



Defence Determination 2007/9

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 9 March 2007

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

1 Citation

This Determination is Defence Determination 2007/9, Army bonuses – amendment.

2 Commencement

This Determination commences on the day it is signed.

3 Amendment

Defence Determination 2005/15, Conditions of Service, as amended,¹ is amended as set out in this Determination.

4 Clause 3.5.193 (Calculating a pro rata amount of the one-year retention bonus)

substitute

The following table shows how to calculate a pro rata amount of retention bonus repayable to the Commonwealth under subclause 3.5.189.4.

| Step | Action |
|-------------|--|
| 1. | Add up all the days of service the member has done since their one-year undertaking to serve under this Division began. (See: Subclause 3.5.189.2), up to the day the member ceased to serve in this scheme for a reason not listed in clause 3.5.191. |
| 2. | Subtract any days that were spent performing an undertaking for further service under the Military Superannuation and Benefits scheme or on a return of service obligation from the outcome of Step 1. |
| 3. | Subtract the outcome of Step 2 from 365. (The number 365 represents the number of days in one year). If February 29 occurs during the period in Step 1, then subtract the outcome of Step 2 from 366. |
| 4. | Divide the outcome of Step 3 by 365. (Again, use 366 if the one-year period covers February 29). |
| 5. | Multiply the outcome of Step 4 by the total amount of the bonus. |
| 6. | The member must repay the outcome of Step 5. |

Example: A member joins the bonus scheme on 1 March 2008 and gets a bonus of \$10,000. On 30 April 2008 the member leaves the Army to take a job in the private sector.

| Step | Action |
|-------------|--|
| 1. | There were 61 calendar days between 1 March 2008 and 30 April 2009. |
| 2. | The member didn't have an undertaking for further service under the Military Superannuation and Benefits scheme or a return of service obligation, so no days are subtracted from the 61 days. |
| 3. | 365 days minus 61 days = 304 days |
| 4. | 304 days divided by 365 days = 0.8328767123 |
| 5. | 0.8328767123 multiplied by \$10,000 = \$8,328.76 |
| 6. | The member must repay \$8,328.76. |

5 Subclause 3.5.200.4 (Payment of retention bonus)

omit

clause 3.5.201

insert

subclause 3.5.201.1

6 Clause 3.5.202 (Calculating a pro rata repayment of the retention bonus)

substitute

The following 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 the following period. a. The period starts on the day the member is taken to start their undertaking to serve under this Division. (See: Subclause 3.5.200.3) b. The period ends on the day the member ceases to serve under this Division, for a reason not listed in subclause 3.5.201.1. |
| 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. The outcome shows the number of days of effective service the member did for in return for the retention bonus. |
| 4. | Subtract the outcome of Step 3 from 730. (The number 730 represents the number of days in two calendar years). If February 29 occurs during the period in Step 1, then subtract the outcome of Step 2 from 731. The outcome shows the part of the service period that the member has not performed in return for the retention bonus. |
| 5. | Divide the outcome of Step 3 by 730. The outcome of this Step shows the size of the part of the bonus that the member must repay. |
| 6. | Multiply the outcome of Step 5 by the total amount of the bonus. |
| 7. | The member must repay the outcome of Step 6. |

Example: A member joins the bonus scheme on 1 March 2008 and gets a bonus of \$25,000. On 1 February 2009 the member leaves Army to take a job in the private sector. 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. |

7 Part C of Annex 3.5.T (Undertaking to serve an additional three years' effective service for a completion bonus)

omit

two

insert

three

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, 7 and 8.

EXPLANATORY STATEMENT

Defence Determination 2007/9

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 retention and completion bonuses for members of the Australian Defence Force (ADF).

The purpose of this Determination is to make amendments to two bonus schemes, inserted into the Principal Determination by Defence Determination 2007/7, Army - Expansion and rank retention and completion bonus, and 2007/8 Army – Critical category retention bonus, respectively.

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

Clause 2 of this Determination provides that the Determination commences on the day on which it is made, as provided by subsection 58B(4) of the Act.

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

Clauses 4 and 6 substitute a clause 3.5.193 and clause 3.5.202 of the Principal Determination, respectively. The replacement clauses correct the method for calculating an amount of repayment under a retention bonus. The method originally determined in Defence Determinations 2007/7 and 2007/8 refers to a completion bonus and so cannot be applied to calculate a repayment. The method is explanatory and supplements the principle for repayment set down in clauses 3.5.189 and 3.5.200 of the Principal Determination, so this amendment does not alter the rules for repayment set out for the retention bonuses. The replacement methods now include clearer verbal descriptions to assist members and administrators to understand the significance of each step in calculation.

Clause 5 amends a cross reference in subclause 3.5.200.4 of the Principal Determination. This amendment specifies more precisely the list of reasons for which a repayment will not be required from a member who leaves the Army – Critical category retention bonus scheme.

Clause 7 corrects a numbering error in Part C of the acceptance form at Annex 3.5.T of the Principal Determination. Part C of the form is the acceptance for the Army expansion and rank completion bonus. This amendment does not alter the member's obligation to serve as a member of the ADF but is necessary to ensure members have the correct information before they sign the form. Members have not yet been given their offers for the completion bonus and so no one has relied upon the form prior to its amendment.

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