

Connelly, Phillip MR

From: DL.GeneralCounsel
Sent: Thursday, 11 August 2011 11:40 AM
To: Garewal, Singh MR; Redston, Peter MR
Cc: Sneath, Fiona CMDR; Lloyd, David DR
Subject: RE: Request for advice in relation to the MSB Retention Benefit [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good morning,

Forwarding the advice below on behalf of Lyn Ross and Keith Kaney.

Many thanks for your request for advice in relation to the MSB Retention Benefit.

In relation to your first question, the Office of General Counsel notes that DMJ provided advice on this issue to the relevant CO. It would not be appropriate for this Office to second guess that advice as they are a part of Defence Legal. However, on its face, we note that their conclusion is consistent with the beneficial nature of the retention benefit scheme and thus within the range of legal advice that could be expected. This is a matter that could, along with other problems with this benefit, be clarified by a simple amendment if the retention benefit was revived into actual legislation (as opposed to existing as a notional regime under a transitional provision).

In relation to your second question, is there a specific individual that you are talking about? If the question is tied to the individual who is the subject matter of the first question, then it does not need to be considered given the previous conclusion by Defence Legal. However, as a general rule it would, as a matter of policy, generally be nonsensical to declare a person who had already completed more than 15 years of eligible service to be become an eligible person under paragraph 30(1)(f). To make this work under most scenarios would require distorting the provisions. However, this is another issue that could be clarified by a simple amendment if the retention benefit was revived into actual legislation.

We apologise that we could not be of further assistance.

Cheers

Lynne Ross
Director Legislation
Defence General Counsel
Phone 62662166 Mob [REDACTED]

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From: Garewal, Singh MR
Sent: Friday, 24 June 2011 14:51

2/08/2012

To: DL.GeneralCounsel
Subject: Request for advice [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good Afternoon

Please see attached request for advice on a matter related to the MSB Act. If you wish to ask any questions in this matter please give me a call.

Regards

Singh Garewal
A/Director Personnel Policy Reform
Phone: 02 - 6127 2539

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2/08/2012