

Defence Act 1903

**Determination No 3 of 1992 under Section 52 of the
Defence Act 1903**

I, Gordon Neil BILNEY, the Minister of State for Defence Science and Personnel,
hereby make the following Determination under section 52 of the Defence Act 1903.

Dated This eighteenth day of July 1992

Gordon Bilney

Minister of State for Defence Science and Personnel

1. Amendment

1.1 The Defence Force (Superannuation Interim Arrangement) Determination is amended as set out in this Determination.

2. Title

2.1 Omit "(Superannuation Interim Arrangement)", substitute "(Superannuation) (Productivity Benefit)".

3. Clause 3 (Interpretation)

3.1 Omit definition of "authorised person", substitute:

"'Commissioner' means the person who for the time being:

(a) holds the office of; or

(b) is acting as;

Commissioner for Superannuation under Part II of the Superannuation Act 1976;".

4. Clause 4(Non-effective service)

4.1 Subclause (1):

After "a period", insert "exceeding 21 consecutive days".

4.2 Subclause (2):
After paragraph (a), insert:

"and (aa) the period exceeded 21 consecutive days; and".

4.3 Subclause (3):
After paragraph (a), insert:

"and (aa) the period for which the member was in custody awaiting or undergoing trial exceeded 21 consecutive days; and".

5. Clause 6(When benefit payable)

5.1 Subclause (2):
Omit the subclause, substitute:

"(2) Where on a member's retirement, a productivity benefit is payable in respect of the person and:

- (a) the person:
 - (i) has reached the age of 55 years and has retired from the workforce;
or
 - (ii) has not reached the age of 55 years and is retired from the workforce on the ground of permanent incapacity or permanent invalidity; or
 - (iii) is about to leave Australia permanently; or
- (b) the amount of the benefit is an amount to which the preservation standards set out in the Occupational Superannuation Standards Regulations do not apply;

the benefit is payable to the person at the time when the benefit becomes payable in respect of the person.

"(2A) A benefit is not payable to a person in the circumstances described in subparagraph (2)(a)(ii) unless the Commissioner is satisfied that the person is unlikely ever to be able to work again in employment for which the person is reasonably qualified by education, training or experience or for which the person could reasonably be qualified after retraining.

"(2B) In making a decision under subclause (2A), the Commissioner is to have regard to at least 2 certificates, each signed by a registered medical practitioner, giving the opinion of the practitioner of the likelihood of the person being ever be able to work again in employment for which the person is reasonably qualified by education, training or experience or for which the person could reasonably be qualified after retraining.".

5.2 Subclause (3):
Omit the subclause.

5.3 Subclause (5):
Omit the subclause.

5.4 Subclause (6):
Omit "otherwise than in the circumstances mentioned in subclause (2), (4) or (5)",
substitute "and is not payable under subclause (2) or (4)".

5.5 Subclause (7):
Omit "an authorised person", substitute "the Commissioner".

5.6 Subclause (8):
Omit "An authorised person", substitute "The Commissioner".

6. Clause 8A (Amount of productivity benefit after 1988)

6.1 Subclause (4):
Omit "effective".

6.2 Subclause (5):
Omit "effective".

7. New clause 8C

7.1 After clause 8B, insert:

Interest payable where payment of benefit delayed

"8C. (1) Where a productivity benefit is payable to a person and the payment of the benefit is delayed, the Commissioner may, in accordance with this clause, approve an increase, by an amount of interest, in the amount of the benefit payable to the person.

"(2) Interest applicable under this clause is calculated in such manner as the Commissioner determines in respect of the period of the delay."

8. Other amendments

8.1 The Determination is amended as set out in the Schedule.

SCHEDULE

OTHER AMENDMENTS

1. Clause 1

1.1 Omit "(Superannuation Interim Arrangement)", substitute "(Superannuation) (Productivity Benefit)".

2. Clause 3

2.1 Subclause (1):
Omit definition of "interim benefit".

2.2 Subclause (1):
After definition of "pay period", insert:

"'productivity benefit' means a productivity superannuation benefit payable in accordance with this Determination;"

3. Clause 6

3.1 Subclause (6):
Omit paragraph (a), substitute:

"(a) the person has attained the age of 55 years and has retired from the workforce;"

4. General amendments

4.1 In each of the following provisions, omit "interim", substitute "productivity":

Subclause	8(2)	Subclause	8A(2)
	8(3)		8A(3)
	8(4)		8A(4)
	8(5)		8A(5)

4.2 In each of the following provisions, omit "An interim", substitute "A productivity":

Clause	5	Subclause	7(2)
Subclause	6(7)	Clause	9
	7(1)		

4.3 In each of the following provisions, omit "an interim", substitute "a productivity":

Subclause	6(1)	Subclause	6(6)
	6(2)		6(8)
	6(4)	Clause	8B
	6(5)		10

4.4 Omit from clause 10 "that interim", substitute "that productivity".
