



**Determination No.1 of 1988 under Section 52 of the
Defence Act 1903**

**Defence Force (Superannuation Interim
Arrangement) Determination**

I, ROSLYN JOAN KELLY, the Minister of State for Defence Science and Personnel, hereby make the following Determination under section 52 of the *Defence Act 1903*.

Dated 12 July 1988.

R. KELLY
Minister of State for Defence Science
and Personnel

Citation

1. This Determination may be cited as the Defence Force (Superannuation Interim Arrangement) Determination.

Commencement

2. This Determination shall be deemed to have commenced on 1 January 1988.

Interpretation

3. (1) In this Determination, unless the contrary intention appears:
"annual rate of pay", in relation to a member:

- (a) in relation to a period when the member is on long service leave on half pay—means half the rate which would have been the rate applicable to the member if paragraph (b) had applied to the member; or
- (b) in any other case—has the same meaning as in the *Defence Force Retirement and Death Benefits Act 1973*;

"approved deposit fund" has the same meaning as in the Standards Act;

"authorised person" means the person holding or performing the duties of the office of First Assistant Secretary Resources and Financial

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Programs, Assistant Secretary Service Pay Accounting and Systems
or Director Defence Force Pay in the Department;

"effective service" means service other than non-effective service;

"interim benefit" means an interim superannuation benefit payable in
accordance with this Determination;

"member" means:

(a) a member of the Permanent Forces; or

(b) a member of the Reserve Forces or the Emergency Forces
who is rendering continuous full time naval, military or air
force service;

"non-effective service", in relation to a member, means a period that,
under clause 4, is deemed to be a period of non-effective service in
relation to the member;

"pay period", in relation to a person who is, or has been, a member,
means a fortnightly period in respect of which the person would
ordinarily receive salary;

"service offence" has the same meaning as in the *Defence Force Discipline*
Act 1982;

"Standards Act" means the *Occupational Superannuation Standards*
Act 1987;

"superannuation fund" has the same meaning as in the Standards Act.

(2) A reference in this Determination to a member who retires shall be
read as a reference to a member who ceases to render continuous full time
naval, military or air force service.

(3) For the purposes of this clause and clause 5 a member who is
rendering continuous full time service shall not be deemed to have ceased
to render continuous full time service during any period that is deemed by
clause 4 to be a period of non-effective service in relation to the member.

(4) Where a member retires and, without a break in the continuity of his
or her service, again becomes a member who is rendering continuous full
time service, the member shall, for the purposes of this Determination, be
deemed not to have retired.

Non-effective service

4. (1) Where a member was on leave of absence without pay for a
period, the period shall be deemed to be a period of non-effective service in
relation to the member.

(2) Where:

(a) the salary and allowances of a member in respect of a period were
forfeited, in whole or in part, under regulations made under the
Defence Act 1903; and

..

(b) an amount equal to the amount of the salary and allowances forfeited was not subsequently paid, and is not payable, under those regulations to the member;
the period shall be deemed to be a period of non-effective service in relation to the member.

(3) Where:

- (a) a member was in custody under the *Defence Force Discipline Act 1982* awaiting or undergoing trial for a service offence;
- (b) the member was subsequently convicted of the offence or another service offence at the trial; and
- (c) either of the following sub-paragraphs apply:
 - (i) the conviction was not quashed or set aside;
 - (ii) the conviction was quashed or set aside and:
 - (A) a conviction for another service offence was substituted; or
 - (B) the member was ordered to be tried again for the offence of which the member was convicted, or for another service offence, and was convicted of a service offence at the subsequent trial;

the period shall be deemed to be a period of non-effective service in relation to the member.

Minimum Qualifying Service

5. An interim benefit is not payable in respect of a member unless, at the time when that benefit would be payable in respect of the member, the member has completed at least 3 months continuous full time service, whether or not that service commenced before the commencement of this clause.

When Benefit Payable

6. (1) Subject to clause 5, where, on or after 1 January 1988, a member retires or dies, an interim superannuation benefit becomes payable in respect of the person.

(2) Where:

- (a) an interim benefit is payable in respect of a person because the person retired:
 - (i) on or after attaining the prescribed age for his or her retirement; or
 - (ii) on the ground of invalidity or of physical or mental incapacity to perform his or her duties; or
 - (b) the amount of the benefit is less than \$500;
- the benefit is payable to the person at the time when the benefit becomes payable in respect of the person.

(3) For the purposes of subparagraph (2) (a) (i):

- (a) where the prescribed age for a person's retirement:
 - (i) is extended; or
 - (ii) is changed by the operation of subregulation 124 (6) of the Australian Military Regulations;
the person's prescribed age for retirement is his or her prescribed age for retirement before that extension or change; and
- (b) where an officer of the Permanent Naval Forces is transferred to the Emergency List of Officers and continues to render continuous full time service without a break in the continuity of that service, the person's prescribed age for retirement is his or her prescribed age for retirement before that transfer.

(4) Where an interim benefit is payable in respect of a person following the death of the person, the benefit shall be paid to the person's personal representative.

(5) Where:

- (a) an interim benefit becomes payable in respect of a person otherwise than in the circumstances mentioned in subclause (2) or (4); and
 - (b) the person is about to leave Australia permanently;
- the benefit is payable to the person.

(6) Where an interim benefit becomes payable in respect of a person otherwise than in the circumstances mentioned in subclause (2), (4) or (5), the benefit shall be preserved in accordance with subclause (7) until:

- (a) the person retires from the workforce after attaining the age of 55 years;
- (b) the person retires from the workforce before attaining the age of 55 years on the ground of permanent incapacity or permanent invalidity;
- (c) the person leaves Australia permanently;
- (d) the person dies; or
- (e) such other circumstances (if any) as the Insurance and Superannuation Commissioner approves prevail.

(7) An interim benefit payable in respect of a person that is required by subclause (6) to be preserved shall:

- (a) be paid to, for preservation in relation to the person:
 - (i) a superannuation fund nominated by the person, being a superannuation fund of which the person is, or intends to become, a member and that is required to preserve superannuation benefits in accordance with standards prescribed by regulations under the Standards Act;

- (ii) an approved deposit fund nominated by the person, being a fund that is required to preserve superannuation benefits in accordance with standards prescribed by those regulations; or
- (iii) a deferred annuity nominated by the person, being an annuity that cannot be surrendered or assigned before the person attains the age of 55 years and that does not pay benefits except in the circumstances mentioned in subclause (6); or
- (b) if the person does not make such a nomination within 2 months after the benefit becomes payable in respect of the person—be paid to such a superannuation fund or approved deposit fund nominated by an authorised person.

(8) An authorised person may, before paying an interim benefit to a person, seek evidence as to the circumstances in which that benefit becomes payable to the person under this Determination.

Accrual of interim benefit

7. (1) An interim benefit in respect of a member accrues in respect of continuous full time service in the Defence Force rendered by the member on or after 1 January 1988.

(2) An interim benefit does not accrue in respect of service of a member that is non-effective service.

Amount of interim benefit

8. (1) This clause applies in respect of service rendered by a member in 1988.

(2) Where, in a pay period, a member renders 14 days effective service, then, subject to subclause (6), the amount of interim benefit (exclusive of interest) to be credited to that member in respect of that pay period shall be calculated in accordance with the formula:

$$\frac{14 \times \mathbf{ARP}}{365} \times \frac{3}{200}$$

where **ARP** is the annual rate of pay applicable to the member.

(3) Where, in a pay period, a member renders a period of effective service of less than 14 days, then, subject to subclause (6), the amount of interim benefit (exclusive of interest) to be credited to that member in respect of that pay period shall be calculated in accordance with the formula:.

$$\frac{\mathbf{B} \times \mathbf{D}}{14}$$

where:

B is the amount of benefit in respect of a member in respect of the pay period ascertained in accordance with the formula specified in subclause (2); and

D is the number of days of effective service in the pay period.

(4) Where, in a pay period, a member renders 14 days effective service, then, subject to subclause (6), the amount of interim benefit (being interest) to be credited to that member in respect of that pay period shall be calculated in accordance with the formula:

$$\frac{\mathbf{B} \times 0.1286 \times 14}{365}$$

where **B** is the amount of benefit (including interest) that has accrued in respect of the member immediately before the commencement of the pay period.

(5) Where, in a pay period, a member renders a period of effective service of less than 14 days, then, subject to subclause (6), the amount of interim benefit (being interest) to be credited to that member in respect of that pay period shall be calculated in accordance with the formula:

$$\frac{\mathbf{B} \times \mathbf{D} \times 0.1286}{365}$$

where:

B is the amount of benefit (including interest) that has accrued in respect of the member immediately before the commencement of the pay period; and

D is the number of days of effective service in the pay period.

(6) Where an amount ascertained in accordance with subclause (2), (3), (4) or (5) includes a fraction of a cent:

- (a) if the fraction is one-half or greater, the amount shall be deemed to be increased by one cent; or
- (b) if the fraction is less than one-half, the fraction shall be disregarded.

(7) Where an interim benefit becomes payable in respect of a person, the amount of that benefit is the sum of the amounts credited to that person under this clause.

Assignment of interim benefit

9. An interim benefit is not capable of being assigned or charged.