category for two years.

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

Clause 2 provides that the Determination commences on 1 March 2007.

Clause 3 specifies that the amendment is made to the Principal Determination, as amended.

Clause 4 inserts a new item in clause 3.5.2 of the Principal Determination, to advise of a new Division 20 in the contents of Chapter 3 Part 5.

Clause 5 inserts new Division 20, Army – Critical category retention bonus. The new Division has these features.

- Clause 3.5.195 outlines the purpose of the Determination.
- Clause 3.5.196 outlines the members eligible for the retention bonus under the Division, including the list of employment categories for which a member may be offered a bonus. The retention bonus is \$25,000 and is paid to eligible members who complete two years' effective service in the specified rank or a higher rank in Army.
- Clause 3.5.197 describes classes of members who are not eligible to accept the offer of a bonus under the Division. These classes are those who are already in receipt of another bonus, who are in the Reserves or who are unable to serve for the period of the bonus.
- Clause 3.5.198 provides the process for application. Under this Division, applications take the form of acceptance of an offer made to a member who meets the broad eligibility conditions for the bonus. A member has 90 days to respond to an offer, or a longer period where the Commanding Officer of the Soldier Career Management Agency decides there are special circumstances that prevent earlier acceptance. Once received, service under the bonus schemes is measured from specified days, which may predate the date of the acceptance. This means a soldier will not be disadvantaged if they take time to consider the offer.
- Clause 3.5.199 provides for a \$25,000 retention payment to be made in recognition of the member's commitment to serve under the Division. It also provides that members who do not complete their two years of effective service must repay a part of the bonus, in some circumstances.
- Clause 3.5.200 sets out the circumstances in which members do not have to repay any part of the retention bonus if they leave the bonus scheme before they have completed their undertaking to give two years of effective service.
- Clauses 3.5.201 describes how the retention bonus repayment may be calculated.

Clause 6 inserts a new Annex 3.5.U in the Principal Determination. This Annex provides a suite of forms for the administration of 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