

Defence Force Retirement and Death Benefits Scheme

THE GROSS REDUCTION OF BENEFITS

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About the Author

The author is a retired Warrant Office Class 1 who served for 20 years in the Australian Army. He is a systems and database analyst who has, since his departure from the Defence Force in 1983, conducted an IT consultancy business.

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Attachments:

1. DFRDB Scheme “Retirement Benefits” Pamphlet, dated December 1981
2. DFRDB Scheme “Widows’, Widowers’ and Children’s Benefits” Pamphlet, dated 1984
3. DFRDB Scheme “Retirement Benefits” Pamphlet, dated January 1985
4. Letter from Robert McKeller to Jim Hislop dated 15 Sep 2015
5. Letter from Robert McKeller to Herb Ellerbock dated 15 Sep 2015
6. Letter from Lisa Arnold to Steve Irons MP dated 31 May 2016
7. Email from Tamara Srhoj to Ross Grant dated 21 Dec 2016

The Honourable Daniel Tehan MP
Minister for Veterans' Affairs
Minister for Defence Personnel
Minister Assisting the Prime Minister for the Centenary of ANZAC
Minister Assisting the Prime Minister for Cyber Security
Parliament House
CANBERRA ACT 2600

16 February 2017

Dear Minister,

This submission exposes a gross reduction and denial of recipient benefits in the Defence Force Retirement and Death Benefits (DFRDB) scheme. Some aspects apply equally to recipients in the Defence Force Retirement Benefits (DFRB) scheme.

A Joint Select Parliamentary Committee set down the provisions of our superannuation scheme and these were accepted by the Parliament. Yet, faceless bureaucrats have been permitted to place their own interpretation on those provisions and incorporate, in the governing legislation, clandestine provisions which have brought about this gross reduction and denial of our benefits.

Successive Governments, including yours, have seized on the opportunity and have been content to continue to sacrifice our benefits to the budget bottom line.

When we enlisted in the Defence Force;

- we gave up our personal freedom,
- we subjected ourselves to military law and discipline,
- we committed to the regular upheaval and relocation of our families,
- we understood we would have difficulty establishing a permanent home,
- we endured long periods of separation from our families and friends and
- we accepted that a real outcome of our service to our country could be serious injury, permanent incapacity and the loss of our lives.

That is what is commonly referred to as the *unique* nature of military service. It is what sets us apart.

We want our rightful benefits that have been taken from us to be restored and the legislation, which will continue to deny our rightful benefits for our remaining days, to be amended.

Yours sincerely,



(H F Ellerbock)

On behalf of DFRDB and DFRB recipients.

EXECUTIVE SUMMARY

Introduction

The Defence Force Retirement and Death Benefits (DFRDB) scheme came into operation in 1973 and was closed to new members in 1991. This scheme still provides superannuation benefits for some 53,000 retired military members who served in the Australian Defence Force for 20 or more years.

Parts of this submission are equally relevant to the Defence Force Retirement Benefits (DFRB) scheme which provides benefits for some 3,000 more members.

The DFRDB scheme was the product of a Joint Select Committee (Jess Committee) review of the then existing military superannuation scheme. The Jess Committee's report of May 1972 set out the provisions for the introduction of the new scheme.

This submission exposes clandestine provisions in the ensuing legislation, the DFRDB Act, which purportedly meet the Jess Committee's recommendations, but which severely reduce or deny recipients' benefits over time. Specifically, these provisions relate to:

1. The use of the Consumer Price Index (CPI) as the basis for adjusting benefits.
2. A commutation arrangement, which allows retirees to receive a lump sum advance payment in exchange for a proportionate reduction in retired pay.
3. The valuation of the unrecovered commutation lump sum which must be refunded if a recipient re-enlists in the Defence Force.
4. The use of a reduced rate of retired pay as the basis for indexing benefits for; retirees who choose not to receive a lump sum and the spouses and eligible children of all members who are deceased.

Use of the CPI for Benefit Adjustments

The Jess Committee recommended that retired pay and invalid pay be adjusted annually so that relativity with average weekly earnings would be maintained. However, from 1977, automatic adjustments were related directly to the percentage increase in the CPI, the index specifically rejected by Jess because it does not fairly represent changes in general community standards.

From 1991 to 2013, the CPI fell more than 25% below MTAW, resulting in a large scale reduction of DFRDB benefits.

For example: In 2016, the retired pay of a Navy Captain, who retired on the highest pay grade for his rank in 1991 after serving for 40 years, had fallen more than \$23,000 per annum relative to average weekly earnings. The total fall of his retired pay, to that point, was more than \$243,500.

The Captain's indexed retired pay in 2016 is more than \$57,000 per annum less than it would be if he had retired in 2016, on the same pay grade and length of service. Clear evidence that the indexation of DFRDB benefits, since 1991, has maintained no relativity with earnings.

In 2014, the method of indexation was changed, albeit only for recipients aged 55 and older, to the better of; the CPI, Pensioner and Beneficiary Living Cost Index (PBLCI) and a 27.7 per cent benchmark of Male Total Average Weekly Earnings (MTAWE).

EXECUTIVE SUMMARY

The Commutation Arrangement

When members opt to receive a lump sum advance, their retired pay is reduced proportionately by an amount based on their life expectancy (i.e. the lump sum divided by life expectancy). Outdated 1960-1962 Life Expectancy tables are used which predict lower than current life expectancies and thereby produce much higher retirement pay reductions. The legislation does not restore retired pay to its full value after the lump sum has been fully repaid, resulting in a grossly disproportionate exchange of a fixed lump sum advance for a lifetime reduction in retirement pay, which has been maximised by virtue of the outdated Life Expectancy tables.

For example: An Army Warrant Officer, who retired in January 1976 aged 45, received a lump sum payment of \$18,493. His life expectancy in 1962 was deemed to be 27.37 years, resulting in a \$675 (\$18,493 divided by 27.37) reduction in his retired pay. By the end of May 2003, the Warrant Officer had fully repaid his advance. Now aged 85, he has already repaid more than \$105,800, over 5.7 times the amount of the lump sum advance he received.

Valuation of the Commutation Lump Sum

When a member re-enlists in the Defence Force after retiring and receiving a lump sum advance, the unrecovered value of that lump sum must be refunded by the member. But in calculating that value, the corresponding reduction in retired pay is not taken into account.

For example: A Navy Lieutenant Commander who retired in 2000 and re-enlisted in 2014, had to refund the indexed value of his \$88,565 lump sum payment. Under the legislation, the indexed value was determined to be \$134,520. However, if the reduction of his retired pay was taken into account, the indexed value would have been just \$80,074, a detriment to the Lieutenant Commander amounting to \$54,446.

Notional Retired pay

Members who choose not to commute a minimum of 4 times their retirement pay entitlement are penalised by having their retired pay indexed at a lower rate, based on a notional (imaginary) rate of retired pay, which would result if they had indeed commuted 4 times their retired pay. This provision also applies proportionally to all spouses and eligible children of deceased members.

For example: Since he fully repaid his commutation lump sum in 2003, the retired pay of the Warrant Officer referred to in the above example has been reduced by more than \$49,000. Had he chosen not to commute, his retired pay would by now have been reduced by a total of more than \$78,140. Damned if he did and damned even more if he didn't.

If the Warrant Officer died in 2016, his widow would receive \$2,362 per annum less than she rightly should.

Conclusion

The provisions described in this submission have been designed by the legislation's architects to purport to meet the recommendations of the Jess Committee and therefore, accord with the Parliament's intent to implement those recommendations while, over time, effecting a reduction of benefits amounting to many hundreds of millions, if not billions of dollars.

EXECUTIVE SUMMARY

The CPI has been used extensively by past and present Governments to reduce veterans' benefits and welfare payments over time. It has been used in this case, by successive Governments, to bring about a large scale reduction of Defence Force retirement benefits.

From 1991 to 2013, indexation, based on the movement of the CPI, reduced the retired pay of the Warrant Officer referred to above examples by more than \$41,000 on top of the \$49,000 reduction since he repaid his lump sum advance. A total reduction of more than \$90,000.

Since its introduction on 1 July 2014, the much touted *Fair Indexation* amendment has increased this Warrant Officer's retired pay by an insignificant \$3.00 per fortnight (before tax).

Despite the rhetoric and platitudes, this is how Australian Governments actually "*look after*" the men and women who committed many years and their lives to the service of their country.

Virtually every aspect of the legislation which governs this scheme has been designed to reduce or deny recipients' benefits, resulting in a severe degradation of the living standard of many of these men and women. Without change, that degradation will continue for the next 40 or more years until the members of the DFRDB and DFRB schemes and their spouses are all dead.

The Aim of this Submission

This submission seeks:

1. The restoration of all DFRDB recipient benefits to a floor rate represented by the better of; the CPI, PBLCI and 27.7 per cent of MTAW.
2. The indexation of benefits, for recipients aged under 55, eligible children and orphans, to accord with that for recipients aged 55 and over.
3. The removal of the punitive commutation provisions from the DFRDB Act 1973, through amendments which:
 - a. Restore retired pay to its full value on the date on which a recipient member's 1962 life expectancy is reached.
 - b. Base the value of the commutation lump sum, to be refunded by a member after re-enlistment, on a standard Principal Future Value formula.
 - c. Afford, a member who re-enlists after commutation, the option not to commute on eventual retirement.
 - d. Repeal sub-section 98B (5) in its entirety and thereby remove all references to notional retired pay.
4. The application of the changes, sought in paragraphs 1, 2 and 3 above, to DFRB recipients and the DFRB Act 1948, where appropriate.

Retrospectivity

This submission *does not* seek retrospective restoration of the vast quantum of DFRDB and DFRB benefits recipients have already been denied.