Defence Determination 1998/24

I, NICHOLAS JEFFERSON FORD, Director General Financial Conditions, Defence Personnel Executive, Department of Defence, acting under a delegation made by the Minister for Workplace Relations and Small Business under regulation 72A of the Defence Force Regulations, make the following Determination under section 58B of the *Defence Act 1903*.

Dated 30 June 1998

N.J. FORD
Air Commodore
Director General Financial Conditions
Defence Personnel Executive
Department of Defence

[ref140]
1. Citation
1.1 This Determination may be cited as Defence Determination 1998/24, Ready Reserve Annual Commitment Bonus (Amendment).

[NOTE: This Determination commences on the day on which it is made: see Defence Act 1903, subsection 58B(4).]

2. Amendment
2.1 Defence Determination 1991/123 is amended as set out in this Determination.

3. New clause 1A
3.1 After clause 1, insert:

Definition

“1A. In this Determination, ‘relevant day’, in relation to a member, means:

(a) the anniversary of the member’s enlistment in the Reserve Forces; or

(b) the day on which the further period approved under paragraph 3.1(b) expires,

as the case requires.”.

4. Clause 2 (Application)
4.1 Omit the clause, substitute:

Application

“2. This Determination applies to:

(a) a member of the Reserve Forces who has been engaged for a period of five years in the Ready Reserve; and

(b) a member or former member to whom clause 4 or 5 applies.”.

5. Clause 3 (Payment of Bonus)
5.1 Paragraph 3.1(a):
After “member’s enlistment”, insert “in the Reserve Forces”.

5.2 Subclause 3.1:
Omit “anniversary or the expiration of the further period, as the case may be,”, substitute “relevant day”.

5.3 Subclause 3.3:
Omit “Reserve” (twice occurring), substitute “Reserve Forces”.
6. **New clauses 4 and 5**

6.1 Add at the end:

**Preservation of entitlement to final bonus payment on joining Permanent Forces**

"4.1 If a member to whom this Determination applies:

(a) would meet the eligibility conditions specified in clause 3 for payment of a bonus of $1,500 for service in the Reserve Forces during a year, except that the member is not entitled to the bonus by reason only that the member is not a member of the Reserve Forces on the relevant day;

(b) is transferred, without a break in the continuity of the member’s service, from the Reserve Forces to the Permanent Forces before that day; and

(c) is a member of the Permanent Forces on that day,

the member is entitled on that day to payment of the bonus as if the member had not been transferred from the Reserve Forces to the Permanent Forces before that day.

**Transitional**

"5.1 If, during the relevant period, a member or former member of the Permanent Forces was not entitled to payment of a bonus of $1,500 by reason only of a transfer of the kind specified in clause 4, that clause is taken to apply to the member as if the clause had been in force during the whole of that period.

"5.2 In this clause, ‘relevant period’ means the period beginning on 19 December 1991 and ending on the day before the commencement of Defence Determination 1998/24, Ready Reserve Annual Commitment Bonus (Amendment)."."
EXPLANATORY STATEMENT

Defence Determination 1998/24

Defence Act 1903

Defence Determination 1991/123 (the Principal Determination) provides for the payment of an annual bonus of $1,500 to Reserve Force members in the Ready Reserve on the anniversary date of the member’s enlistment in the Reserve (or, if applicable, the day on which a further period as approved in writing expires), subject to the member fulfilling service obligations and meeting certain physical fitness and trade proficiency standards.

The main purpose of the amendments is to preserve a member’s entitlement to a bonus payment where, in a year in which the member qualifies for the bonus, the member directly transfers to the Permanent Forces before the day on which the member would otherwise have become entitled to payment of the bonus, and is still a member on that day.

The amendment corrects a recently identified deficiency in the application of the Principal Determination, in that it did not provide for payment of the bonus to otherwise eligible members who were still in the Australian Defence Force, although not Reserve members, on the date of their anniversary of enlistment or the expiration of a further period, as the case may be. An unintended consequence of an eligible member transferring to the Permanent Forces in these circumstances is the loss of entitlement to payment of the bonus.

The need for this amendment became clear in late 1997, following the closure of the Ready Reserve element of the Reserve Forces to new recruits, and a resulting increase in the number of members transferring to the Permanent Forces. Some of these members had qualified for payment of the bonus but were transferred prior to the day on which they would be entitled to the bonus. Further, the possibility has been recognised that other members in the same situation may have transferred to the Permanent Forces in the period since the Principal Determination commenced; such members would also not be entitled to payment of the bonus.

Therefore, on equity grounds, the transitional provision extends the application of the preservation provision to any member or former member who may not have been entitled to the bonus in the same circumstances during a transitional period commencing on 19 December 1991 (the day on which the Principal Determination was made) and ending on the day before this Determination commences.

Clause 3 inserts a new provision which defines “relevant day”, the day on which the entitlement to the bonus arises.
Clause 4 amends a provision which specifies the members to whom the Principal Determination applies, by including a reference to those members or former members to whom new clause 4 or 5 applies.

Clause 5 amends a provision specifying the conditions under which the bonus is paid, and the day on which the entitlement to the bonus arises, by substituting a reference to the “relevant day” for references to a member’s anniversary day or a day on which a further approved period of service expires. Clause 5 also makes minor drafting amendments.

Clause 6 inserts new clauses 4 and 5, which respectively:

- specify the conditions under which a member’s entitlement to a bonus payment for Reserve service in a year is preserved; and
- set out a transitional arrangement extending the application of clause 4 to eligible members or former members (if any) for the specified transitional period.

This Determination commences on the day on which it is made, as provided by subsection 58B(4) of the Defence Act 1903.

Authority: Section 58B of the Defence Act 1903