

Defence Force Retirement and Death Benefits Scheme

THE GROSS REDUCTION OF BENEFITS

Herb Ellerbock

16 February 2017

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, bureaucrats have been permitted to place their own interpretation on the Parliament's intent 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 from other Commonwealth employees.

We ask for 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, incurring an even larger penalty.

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.

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The CPI has been used by past Governments to reduce veterans' benefits and welfare payments over time. It is being used again from 1 July 2017 to bring about a \$449M reduction in those benefits over the next 5 years. The CPI has also been used 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.

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

All the major provisions of the DFRDB Act 1973 have been designed to reduce or deny recipients' benefits over time, 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 and DFRB recipient benefits to the floor rate represented by the better of; the CPI, PBLCI and 27.7 per cent of MTAW.
2. The restoration of DFRDB retired/invalid pay to the pre-commutation rate, adjusted to the floor represented by the better of; the CPI, PBLCI and 27.7 per cent of MTAW.
3. A refund, for pre 1 July 2016 DFRDB re-entrants, of the total amount of retirement pay reductions to the date of re-enlistment.
4. Amendments to the DFRDB Act 1973 which:
 - a. Restores retired pay to its full value on the date on which a recipient member's 1962 life expectancy is reached.
 - b. Bases the value of the commutation lump sum, to be refunded by a member after re-enlistment, on a standard Principal Future Value formula.
 - c. Affords, a DFRDB recipient who re-enlists after commutation, the option not to commute on eventual retirement.
 - d. Repeals sub-section 98B (5) in its entirety and thereby remove all references to notional retired pay.
 - e. Equates the indexation of all benefits, for recipients aged under 55, eligible children and orphans, with that for recipients aged 55 and over.

Retrospectivity

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

THE GROSS REDUCTION OF BENEFITS

BACKGROUND

1. The DFRDB Scheme

The Defence Force Retirement and Death Benefits (DFRDB) scheme came into operation in 1973 and was closed to new members in 1991. This scheme provides superannuation benefits for some 53,000 military members who served in the Australian Defence Force for 20 or more years and will continue to provide those benefits for at least another 40 years. More than 2,000 members are still serving in the Defence Force and contributing to the scheme.

2. The Foundation of the Scheme

The DFRDB scheme was the product of a Joint Select Committee (Jess Committee), under the chairmanship of Mr J D Jess, CBE MP, appointed by the Parliament on 2 September 1970 to review the operation of the Defence Force Retirement Benefits Act 1948. The Jess Committee's report of May 1972 (Jess Report) set out the provisions for the introduction of the new scheme.

The objective of the Jess Committee was to define a scheme which would replace the then existing Defence Force Retirement Benefits (DFRB) scheme which, in the Committee's view, had *"many defects, of which the most critical are its lack of simplicity and comprehensibility to servicemen"*.

Appendix 1 sets out the recommendations of the Jess Report. Recommendations and discussion relevant to this submission are highlighted.

3. Passage of the Legislation through the Parliament

Appendix 2 provides a brief overview of the significant aspects of the passage through the Parliament of the ensuing legislation, the DFRDB Act 1973, the introduction and ongoing amendment of which has been characterised by:

- (a) A denial of scrutiny by military representatives.
- (b) Obfuscation, making the draft legislation incomprehensible to all but its architects and
- (c) A hasty passage through the Parliament, denying adequate time for consideration.

Given the time available for the consideration of the Defence Force Retirement and Death Benefits Bill 1973 and the Defence Force Retirement and Death Benefits (Amendments) Bill 1977, it is unlikely that any Member of the Parliament read the draft legislation, let alone gained any knowledge of the provisions incorporated in these Bills. Their understanding would have been limited to what was conveyed in the Ministers' Second Reading speeches when they put the motions to commend the Bills in the House of Representatives.

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4. The Defence Force Retirement and Death Benefits Act 1973

The ensuing legislation, the DFRDB Act 1973 did not replace its predecessor, the DFRB Act 1948, which remains in effect to this date.

All serving members and those retiring from 1 October 1972 were transferred to the new scheme and the assets of the DFRB Fund were transferred to the Government's Consolidated Revenue Fund (CRF).

The key provisions in the DFRDB Act, which are pertinent to this submission and shown in the context of the relevant Jess Report reference, include:

Recommendation (1): That the present DFRB legislation be repealed and a new scheme introduced without delay.

The DFRDB Act did not replace the DFRB Act which remains in place to this date.

Recommendation (6): That retired pay and invalid pay be expressed as a percentage of final pay and be adjusted annually so that relativity with average weekly earnings is maintained.

Initially, there was no provision in the Act for annual adjustments. There were one-time adjustments in 1974 and 1976 and in 1977, permanent adjustment based on movements in the CPI was introduced. In 2014, adjustment based on the better of; the CPI, Pensioner and Beneficiary Living Cost Index (PBLCI) and 27.7 per cent of Male Total Average Weekly Earnings (MTAWE) was introduced for recipients aged 55 and older.

In 1977, a provision was introduced which changed the basis of adjustment, for any individual who does not commute at least 4 years of his/her retirement pay entitlement, to a notional rate of retirement pay which is equivalent to the member having commuted 4 years of his/her retirement pay entitlement.

Recommendation (7): That the Commonwealth guarantee the benefits provided and meet all costs not covered by members' contributions.

[This submission contends that the Act does not afford that guarantee in multiple instances.]

Paragraph 103: That a recipient member who re-joins the Defence Force be entitled, on his eventual retirement, to retired pay at the rate applicable to his total effective service with the Defence Force, with an appropriate adjustment where the member had commuted.

Under the Act, that adjustment is a refund of the fully indexed total of the lump sum commuted, taking no account of the amount already repaid through the proportionate reduction in retirement pay to the date of re-enlistment.

Recommendation (14) (a): That a recipient member should be entitled to commute an amount not exceeding four times the amount of the annual retired pay entitlement payable to him in the first year of his retirement.

From retirement dates of 30 June 1982 onwards, the maximum amount which could be commuted was increased by an additional 0.05 per year, up to a maximum of 5 times a member's retirement pay entitlement.

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Paragraph 109: That individual life expectancy be assessed to ensure that a retiree does not commute more than he could be expected to draw as pension.

Under the Act, life expectancy is based on the *1960-1962 Commonwealth Life Tables*, regardless of when a member retires.

Recommendation (14) (b): That retired pay *proportionately* reduced in relation to commutation remain payable after commutation.

Under the Act, retired pay is *permanently* reduced after commutation.

Recommendation (14) (c): That for the purpose of determining a spouse's entitlement, commutation should be disregarded.

Under the Act, the spouse's entitlement is determined to be five-eighths of the member's retirement pay entitlement at the time of retirement. However, the ongoing basis for the adjustment of the spouse's entitlement is a notional rate of retirement pay which is equivalent to the member having commuted 4 years of his/her retirement pay entitlement.

Recommendation (15) (a): That the spouse of a recipient member receive an annuity of five-eighths of his retired pay entitlement at the date of his death.

Under the Act, this can only occur if the date of the recipient member's death coincides with the date of his retirement.

Recommendation (16) (a): That the benefit be payable to each eligible child of a deceased recipient member or contributing member should be \$312 per annum (reviewable at regular intervals and adjusted with rises in the cost of living) plus one sixth of the spouse's annuity.

Under the Act, the per annum lump sum is adjusted in accordance with rises in the CPI.

Recommendation (16) (b): That the benefit be payable to each eligible orphan should be \$702 (reviewable at regular intervals and adjusted with rises in the cost of living) plus one eighth of the spouse's annuity.

Under the Act, the lump sum payable is \$5,000, adjusted in accordance with rises in the CPI.

The DFRDB Act 1973 now comprises 233 pages, incorporating 58 separate amending Bills. Appendix 3 sets out the sections of the Act which are pertinent to this submission much of the the wording therein is considered to be incomprehensible to all but the most determined student of the legislation.

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THE REDUCTION OF BENEFITS THROUGH INDEXATION

5. The Consumer Price Index versus Average Weekly Earnings

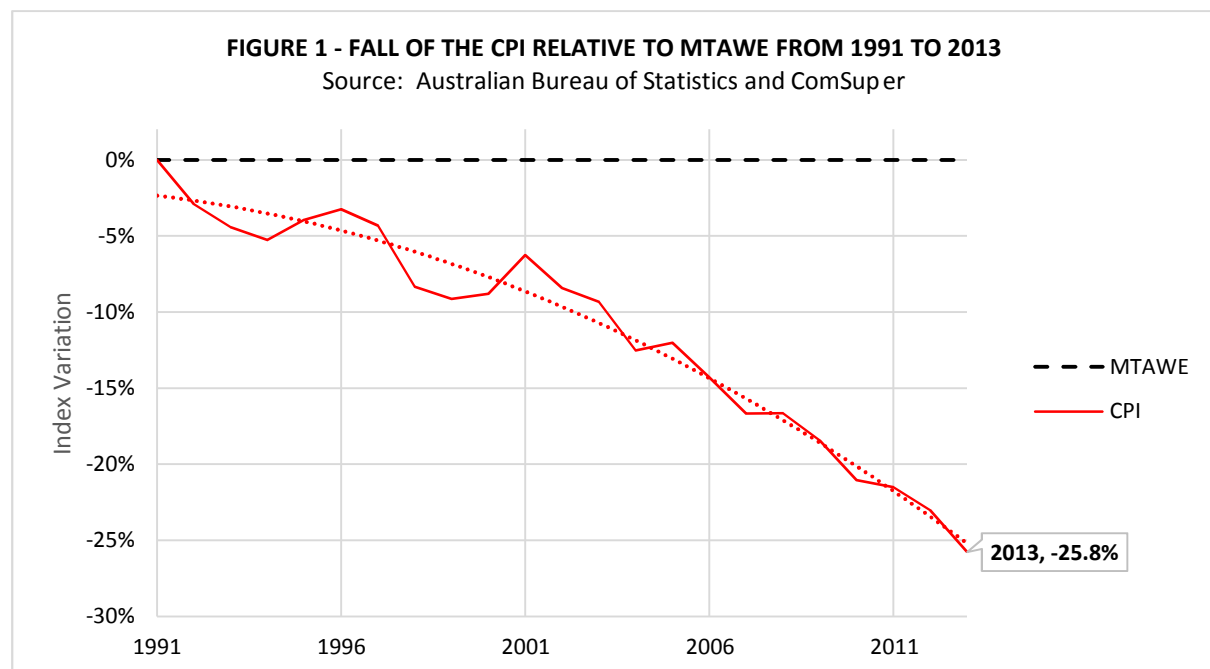
Appendix 4 illustrates the historical movements of the CPI and MTAW, as observed by the Jess Committee in its 1972 report and the statistics published by the Australian Bureau of Statistics (ABS).

Table 1 summarizes the movement of the CPI relative to the MTAW index.

TABLE 1 - CPI VERSUS MTAW	
Period	Relative Movement
1955-1970	-89.0%
1970-1976	-28.9%
1976-1991	1.8%
1991-2013	-25.8%
2013-Jan 2017	2.3%

While there are periods where the CPI remained on a par with MTAW, it is clear that over the longer term the CPI lags significantly behind MTAW. From 1955 to 2017, the average lag has been almost 2.3% per annum.

Figure 1 illustrates the fall of the CPI relative to MTAW from 1991 to 2013.



6. The Intentional Use of the CPI to reduce Benefits.

When there is a legislated change which lowers the rate of indexation of a benefit, the outcome is a lower cost to the Consolidated Revenue Fund (CRF), which is invariably reflected in the Budget forecast before the legislation takes effect.

THE GROSS REDUCTION OF BENEFITS

The cost saving to the CRF; equates to the difference between the costs to adjust the benefit at the old and new rates of indexation and is tantamount to the reduction of the benefit which is being adjusted.

Evidence of the intentional use of the CPI to reduce benefits, can be found in the Parliamentary Library Budget Review 2014-15, dated 30 May 2014, which includes the following statement on page 134.

Pension indexation

The 2014–15 Budget proposes to change indexation arrangements for the Age Pension, veterans' pensions, Carer Payment, Disability Support Pension and Parenting Payment (Single) so that payment rates are only adjusted by movements in the Consumer Price Index (CPI). The measure will save \$449.0 million over five years.

Note: This measure takes effect on 1 July 2017.

When, due to economic factors, the indexation rate of a benefit falls below the accepted measure for maintaining that benefit at the appropriate level and; there is no adjustment to the level of the benefit and no change to the method of indexation, then that is also tantamount to an intentional reduction of the benefit.

From 1955 to 1976 the CPI fell 117.9% below MTAW. The intention of its use in 1977 to index DFRDB benefits must have been perfectly clear.

7. The Effect of the CPI on Retirement Pay

Appendix 5 compares; the indexed retirement pay for a population of ranks, pay grades and years of service, based on the CPI, with what the retirement pay would be for that population if it were indexed in accordance with the movements in MTAW.

Table 2 shows the comparative rates of retirement pay; when the indexation of the retirement pay entitlements, of the retiree population described in Appendix 5, is based on the CPI and the movements in MTAW.

TABLE 2 - INDEXATION COMPARISON					
Indexation \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
In July 2016 (Indexed per MTAW)	\$35,742	\$44,633	\$56,102	\$80,296	\$110,599
	\$18,880	\$28,593	\$36,056	\$50,282	\$71,857
In July 2016 (Indexed per CPI)	\$28,285	\$35,321	\$44,397	\$63,543	\$87,524
	\$14,941	\$22,628	\$28,533	\$39,791	\$56,865
On Retirement In January 1991	\$14,772	\$18,447	\$23,187	\$33,186	\$45,710
	\$7,803	\$11,818	\$14,902	\$20,781	\$27,525

THE GROSS REDUCTION OF BENEFITS

Figure 1 illustrates the comparison.

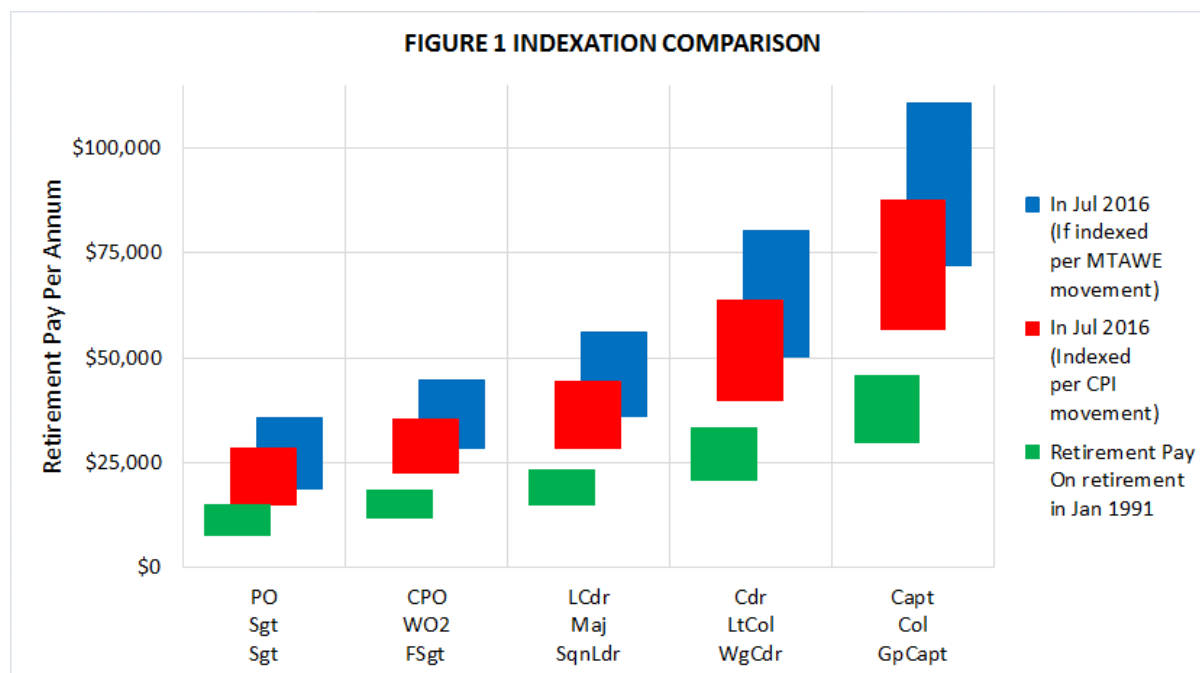


Table 3 shows the fall in retirement pay below MTAW, as at July 2016.

TABLE 3 - RETIREMENT PAY RATE FALL BELOW MTAW					
Pay Grade \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
Highest Pay Grade	\$7,457	\$9,312	\$11,705	\$16,752	\$23,075
Lowest Pay Grade	\$3,939	\$5,966	\$7,522	\$10,490	\$14,992

The average fall, per individual in the sample population, is \$11,121 per annum (*).

Table 4 shows the total fall in retirement pay below MTAW, to July 2016.

TABLE 4 - TOTAL RETIREMENT PAY FALL BELOW MTAW					
Pay Grade \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
Highest Pay Grade	\$78,705	\$98,281	\$123,537	\$176,812	\$243,541
Lowest Pay Grade	\$41,573	\$62,964	\$79,395	\$110,721	\$158,230

The average total fall, per individual in the sample population, is \$117,376.

8. Relativity with current DFRDB Retirement Pay

To illustrate the relativity with current DFRDB retirement pay, Table 3 compares the indexed retirement pay rates, of the retiree population described in Appendix 5, as at 2016, with the retirement pay rates that would apply if that same population retired in July 2016.

THE GROSS REDUCTION OF BENEFITS

TABLE 5 - RETIREMENT PAY COMPARISON					
Retirement \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
Retired in July 2016	\$50,608	\$59,403	\$74,171	\$105,530	\$144,958
	\$20,906	\$26,268	\$32,156	\$51,340	\$72,792
Retired in 1991 Indexed to July 2016	\$28,285	\$35,321	\$44,397	\$63,543	\$87,524
	\$14,941	\$22,628	\$28,533	\$39,791	\$56,865

Figure 2 illustrates the comparison.

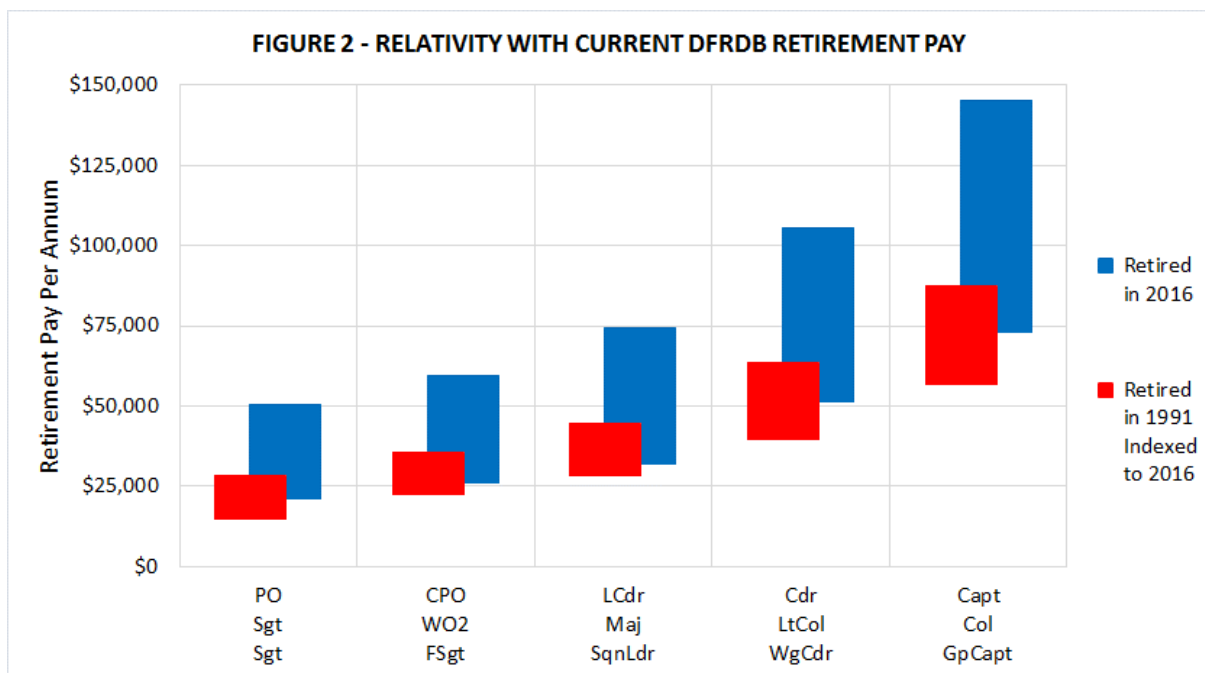


Table 6 shows the difference between the 2016 rates of retirement pay and the 1991 rates of retirement pay indexed to 2016.

TABLE 6 - DIFFERENCE IN RETIREMENT PAY RATES					
Pay Grade \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
Highest Pay Grade	\$22,323	\$24,082	\$29,774	\$41,987	\$57,434
Lowest Pay Grade	\$5,966	\$3,640	\$3,623	\$11,549	\$15,927

The average difference, per individual in the sample population, is \$21,630 per annum (**).

While there are lower and higher ranks than those depicted, it could reasonably be assumed that the averages for this sample population are representative of the whole DFRDB recipient population.

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While a substantial part of the differences between the 2016 and indexed 1991 rates of retirement pay is attributable to productivity increases, more than half of that difference is due to the fall of the CPI below MTAW, from July 1991 to July 2013.

$$\text{i.e. Difference due to Indexation} = \$11,121 (*) \div \$21,630 (**) \times 100 = 51.4\%$$

9. The Effect of the Fair Indexation Act

The Second Reading speeches for the *Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2014* (Fair Indexation Act), included statements such as:

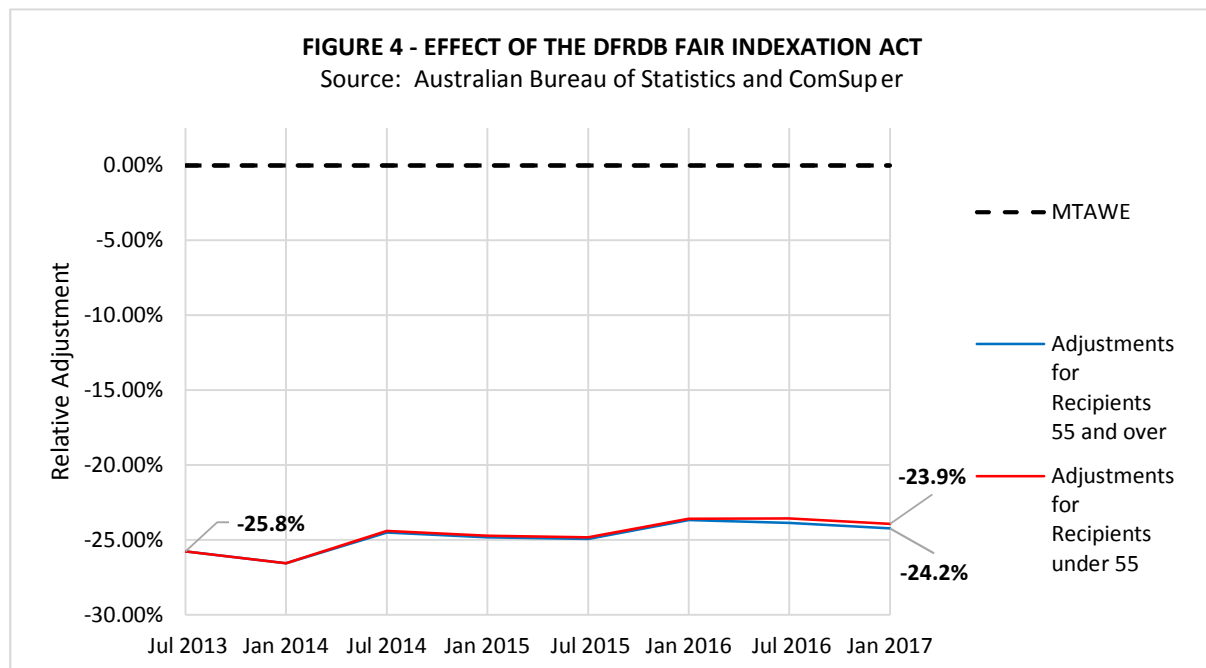
“This government's policy will help approximately 57,000 DFRB and DFRDB members and their families. It will have an immediate impact on some 45,000 current DFRB and DFRDB pensioners aged 55 or over at 1 July.” (Robert Stuart, the Assistant Minister for Defence, House of Representatives Hansard, 20 March 2014).

The reality has been a different matter.

Table 7 shows the adjustments to date, of DFRDB benefits for recipients aged 55 and over, since the introduction of the Fair Indexation act.

TABLE 7 - ADJUSTMENT OF DFRDB BENEFITS SINCE JULY 2013							
Adjustment	Jan 2014	Jul 2014	Jan 2015	Jul 2015	Jan 2016	Jul 2016	Jan 2017
CPI	1.6%	1.4%	0.9%	0.4%	1.1%	0.2%	1.1%
DFRDB	1.6%	1.5%	0.9%	0.4%	1.1%	0.4%	1.1%

Figure 4 illustrates its effect relative to the movements in the MTAW index.



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As at January 2017, the adjustment of DFRDB/DFRB benefits for recipients aged 55 and over differed from that for recipients aged under 55 by 0.3%. Negative movements of the MTAW index, in July 2014 and January 2016, account for the apparent overall positive adjustments.

For example, since its introduction, the Fair Indexation Act since its, for a Warrant Officer who retired in 1976, has been an increase of \$3.00 per fortnight (before tax).

Given the extensive reduction of DFRDB benefits over the previous 22 years, the impact of the DFRDB Fair Indexation Bill 2014, on recipients aged 55 and older, is insignificant..

THE DEVIOUS COMMUTATION ARRANGEMENT

10. Definition of Terms

Commutation: *A substitution of one form of payment or charge for another.*

Proportionately: *According to a particular relationship in size, amount, or degree.*

Notional: *Not evident in reality, hypothetical or imaginary.*

11. The Commutation Arrangement

The DFRDB scheme incorporates a **commutation** arrangement which allows retirees to receive a lump sum advance payment, of up to 5 years of their initial per annum retirement pay entitlement, in exchange for a proportionate (lump sum divided by life expectancy) reduction in ongoing retirement or invalid pay.

Outdated 1960-1962 Life Expectancy tables which predict lower life expectancies are used for that purpose and in turn, result in higher proportionate retirement pay reductions.

Recommendation 14(b) in the Jess Report states:

*“That retired pay **proportionately** reduced in relation to commutation remain payable after commutation.”*

The interpretation of that recommendation, by the architects of the legislation, is that retired pay should be **permanently** reduced. Therefore, the DFRDB Act makes no provision for restoring retirement pay to its full value once life expectancy is reached and the lump sum has been fully recovered by the Commonwealth.

The outcome is a highly disproportionate substitution of a lump sum advance for a maximised reduction of retirement pay which remains in effect until the death of the recipient.

12. What Defence Force Retirees were given to understand

Defence Force retirees’ understanding of the commutation arrangement was what was conveyed to them at retirement seminars and in particular, the printed material on the DFRDB

THE GROSS REDUCTION OF BENEFITS

Scheme which was disseminated by the DFRDB Authority. The earliest versions of these publications obtainable are included as Attachments 1, 2, and 3.

An examination of these pamphlets, which are believed to be typical of earlier and later publications, shows that there is no reference to; a ***permanent reduction*** in retirement pay or a ***notional*** rate of retirement pay.

It is believed that the first reference, to a ***permanent reduction*** in retirement pay in respect of commutation, appeared in a booklet titled *DFRDB About your scheme*, which was published by the Commonwealth Superannuation Corporation in 2010, 37 years after the commencement of the DFRDB scheme.

13. Life Expectancy

Appendix 6 examines the life expectancy factors and their relevance to the DFRDB Scheme. It demonstrates that (period average) life expectancy is a misleading factor, because it leads to an underestimation of how long a population is going to live and therefore, cannot be used to form the basis for any valid long-term actuarial assumptions for the ageing DFRDB member/recipient population.

Because the distribution of survival is left skewed and not symmetrically distributed about the life expectancy mean, the permanent reduction of retirement pay in respect of commutation, imposes a severe penalty on almost 80% of the members, who commuted a portion of their retirement pay and are expected to survive, by an average of 12 years for males and 9 years for females, beyond the life expectancy on which the reduction in their retirement pay was based.

The use of outdated life expectancy factors maximises the reduction of retirement pay in respect of commutation and the permanent reduction of retirement pay, after life expectancy is reached, ensures that the Commonwealth's obligation to "*meet all costs not covered by members' contributions*" is minimised.

14. The Future Value of the Commutation Lump Sum

Appendix 7 examines the method of calculating the future value of the commutation lump sum, as defined in Section 24(7) of the DFRDB Act.

That calculation ignores the reduction of retirement pay which results in respect of commutation.

When the future value of the commutation lump sum is calculated using an accepted formula for that purpose, the value of the lump sum falls to zero precisely when life expectancy is reached; regardless of age, life expectancy, the amount commuted or the rate of indexation.

This results in a commutation arrangement which is precisely equitable and proportionate for every DFRDB recipient member.

THE GROSS REDUCTION OF BENEFITS

15. The Justification for Permanent Reduction in Retirement Pay

Appendix 8 examines the DFRDB Authority's assertion which has been long been used to justify the permanent reduction in retirement pay after commutation.

This assertion implies that members who survive beyond their life expectancy offset a loss to the Commonwealth when members die before attaining their life expectancy.

This assertion is absurd. It is clearly evident in Appendix 8 that the earlier a member dies, the sooner his/her commutation lump sum is recovered and the lower is the Commonwealth's liability for that member's benefit payments. Conversely, the longer a member lives, the greater is the Commonwealth's liability for that member's benefit payments.

It is far more plausible therefore, that the exclusion of a clause to restore retirement pay to full value after life expectancy is reached, is a deliberate omission by the architects of DFRDB Act, to reduce the Commonwealth's liability for the payment of benefits and thereby, renege on the Jess Committee recommendation *"that the Commonwealth guarantee the benefits provided and meet all costs not covered by members' contributions."*

16. Impact of the Permanent Reduction in Retirement Pay

Appendix 9 illustrates the impact of the permanent reduction of retirement pay in the case of four current DFRDB recipient members.

The commutation lump sum and retirement pay reduction exchange in each of those cases is shown in Table 8.

Table 8 illustrates just how disproportionate and inequitable the commutation arrangement is and shows the vast amounts of retirement pay which have been withheld from these DFRDB recipients since they reached their life expectancy and their commutation lump sums were fully recovered by the Commonwealth.

TABLE 8 – IMPACT OF THE PERMANENT REDUCTION IN RETIREMENT PAY					
	Commutation Lump Sum	Reduction after the Lump Sum was repaid	Proportion of the Lump Sum	Total Reduction in Retirement Pay	Proportion of the Lump Sum
Case 1	\$18,493	\$48,978	2.65	\$105,833	5.72
Case 2	\$129,370	\$125,862	0.97	\$318,996	2.47
Case 3	\$104,219	\$52,219	0.50	\$225,300	2.16
Case 4	\$133,002	\$59,312	0.45	\$263,090	1.98

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17. Re-enlistment after Commutation

When a DFRDB recipient re-enlists after having retired, his/her retirement pay ceases. When that member subsequently retires again his/her retirement pay entitlement is again based on final salary and total years of service.

If, on the initial retirement, that member commuted a portion of his/her retirement pay entitlement, he/she has no option but to commute again. The fully indexed total amount (future value) of his/her initial commutation lump sum is deducted from the subsequent retirement commutation lump sum payment.

No account is taken of the reduction of retirement pay in respect of the initial commutation, thereby requiring that reduction in retirement pay to be paid again.

Appendix 10 illustrates the impact of this aspect of the legislation in a real life case study where a member re-enlists for a 2 year engagement, 14 years after having retired and commuted a portion of his retirement pay. In that case study, the member suffers a substantial \$54,446 (33%) reduction in his subsequent commutation lump sum payment.

The member in this instance has no option but to commute again after the subsequent retirement, ensuring that he cannot avoid this extensive deduction from his commutation lump sum.

18. Notional Retirement Pay

An outcome of the Defence Force Retirement and Death Benefits (Amendments) Bill 1977, which introduced automatic increases in DFRDB benefits, was a *notional* (imaginary) rate of retirement pay on which the automatic adjustment of benefits is based for; members who do not commute at least 4 years of their retirement pay entitlement.

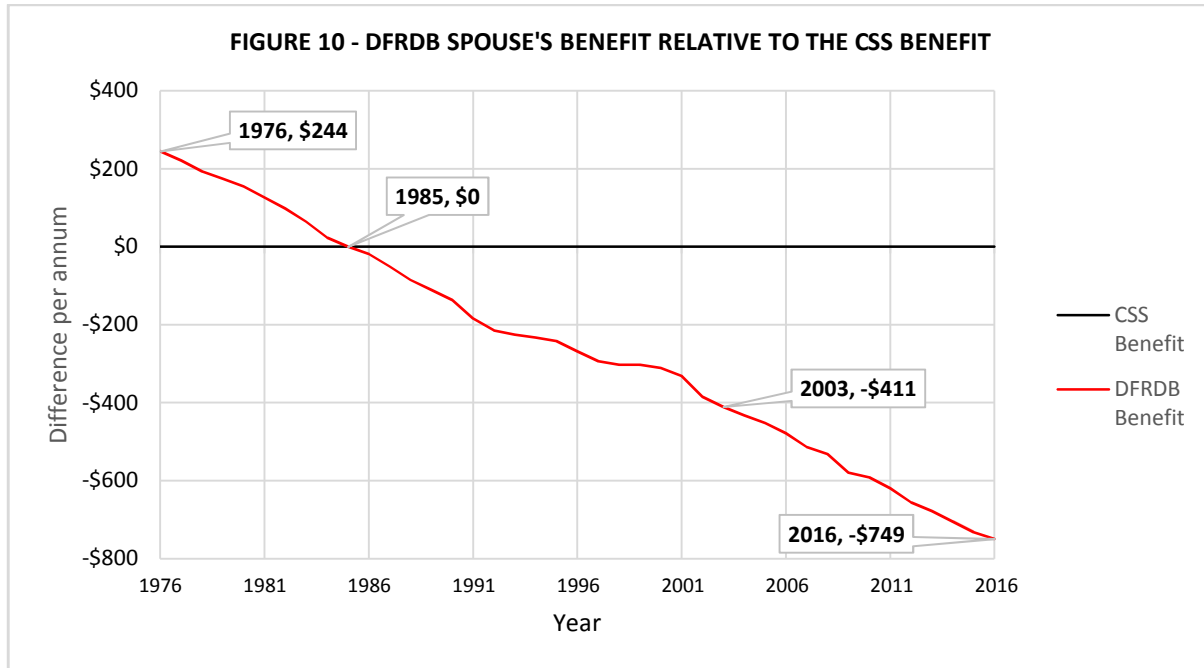
Notional rate of retirement pay, is the reduced rate of retirement pay which would result if 4 times the full retirement pay entitlement had been commuted. Ostensibly, it was introduced to satisfy recommendation 15(a) of the Jess Report (see Appendix 1) but the real intent was to reduce the spouse benefit over time, because 62.5% of retirement pay entitlement was seen to be more generous than the 67% of reduced retirement pay, provided under the Commonwealth Superannuation Scheme (CSS).

Appendix 11 quantifies the effect of notional retirement pay in the case of a Warrant Officer who retired in 1976 with a retirement pay entitlement of \$4,623. If the Warrant Officer had not commuted the minimum amount, his retirement pay would by 2016 have been reduced by a total of \$78,140. If he died in 2016, regardless of whether or not he commuted, his spouse would receive \$2,362 per annum less than she should.

At one-sixth and one eighth of spouses' benefit respectively, those reductions flow on proportionately to eligible children and orphans.

Figure 10 charts the benefit of the Warrant Officer's spouse, under the DFRDB scheme, relative to what it would be under the CSS in similar circumstances.

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If the Warrant Officer died immediately after retirement, the benefit payable to his spouse would be \$244 per annum higher than it would be under the Commonwealth Superannuation Scheme (CSS) in similar circumstances, a fact that was highlighted in 1990 by a Government appointed review committee, chaired by Sir William Cole.

Over time however, that benefit is reduced in comparison to the CSS. If the Warrant Officer died in 2003, when he reached his 1962 life expectancy, his spouse would be \$411 per annum worse off and \$749 per annum worse off in 2016.

This is yet another example of the duplicity of the legislation's architects and the eagerness of a Government appointed review committee and the Government to overstate the benefits provided under the DFRDB scheme.

CONCLUSION

19. The Indexation of Benefits

Indexing benefits to the CPI is said, by those who try to justify its use, that it maintains the real value of those benefits over time. It does not. The PBLCI is designed to check whether pensioners' disposable incomes have kept pace with price changes. It may do. But it is the MTAWE benchmark which ensures that DFRDB recipients maintain a certain standard of living, relative to the rest of the population.

The living standard of many of the men and women who made incomparable commitments to the service of their country has been severely degraded.

No intent of a large scale reduction of DFRDB was expressed, by the Parliament, during the second reading speeches for the Defence Force Retirement and Death Benefits (Amendments) Bill 1977 which introduced automatic adjustments related directly to the CPI. Rather, this was a clandestine arrangement by the Government of the day and the legislation's architects.

THE GROSS REDUCTION OF BENEFITS

20. The Clandestine Provisions in the Legislation

The indexation of DFRDB benefits using the CPI, the permanent reduction of retirement pay after commutation, the failure to take account of reduced retirement pay when calculating the future value of the commutation lump sum and the adjustment of benefits in accordance with an imaginary notional rate of retirement pay are clandestine provisions which have been purposely designed by the architects of the legislation to; seemingly satisfy the recommendations of the Jess Committee and presumably accord with the intent of the Parliament to implement those recommendations, while ensuring that DFRDB benefits are reduced extensively over time.

These provisions have already resulted in reductions amounting to many hundreds of millions if not billions of dollars. Without change, those reductions will continue until every beneficiary of the DFRDB scheme is dead.

21. The Minister's Response to Members' Concerns

Concern over the effect of these punitive provisions have already been raised with individuals' Local Member of Parliament, the responsible Minister and the Prime Minister. The Prime Minister's office and the offices of the Local Members who were approached simply forwarded those concerns to the responsible Minister.

Attachments 4, 5, 6, 7 and 8 are examples of the responses from the office of the responsible Minister.

Regardless of whether the concern related to indexation, commutation or notional retirement pay, the responsible Ministers' rejections typically end with:

"The Government has delivered on its commitment to improve the indexation of Defence Force Retirement Benefits and DFRDB pensions paid to those aged 55 and over. The substantial benefits of the 2014 indexation methodology will become clearer over time. The compounding effect of improved indexation means that pensions will not only move further ahead of an equivalent CPI only indexed pension, but will also increase at a higher rate than the cost of living.

In light of the improved indexation changes to DFRDB pensions, the Government does not intend to undertake a further examination of the benefit structure of the now closed DFRDB scheme."

The Abbott Government's change of the indexation method acknowledged that the use of the CPI for adjusting DFRDB benefits was unfair. But it did not acknowledge its impact and provided no compensation for the extensive reduction in benefits it caused.

As already demonstrated in this submission, within the context of the extensive reduction of benefits enacted in the legislation, the effect of the Fair Indexation Act in 2014 has been insignificant.

The DFRDB scheme has, since 1991, been closed only to new members. For the current recipients and the members still serving and not yet retired, it will remain active for at least another 40 years.

THE GROSS REDUCTION OF BENEFITS

The beneficiaries of this scheme are entitled to have the provisions of the scheme maintained in accordance with changes to community standards.

22. The Intent of the Parliament

Statements such as; *“This bill recognises overall that military service is unique—there is no other service and no other job in this nation like it—and, as such, deserves unique solutions to ensure that Australia’s service personnel, past and present, are looked after in their retirement.”* (Member for Macquarie, Louise Markas – House of Representatives Hansard 20 March 2014) and similar statements made in the House of Representatives on that day, are not consistent with the punitive provisions incorporated in the DFRDB Act.

Given the obfuscated wording of the draft legislation and the speed of its passage through the Parliament, it is improbable that Members of Parliament read the draft legislation, let alone understood these provisions. On a balance of probabilities, it is unlikely that these provisions accord with the intent of the Parliament.

OBJECTIVES

23. The Restoration of the Rate of DFRDB and DFRB Benefits

This submission seeks the restoration of the rate of retirement and invalid pay for all DFRDB and DFRB recipients, including those aged under 55, which have been reduced through the use of the CPI to index those benefits. Specifically, this submission seeks a restoration of benefits, in respect of:

- a. Recipient member benefits lost due to indexation using the CPI.

This submission seeks a one-time adjustment to bring the rates of retired/invalid pay back up to the current benchmark of the best of CPI, PBCLI and 27.7% of MTAW.

- b. Spouses’ benefits lost due to reduced indexation under section 98B (5) of the Act.

This submission seeks a one-time adjustment to bring the rates back up to five-eighths (62.5%) of the before commutation rate of retired/invalid pay entitlement, adjusted to the current benchmark of the best of CPI, PBCLI and 27.7% of MTAW.

- c. Eligible children other than orphan benefits lost due to reduced spouses’ benefits.

This submission seeks a one-time adjustment to bring the benefit rate up to one-sixth of the restored spouse’s benefit.

- d. Eligible orphan benefits lost due to the reduced spouses’ benefits.

This submission seeks a one-time adjustment to bring the benefit rate up to one-eighth of the restored spouse’s benefit.

THE GROSS REDUCTION OF BENEFITS

- e. Recipient member benefits lost due to the continued reduction of retired/invalid pay after life expectancy is reached and the commutation lump sum has been recovered by the Commonwealth.

This submission seeks a one-time adjustment to bring the rate of retire/invalid pay back up to before commutation rate of retired/invalid pay entitlement, adjusted to the current benchmark of the best of CPI, PBCLI and 27.7% of MTAW for all recipient members who have reached the life expectancy used to determine their reduction in retire/invalid pay.

However, this submission provides ample evidence for and cannot prevent individuals from seeking full recompense of the amounts of retired/invalid pay they have been denied since reaching the life expectancy used to determine their reduction in retire/invalid pay.

- f. Excess deductions from the commutation lump sum of DFRDB re-entrants.

This submission seeks a refund, for DFRDB re-entrants, of the total amount of retired pay reduction up to the date when DFRDB payments cease at the time of re-entry.

24. The Amendment of the DFRDB Act

This submission also seeks amendments to remove the punitive provisions incorporated in the DFRDB Act by:

- a. Restoring retirement pay to the fully indexed value of the pre-commutation retirement pay entitlement when the commutation lump sum has been fully recovered by the Commonwealth. That is, on the exact day expressed by:

Date of Election to Commute + Life Expectancy Factor (expressed in days)

- b. Calculating the unrecovered balance of the initial commutation lump sum to be refunded, when a member re-enlists, by using the following Future Value formula:

$$FV = \left[PV - P \left[\frac{(1+r)^{-1}}{r} \right] \right] (1+r)$$

Where: FV= Future Value of the Commutation Lump Sum
PV= Present Value of the Commutation Lump Sum
P = Initial Retirement Pay Reduction Amount
r = Rate of Indexation Increase

- c. Allowing the option not to commute, after a member has re-enlisted for a subsequent engagement and, if a member does choose not to commute, to base the reduction of his/her retirement pay on the unrecovered balance of the initial commutation lump sum at the time of re-enlistment.

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- d. Repealing sub-section 98B(5) of the Act in its entirety and thereby removing all references to notional retirement pay.

25. Retrospectivity

This submission does not seek retrospective restoration of the enormous quantum of benefits which have already been withheld from recipient members, spouses and dependent offspring.

26. The Cost of restoring DFRDB/DFRB Benefits

The impact of DFRDB benefit reduction, through both indexation and the disproportionate commutation arrangement, are not consistent across the DFRDB recipient population. They have the greatest impact on those who have been retired for the longest time and the least impact on those who retired most recently.

Without DFRDB recipient population statistics, which have not been provided by ComSuper even through FOI, it is difficult to accurately forecast; the initial cost of restoring DFRDB benefits as requested and the future unfunded liability. But a reasonable estimate would be \$400M in the first year, increasing slightly over the next 5 years and then decaying to \$0 over the next 30 to 40 years.

These are substantial amounts but they are indicative of the extent to which DFRDB and DFRB recipient benefits have been denied. While the restoration of DFRDB/DFRB benefits requested in this submission would place considerable and possibly unsustainable pressure on the Budget, it could readily be met from the assets of the Future Fund, one of the primary purposes of which is to meet unfunded Commonwealth superannuation liabilities.

This submission is aware of the year 2020 embargo on the use of the Future Fund's assets. Perhaps the time has come to bring that date forward.

It is understood that this submission has wider implications, as the CPI has been used to adjust other Commonwealth superannuation scheme benefits. However, that the benefits under those other schemes have also been reduced through indexation does not make the case this submission makes on behalf of DFRDB/DFRB recipients any less valid.

27. The Perception that the DFRDB Scheme is one of the Most Generous among Commonwealth Superannuation Schemes

In his report dated December 1972, to the then Minister for Defence on his enquiry into *Financial Terms and Conditions of Service for Male and Female members of the Regular Armed Forces*, Mr. Justice A E Woodward OBE, stated that:

"Members of the Armed Services are a direct consequence and reflection of the very nature of the role and functions of the Armed Forces in the community, the obligations accepted by Servicemen and the variety of tasks they have to perform together with the range of conditions under which they work. The interaction of all of these factors

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produces an environmental tapestry which no civilian area of employment approaches in complexity."

Nothing has changed.

In principle, the DFRDB scheme, which closed in 1991, does not differ from the Parliamentary Contributory Superannuation Scheme (PCSS), which closed in 2004. Regardless of the current perception, they formed a part of the conditions of employment, of those who enlisted in the Defence Force or were elected to the Parliament. Furthermore, those individuals had no choice but to become members of their respective schemes.

However, unlike the PCSS, the provisions of which; are more generous, take effect after fewer years of service and continue to increase benefits in line with rises in the basic parliamentary allowance, DFRDB benefits relate back to salaries at the time of retirement, with adjustments substantially reduced through indexation and a lifetime reduction of benefits due to the disproportionate commutation arrangement.

Appendix 1

RECOMMENDATIONS OF THE JESS COMMITTEE

1. Introduction

The DFRDB scheme was the product of the endeavours of a Joint Select Committee on Defence Forces Retirement and Death Benefits Legislation (Jess Committee), under the chairmanship of Mr J D Jess, CBE MP, which was appointed by the Parliament on 2 September 1970 to review the operation of the Defence Force Retirement Benefits Act 1948.

The Jess Committee produced a report (Jess Report) dated May 1972, which set out the provisions for the introduction of a new Defence Force Retirement and Death Benefit arrangement, subsequently called the DFRDB Scheme.

2. The Jess Report Recommendations

The Jess Committee Recommendations are set out below. The recommendations relevant to this submission are highlighted.

- (1) That the present Defence Forces Retirement Benefits legislation (referred to hereafter as the D.F.R.B. legislation) be repealed and a new scheme introduced without delay. The Committee has examined the Post-1959 Scheme closely to see whether this scheme, as it stands or with modifications, would be suitable as the sole future scheme, and is unanimous that it has many defects, of which the most critical are its lack of simplicity and comprehensibility to servicemen and, therefore, should be replaced by the scheme proposed in this Report.
- (2) That the proposed scheme be a contributory retirement benefit scheme designated the Defence Forces Retirement Benefits Scheme (hereinafter called the *Proposed D.F.R.B. Scheme*) and administered by the Department of Defence. The Minister for Defence should be the responsible Minister.
- (3) That all members of the Defence Force on continuous full time duty for twelve months or more (referred to hereafter as *contributing members*) be eligible and required to join the *Proposed D.F.R.B. Scheme*.
- (4) That all *contributing members* be required to contribute at a flat rate of 5.5 per cent of pay.
- (5) That the terms *Pension* and *Pensioner* be discontinued; that the entitlement of a member who becomes a recipient under the *Proposed D.F.R.B. Scheme* be referred to as *retired pay* or *invalid pay*; that a person contributing to the scheme be referred to as *contributing member* and that the recipient be referred to as a *recipient member*.
- (6) That *retired pay* and *invalid pay* be expressed as a percentage of final pay and be adjusted annually so that relativity with average weekly earnings is maintained. A possible method of achieving this would be to maintain the relativity of benefits to current pay for the rank held on retirement.

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RECOMMENDATIONS OF THE JESS COMMITTEE

- (7) That the *Proposed D.F.R.B. Scheme* not be 'funded'; that members' contributions not represent a fixed proportion of the cost of the benefits provided; that the contributions of members be payable to the Commonwealth; that the Commonwealth guarantee the benefits provided and meet all costs not covered by members' contributions.
- (8) That all contributors to the *D.F.R.B. Fund* be transferred to the *Proposed D.F.R.D.B. Scheme*. The conditions of the scheme should then apply to them.
- (a) *Contributors* whose total past contributions have exceeded 5.5 per cent of *aggregate pay* should receive a refund of the excess.
- (b) A *Pre-1959 Contributor* whose total past contributions have amounted to less than 5.5 per cent of *aggregate pay* should have an option to either repay the 'shortfall' over a reasonable period or have his entitlement proportionately reduced in relation to the 'shortfall' in his contributions.
- (c) A *Post-1959 Contributor* whose total past contributions have amounted to less than 5.5 per cent of *aggregate pay* should be transferred to the *Proposed D.F.R.B. Scheme* without being required to re-pay any 'shortfall'.
- (9) That pensions and benefits payable under the D.F.R.B. legislation at the time the *Proposed D.F.R.B. Scheme* is introduced remain in force and, thereafter, be adjusted in the same manner as benefits payable to *recipient members* of the *Proposed D.F.R.B. Scheme*.
- (10) That the existing *D.F.R.B. Fund* be transferred to the Commonwealth. The question of whether the present investments are maintained or future contributions invested as a basis for a separate welfare account is a matter for the Government to determine.
- (11) RETIRED PAY
- (i) That a *contributing member* be eligible to receive *retired pay* upon retirement at the completion of twenty years *effective service* from the date of joining the Defence Force. A *Late Entrant Officer* to receive *retired pay* if he can complete at least fifteen years *effective service*.
- (ii) That an officer retired from the Defence Force at his own request before he has served to the retirement age designated for his rank be entitled to receive *retired pay* at the rate provided in Recommendation 11 (iii) reduced by a proportion obtained by multiplying his uncompleted years of service to retiring age by 5 per cent. The *retired pay* entitlement of an other rank member retired at his own request before the completion of his current engagement should be reduced by a proportion obtained by multiplying the uncompleted years of his engagement by 5 per cent. (Examples given in Figure VI page 28.)

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RECOMMENDATIONS OF THE JESS COMMITTEE

- (iii) That *retired pay* entitlement accrue at the rate set out in Figure 1 below—

FIGURE I—RETIRED PAY

<i>Years of Effective Service for Retired Pay</i>	<i>Retired Pay as a Percentage of Final Pay</i>	<i>Increments as a Percentage of Final Pay</i>
15	30.00	
16	31.00	1.00
17	32.00	1.00
18	33.00	1.00
19	34.00	1.00
20	35.00	1.00
21	36.50	1.50
22	38.00	1.50
23	39.50	1.50
24	41.00	1.50
25	42.50	1.50
26	44.00	1.50
27	45.75	1.75
28	47.50	1.75
29	49.25	1.75
30	51.25	2.00
31	53.25	2.00
32	55.50	2.25
33	57.75	2.25
34	60.25	2.50
35	62.75	2.50
36	65.25	2.50
37	67.75	2.50
38	70.50	2.75
39	73.50	3.00
40	76.50	3.00
Bold figures indicate entitlement of <i>Late Entrant Officers</i> only.		

- (iv) (a) That a former *contributing member* be entitled to purchase back all periods of past service upon re-joining the Defence Force.
- (b) That provided that no payment of *retired pay* is made during a period of *effective service* with the Defence Force a *recipient member* re-joining the Defence Force be entitled upon his eventual retirement to

Appendix 1

RECOMMENDATIONS OF THE JESS COMMITTEE

retired pay at the rate applicable to his total *effective service* with the Defence Force.

- (c) That a serving member of the Defence Force who is not a *contributor* to the *D.F.R.B. Fund* because he elected to remain on deferred pay, should not be required to contribute to the *Proposed D.F.R.B. Scheme*, but should be given the option to purchase back sufficient of his past service to qualify for entitlement under the *Proposed D.F.R.D.B. Scheme*, at the rate of 5.5 per cent of *aggregate pay* received during the years for which the member is buying back service.
- (d) That former members of *R.A.S.R. ** or any similar corps still serving in the Defence Force when the *Proposed D.F.R.B. Scheme* is introduced be permitted to purchase sufficient past service to qualify for benefits in the proposed scheme.

(12) REFUND OF CONTRIBUTIONS

That a refund of contributions without interest be payable to a *contributing member* who ceases to be a member of the Defence Force before qualifying for an entitlement under the *Proposed D.F.R.B. Scheme*.

(13) GRATUITIES

That the provision in the D.F.R.B. legislation for gratuities should not be re-enacted in the *Proposed D.F.R.B. Scheme*. The Committee considers that any such provision should be made as a normal condition of service. This aspect has been drawn to the attention of the *Committee of Inquiry into Financial Terms and Conditions of Service for Male and Female Members of the Regular Armed Forces*.

(14) COMMUTATION

- (a) That provided that the option is exercised within twelve months from date of retirement a *recipient member* should be entitled to commute an amount not exceeding four times the amount of the annual *retired pay* entitlement payable to him in the first year of his retirement.
- (b) That *retired pay* proportionately reduced in relation to commutation remain payable after commutation.
- (c) That for the purpose of determining a widow's entitlement commutation should be disregarded.
- (d) That *invalid pay* and a widow's annuity should not be capable of commutation.

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RECOMMENDATIONS OF THE JESS COMMITTEE

- (e) That the implementation of this proposal should not affect existing rights of pensioners under the existing D.F.R.B. legislation.

(15) WIDOW'S ANNUITY

- (a) That the widow of a *recipient member* receive an annuity of five-eighths of his *retired pay* entitlement at the date of his death.
- (b) That the widow of a *contributing member* receive an annuity of five-eighths of his notional *invalid pay* entitlement on the assumption that he had been classified as an invalid Class 'A' at the date of his death.
- (c) That provided no widow survives the member the widow's annuity should be payable to a woman, who throughout the period of three years immediately before the member's death, although not married to him, lived with him as his wife on a permanent and bona fide domestic basis.
- (d) That provided he was dependent for support on a female *contributing member* or *recipient member* immediately before the date of her death the annuity referred to in Recommendation 15 (a) and (b) should be payable to a widower. The annuity should only remain payable as long as the widower's financial circumstances remain substantially the same as they were immediately before the death of the *contributing member* or *recipient member*.
- (e) That upon re-marriage of a widow or widower the annuity should terminate.
- (f) That in the case of the marriage of a *recipient member* the annuity should only be payable to the widow, de facto wife, or widower, where that marriage was contracted before the *recipient member* attained age 60.

(16) CHILDREN

- (a) That a benefit be payable in respect of each child under the age of sixteen years of a deceased *recipient member* or *contributing member*. The entitlement should be \$312 per annum (reviewable at regular intervals and adjusted with rises in the cost of living) for each child plus one sixth of the widow's or widower's annuity.
- (b) That the amount in Recommendation 16 (a), (c) and (d) be payable in respect of each child of the deceased member whether legitimate or illegitimate.
- (c) That where a child under the age of sixteen years is orphaned, a benefit in respect of each such child, of \$702 (reviewable at regular intervals and adjusted with rises in the cost of living) plus one eighth of the widow's or widower's annuity be payable.

Appendix 1

RECOMMENDATIONS OF THE JESS COMMITTEE

- (d) That provided a child remains *dependent* and under the age of twenty-five years the benefit payable under (a), (b) or (c) be paid as an education allowance for the period that person is a student undergoing full time education at an approved institution of learning or instruction.
- (17) That there be payable to the estate of a *contributing member* or *recipient member* who dies without leaving dependents eligible for benefits provided by the *Proposed D.F.R.B. Scheme* an amount equal to one and a half times his contributions. But the value of any *retired pay* or other benefit received by a *recipient member* should be deducted from the amount payable to his estate.

(18) INVALID PAY

(a) *Initial classification*

That the file and other documents relating to a member discharged from the Defence Force medically unfit be sent to an Assessment Tribunal consisting of a panel with qualified medical members and members with industrial experience. This Tribunal to determine:

- (i) his degree of disability;
- (ii) his degree of incapacity in relation to civilian employment and classify him 'A', 'B' or 'C' with an entitlement as prescribed in Figure II.

FIGURE II

<i>Degree of disability and/or incapacity in relation to civilian employment</i>	<i>Classification</i>	<i>Entitlement</i>
100-60	A	<i>Invalid pay</i> at the rate of 70 per cent of <i>final pay</i>
59-30	B	<i>Invalid pay</i> at the rate of 35 per cent of <i>final pay</i>
29-0	C	A lump sum comprising one and a half times his contributions

(b) *Re-classification*

That the Assessment Tribunal re-examine each invalid retiree from time to time and adjust his classification upon improvement or deterioration in his degree of disability or degree of incapacity in relation to civilian employment. An invalid retiree's earnings in civilian employment should not be taken into account in assessing his entitlement. An invalid retiree should have the right to initiate review of his classification.

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RECOMMENDATIONS OF THE JESS COMMITTEE

(c) *Appeal*

That a member aggrieved by the determination of an Assessment Tribunal should have the right to apply to an Appeal Tribunal, separately constituted but of similar composition to the Assessment Tribunal, and that this body should have the power to affirm, vary, or substitute for that of the Assessment Tribunal, its own assessment of the member's degree of disability or incapacity in relation to civilian employment. Subject to the requirements of the *Constitution of the Commonwealth of Australia* decisions of this body should be final in respect of those matters it is empowered to examine. Such further appellate procedure as may be regarded as necessary to meet the requirements of the *Constitution of the Commonwealth of Australia* should be included in the legislation.

(19) DISPUTES

That a person whose rights under the *Proposed D.FJRJB. Scheme* are affected by a decision of an authority appointed to administer the proposed scheme should have the right to appeal to a *Prescribed Court* against that decision. Further right of appeal in keeping with requirements of the *Constitution of the Commonwealth of Australia* from the decision of the *Prescribed Court* should be provided.

(20) SERVICE DISCIPLINE

- (a) That where a member has been absent without leave for a period of twenty-eight days or been officially recorded as a deserter he should cease to be a member of the scheme. His dependants should lose all right to benefits in respect of his death on the twenty-ninth day of his absence, or the day he has been officially recorded as a deserter, whichever occurs first. But should he die absent without leave before he has ceased to be a member of the scheme, his dependants should retain their entitlement.
- (b) That *retired pay* or other entitlement of any member should not be reduced by reason only that the member has refused to sign on to a Reserve maintained by the Service of which he was a member.
- (c) That subject to (a), a *contributing member* who has length of service sufficient to qualify him for *retired pay* should not forfeit that entitlement in the event of his discharge from the Defence Force on disciplinary grounds.

3. Relevant Jess Committee Discussion

Under the heading **Purchase of Past Service**

Paragraph 103 states:

Provided that no payment of *retired pay* is made during a period of effective service with the Defence Force a *recipient member* re-joining the Defence Force be entitled upon his

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eventual retirement to *retired pay* at the rate applicable to his total *effective service* with the Defence Force. In short the benefit entitlement should correspond to the total service actually performed as a member of the Defence Force. Of course adjustment would be necessary where the member had exercised the right of commutation.

Under the heading **COMMUTATION**

Paragraph 106 states:

The general policy of the Commonwealth has been that benefits should take the form, of retirement annuities wherever possible. This policy pervades the other schemes in the group operated by the Commonwealth. The justification for the inclusion of the commutation provision in the original D.F.R.B. legislation was that a serviceman often had a requirement for a capital sum on his retirement, to assist in his re-settlement and re-establishment in civilian life.

Paragraph 109 states:

The provision made for commutation in the existing legislation is designed to ensure that if the option is exercised the actuarial assumptions on which the scheme is based will not be affected. A retiree may not, therefore, commute more than he could be expected to draw as pension. The assessment of his individual life expectancy is designed to ensure this. The amount payable to the retiree is reduced to allow for expected loss to the fund of anticipated interest earnings. The commutation factors applied by the Actuary contain an element which makes this adjustment. If commutation were to be a right within the existing structure of the scheme, the factors now applied by the Actuary to establish the amount payable would have to be revised to take account of the fact that the option is likely to be exercised by persons at present precluded by the medical examination. The result would be that retirees with a first class life expectancy would be entitled to less than they can now obtain. Where the D.F.R.B. Board exercises its discretion to reject an application because it does not approve the purpose of commutation the actuarial assumptions are not affected.

Under the heading **AUTOMATIC ADJUSTMENT**

Paragraph 115 states:

The Committee considers that it is essential that *retired pay* should be adjusted automatically with increases in average weekly earnings. Unless the payment made to retired members is kept abreast of rising community standards its real value is quickly eroded.

Paragraph 124 states:

The committee has concluded that the adjustment should be related to average weekly earnings and the relativity of *retired pay* with that index maintained. This will ensure that the man in retirement will be able to maintain his position in relation to rising community standards and that he will obtain those increases when they are needed. To some extent this is a compromise between the proportion of salary method of adjustment discussed in

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paragraphs 118-119 and the proposal that adjustment be related to the Consumer Price Index. The Committee rejects the latter suggestion because it considers that the index does not fairly represent changes in general community standards. The following table, Figure X, extracted from the Commonwealth Actuary's last report on the Commonwealth Public Service Superannuation Fund illustrates this point—

FIGURE X

<i>Year</i>	<i>Consumer Price Index</i>	<i>Average Weekly Earnings Index</i>
(A) The Indexes—		
1969-70	109.4	229.5
1964-65	94.0	167.3
1959-60	85.7	134.3
1954-55	74.0	105.1
(B) Equivalent Annual Increases to 1969-70—	Per cent	Per cent
1964-65	3.12	6.53
1959-60	2.47	5.50
1954-55	2.64	5.34

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1. Introduction of the Defence Force Retirement and Death Benefits Act 1973

When the Honourable Member for Bass, Lance Barnard, the Minister for Defence, Minister for Navy, Minister for Army, Minister, Minister for Air and Minister for Supply, put his motion for the Defence Force Retirement and Death Benefits Bill 1973 to be read a second time, he stated:

“The Bills (the DFRDB Bill was grouped with two other Bills) give effect to the Government's decision announced last year to implement the recommendations of the Joint Select Committee on Defence Forces Retirement Benefits Legislation.” [See Note (i)]

Regarding adjustment (indexation):

“The whole question of suitable methods of adjustment of retirement benefits payable to members of the forces, whether they retired under the old or will retire under the new scheme, is currently being examined. Since the Jess Committee presented its report, there have been developments on pension updating in other Commonwealth pension schemes and I want these developments carefully investigated and assessed in relation to the new DFRB scheme.” [See Note (ii)]

Regarding commutation:

“Some of the other features of the new scheme are: Commutation of retirement pay will be a right for members who retired after 1 October 1972, subject only to applications for commutation being made within one year of retirement or such longer period as may be necessary in special circumstances;” [See Note (iii)]

Source: House of Representatives Hansard 25 May 1973.

Notes:

- (i) The Joint Select Committee on Defence Forces Retirement Benefits Legislation recommendations and discussion related to this submission are included in Appendix 1.
- (ii) The Bill included no provision for adjustment.
- (iii) The Minister's speech disclosed no details of the commutation arrangement.

2. The Parliamentary Debate

During the Second Reading Parliamentary debate, the following pertinent comments were made:

The Honourable Member for Herbert, Robert Bonnett, stated:

“... how could simplicity of understanding be achieved, when the Minister permitted the exclusion of Service representation from the drafting committee? Surely the inclusion of Service representation during the drafting stages is a basic principle to abide by, for

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servicemen understand the problems of the Services far better than do their civilian counterparts in the Department of Defence.” [See Note (iv)]

And:

“The Jess Committee, as the Minister well knows, set out to devise a simple scheme which servicemen could understand, and I believe it succeeded. But when translated into the present legislation its recommendations are on the way to becoming incomprehensible. Legislation which cannot be understood by those who are required to administer it or by those who will benefit from its provisions should never be allowed to be brought before the House until it has been made tidy. In this instance I think the Minister has been very remiss.” [See Note (v)]

Source: House of Representatives Hansard 30 May 1973.

The Honourable Member for Isaacs, David Hamer stated:

“... what we are considering today are 3 Bills of great complexity. The main one contains 79 pages. These Bills affect about 70,000 present servicemen and many thousands of retired ones. It was introduced into this House last Friday and 5 days later we are debating it. For a Bill of such complexity, in my opinion, that is a grossly inadequate time for proper consideration.” [See Note (vi)]

Source: House of Representatives Hansard 30 May 1973.

Notes:

- (iv) There was no scrutiny of the draft legislation by military representatives.
- (v) Even if the draft Bill was viewed by military representatives, it is unlikely that it would have been understood or that the punitive provisions incorporated in the Bills would be apparent.
- (vi) 5 Days was totally inadequate to gain a proper understanding of this Bill.

3. The Introduction of Automatic Adjustments

After interim adjustments in 1974 and 1976, the Defence Force Retirement and Death Benefits (Amendments) Bill 1977 introduced a permanent adjustment arrangement based on movements in the Consumer Price Index (CPI).

When that Bill was moved on behalf of the Minister for Defence (Mr Killen) to be read a second time by the Honourable Member for Boothby, John Elden McLeay, Minister for Construction and Minister Assisting the Minister for Defence, he stated:

“... The increases in defence forces retirement benefits and defence force retirement and death benefits pensions for the year 1976-77 and in the future will be related to the percentage increase in the consumer price index ...”

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“The adjustment provisions incorporated in the Bill are detailed and complex. I propose therefore to explain in broad terms only how they are to operate. A more detailed explanation of their practical effects will be made available to beneficiaries by the Defence Force Retirement and Death Benefits Authority when the increased rates of pension become payable. [See Note (vii)] For DFRB pensioners, that is those who retired prior to 1 October 1972, the amount of the increase will be determined by applying the relevant pension adjustment factor to the total pension payable as at 30 June of each year. Pensions payable to widows and the additional pension payable in respect of eligible children will be adjusted on the same basis. DFRDB pensioners- those retired since 30 September 1972- who are in receipt of retirement pay, are to receive increases by applying the same pension adjustment factor to an amount that represents the amount of retirement pay remaining as if the member had commuted to the fullest possible extent following his retirement. [See Note (viii)]

Pensions payable to the widows of DFRDB retirement pensioners will be adjusted by applying the pension adjustment factor to that proportion of the widow's pension that bears the same ratio as the member's residual pension, or notional residual pension as the case may be, to his total retirement pay at retirement. DFRDB invalidity pensions, and the pensions payable to the widows of deceased contributors and of invalidity pensioners are to be adjusted in full. Appropriate adjustments will also be made to the additional component of pensions payable to children. [See Note (ix)]

“In essence, therefore, the pension updating arrangements encompassed by this Bill achieve the earlier stated aim of consistency with those currently applying to comparable classes of pensioners under the Commonwealth Public Service superannuation schemes.” [See Note (x)]

Source: House of Representatives Hansard 17 February 1977.

Notes:

- (vii) DFRDB Authority advice on the benefits of the DFRDB scheme, dating back to 1977, are no longer available. Attachments 1, 2 and 3 are the earliest examples obtainable of the advice pamphlets circulated by the DFRDB Authority. The advice provided on indexation is inconsistent and lacks pertinent details.
- (viii) This means that if the member did not commute his retirement pay would adjusted as though he/she had commuted 4 years of his/her retirement pay entitlement.
- (ix) There is no definition of or any justification for a **notional residual pension**. In any case, it is unlikely that any Member of the Parliament understood the meaning of this paragraph.
- (x) The nature of military service is unique. There are no comparable classes of pensioners under the Commonwealth Public Service superannuation schemes.

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The level of scrutiny of the amendments in this Bill is exemplified in the response by the Honourable Member for Oxley, Bill Hayden, who stated:

“This Bill provides an initiative on the part of the Minister for Defence (Mr Killen) which is welcomed. Its proposal is to index in accordance with the consumer price index and a simple formula outlined by the Minister in this House last week, the payments under the DFRB and DFRDB pension system. [See Note (xi)] The Opposition endorses the proposals and I see little point in debating the subject further and unnecessarily taking up the time of this House and its officers.”

Source: House of Representatives Hansard 17 February 1977.

Note:

- (xi) No record of the proposal of the “*simple formula outlined by the Minister*” could be found in Hansard. As was the case for the initial Bill, the reference to “*last week*” implies a very limited time for the consideration of this Bill. It is unlikely that any Member of the Parliament gained a proper understanding of this Bill.

4. Increase of the Maximum Commutation Amount

From retirement dates of 30 June 1982 onwards, the maximum amount which could be commuted was increased by an additional 0.05 per year, up to a maximum of 5 times a member’s retirement pay entitlement.

5. Alteration of the Rate of Adjustments

The Defence Force Retirement and Death Benefits (Fair Indexation) Act 2014, altered the indexation of benefits **for DFRDB recipients aged 55 or older**, by basing adjustments on the more favourable of positive movements in:

- (a) The consumer price index; and
- (b) The pensioner and beneficiary living cost index; with an adjustment if needed to ensure that affected pension benefits are increased by at least the percentage required to maintain a hypothetical pension at 27.7% of male total average weekly earnings.

When that Bill was moved by the Honourable Member for Fadden, Robert Stuart, Assistant Minister for Defence, he stated:

“It is important to note that the new fairer indexation methodology will not result in a DFRB or DFRDB pension that is currently less than the MTAWWE floor percentage increasing to the floor percentage (and conversely, that a pension that is currently in excess of the floor percentage reducing to the floor percentage). ...” [See Note (xii)]

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And:

“The proposed changes will have an immediate impact on some 45,000 current DFRB and DFRDB pensioners where the originally entitled member was aged 55 or over at 1 July 2014.” [See Note (xiii)]

“This bill gives effect to many years of advocacy by this government for fair indexation of DFRB and DFRDB superannuants and their families.”

Source: House of Representatives Hansard 20 March 2014.

Note:

- (xii) This was an acknowledgement that the superseded indexing methodology was unfair. But there was no provision to restore the resultant reduction and loss of benefits.

The following are excerpts from the Second Reading speeches in support of the Bill.

(Opposition) Member for Batman, **David Feeney**

“Let us first of all remember that, during the 11 long years of the Howard government, the coalition absolutely refused to countenance the measure that is being brought into this House today.” [See Note (xiv)]

Member for Eden-Monaro, **Dr Peter Hendy**

“The proposed changes will have an immediate impact on some 45,000 current DFRB and DFRDB pensioners where the originally entitled member was aged 55 or over at 1 July 2014. Overall, it should help some 57,000 pensioners.” [See Note (xv)]

Member for Wright, **Scott Buchholz**, Government Whip

“It is truly only the coalition who have been resolved in our capacity and resolved in our commitment to ensure that our brave men and women—who have served and who today provide us, as a nation, with a blanket of security that we sleep under every single night—are those who are honoured. It is they who we should not leave behind. It is they who need to be indexed fairly.”

Member for Longman, **Roy Wyatt**

“This commitment recognises the unique nature of military service. It recognises that those who have served our nation should not be treated differently from age and service pensioners. And this commitment is yet another example so far as this government's record on trust is concerned. Making sure our veterans were treated with fairness and respect was an article of faith for us when we took up the treasury bench.

“We of the coalition have long acknowledged the unique nature of military service and the sacrifices military personnel and their families make on behalf of all Australians. We believe that Australia should protect and watch over its veterans and their future in the same way that our veterans have protected and watched over our country.” [See Note (xv)]

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Member for Ryan, **Jane Prentice**

“I have spoken several times in this place about the importance of fair indexation of Defence Forces Retirement Benefits and the Defence Force Retirement and Death Benefits military superannuation pensions.”

“I am proud to stand on this side of the chamber with my coalition colleagues, who understand and value the contribution by veterans to our great nation. We have pledged our commitment to the fair indexation of military superannuation.”

“Under the coalition government's policy for fair indexation, 57,000 military superannuants and their families will be better off.” [See Note (xv)]

“We are also committed to fairly indexing veterans' DFRB and DFRDB pensions, because that is the right and just thing to do. It is just and right because of the enormous contribution that these brave Australians have made. It is just and right because when a nation asks its service personnel to go to war, to put themselves in harm's way, we as a nation have an overwhelming obligation to provide proper support on their return. It is just and right because it is the Australian way. I am proud of the commitment this government has made to our veterans. I am proud of our veterans—heroes all—who put themselves at serious risk in the defence of Australia and the freedom we all enjoy. We must never begrudge this support and never forget their sacrifice.”

Member for Macquarie, **Louise Markas**

“For anyone in this House or outside of this building, or indeed in the other place, that has any connection with our Defence Force, with our military personnel, whether they be Navy, Army, or Air Force, we understand the sacrifices, the commitment, the dedication, the risks that they take and indeed the sacrifice and the impact on their families.”

“I have always been a passionate advocate of our veterans and involve myself in every way possible to fight for the best outcomes for them locally and indeed across the nation.”

“This legislation has been long awaited and the benefits will be felt by our veterans' community immediately.”

“I am pleased to note that in the electorate of Macquarie, 604 DFRB and DFRDB superannuants aged over 55 will immediately benefit from these changes come July. In New South Wales alone there will be 13,699 veterans better off because of these changes.”

“This bill recognises overall that military service is unique—there is no other service and no other job in this nation like it—and, as such, deserves unique solutions to ensure that Australia's service personnel, past and present, are looked after in their retirement.”

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Member for Riverina, **Michael McCormack**, Parliamentary Secretary to the Minister for Finance

“This is about keeping faith with the veterans—the people who look after us, who laid their lives on the line to look after Australian people—and I am very pleased and proud to support this important legislation in the House tonight.”

“Providing fair indexation to our veterans so that military pensions adequately reflect increases in cost of living is absolutely the right thing to do. After all, veterans and their families sacrifice so much in our hours of need and for this nation.”

“Fair indexation for our veterans acknowledges that military service is unique and forces demands on our service women and men, and their families, in a way that other types of service simply do not do.”

Member for Hinkler, **Keith Pitt**

“At the end of the day, this bill recognises the unique nature of military service, and it ensures that recipients have their pensions indexed in the same way as the age and service pensions. This means more money in the pockets of people who have proudly served this nation.”

Member for Leichart, **Warren Entch**

“For many of our veterans it is not about money; it is about recognition of service. That is why this bill is so important. We must never stop looking at ways to improve the support that we provide to those who have served our nation.”

Member for McPherson, **Karen Andrews**

“The coalition has a very proud history of advocating on behalf of our defence personnel and of affording the utmost respect to those who have served our nation in this noble way. We are very proud of the job our defence forces do.”

“Linking the indexation not only to CPI but to the Pensioner and Beneficiary Living Cost Index and male total average weekly earnings will mean a better deal for some 57,000 military superannuants.”

Member for Robertson, **Lucy Wicks**

“It demonstrates how the government is committed to veterans and their families. It is about recognising the unique nature of military service, in particular for our military superannuants aged 55 and over.”

Member for Fadden, **Robert Stuart**, Assistant Minister for Defence

“This government's policy will help approximately 57,000 DFRB and DFRDB members and their families. It will have an immediate impact on some 45,000 current DFRB and DFRDB pensioners aged 55 or over at 1 July.” [See Note (xv)]

Source: House of Representatives Hansard 20 March 2014.

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Senator FARRELL (South Australia)

“Approximately 57,000 retired military personal aged 55 and over will receive a \$160 million boost to their pensions from 1 July if this legislation passes this afternoon. As I indicated, it is with much pleasure that the opposition indicates that it is going to support the bill. We will continue to support improving the circumstances of our ex-servicemen and ex-servicewomen, just as we did in the lead-up to the 2013 federal election.

The Labor Party believes that one of the greatest responsibilities for a country is to be proud of its veterans and its ex-servicemen and ex-servicewomen, and to ensure that they are looked after in times of need. We are proud of our veterans and grateful that they have helped protect our nation and its interests.” [See Notes (xv and xvi)]

Senator WRIGHT (South Australia)

“When it comes to supporting veterans the Greens believe that if we are prepared to make the significant decision to send people away to serve Australia in our name, often in situations that are hazardous and distressing, we have a full responsibility to accept the decision that we have made and to care for them properly when they return home.”

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State)

“This is a great day for 57,000 military superannuants and their families. This is a great day that has been a long time coming. It is a great day that should have occurred a long time ago. In particular, it should have occurred on 16 June 2011 when, in this very chamber, the very same bill was put to many of those people who are in the chamber today. On that day, the Australian Labor Party and the Australian Greens let down a group of people who deserved better. The veteran community knows full well who was on the fair indexation ship when it set sail that day and who refused to climb on board. The veteran community knows full well those who are trying to run up that rope now to get on the ship of fairness. They will be judged appropriately.” [See Note (xv)]

Source: Senate Hansard 27 March 2014.

Notes:

- (xiii) There is no reason given for why the Bill discriminates against recipients aged under 55.
- (xiv) Indicates a reversal of coalition policy on the indexation of DFRB and DFRDB benefits.
- (xv) The Bill applied to an approximate 45,000 current DFRB and DFRDB recipients aged 55 and over at 1 July 2014. It had no impact the remaining 12,000 recipients.

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1. The Defence Force Retirement and Death Benefits Act 1973

The Defence Force Retirement and Death Benefits Act 1973 is the outcome of the Defence Force Retirement and Death Benefits Bill 1973. The following sections of the Act are relevant to this submission:

24 Commutation of retirement pay

- (1) A person who is, or is about to become, entitled to retirement pay may, by notice in writing given to CSC, elect to commute a portion of his or her retirement pay in accordance with this section.
- (1AA) A notice under subsection (1) shall be given not earlier than 3 months before becoming entitled to retirement pay and not later than one year after becoming so entitled or such further period as CSC, in special circumstances, allows.
- (1A) Subsection (1) does not apply to a person who, after the commencement of this subsection, became a person to whom subsection 62(1) or (2) applied and is not excluded, under subsection (1B), from the operation of this subsection.
- (1B) A person who, after the commencement of this subsection, becomes, or is about to become, entitled to retirement pay is excluded from the operation of subsection (1A) if:
 - (a) the person was a former recipient member whose invalidity pay was cancelled under subsection 62(1) on the person again becoming an eligible member of the Defence Force; and
 - (b) the person reached, or will reach, immediately before retirement, the retiring age for the rank then held by him or her or the person's total period of effective service is not, or will not be, less than 20 years.
- (2) An election by a person under subsection (1) shall specify the amount that is to be payable to him by virtue of the commutation.
- (2A) The amount specified in an election by a person under subsection (1) shall not be an amount that, together with:
 - (a) any amount or amounts specified in any previous election or elections by the person, under this section or section 32A of this Act, to commute a portion or portions of his retirement pay or invalidity pay, as the case may be, reduced by any amount or amounts required under paragraph 62(4)(a) of this Act, to be paid by the person to the Commonwealth in respect of that commutation or those commutations; and

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- (b) any amount paid to the person in pursuance of an application, under section 74 of the previous Act, to commute a portion of any pension payable to him under that Act reduced by:
- (i) any amount or amounts required, under paragraph 62(4)(a) of this Act, to be paid by the person to the Commonwealth; and
 - (ii) any amount or amounts required, under subsection 69(1B) or 69(3A) of the previous Act, to be paid by the person to the Defence Forces Retirement Benefits Fund established under the previous Act;

in respect of that commutation; exceeds the amount per annum of the retirement pay to which the person was or will be entitled on retirement multiplied by the maximum commutation factor.

Note: This amount is reduced if a release authority lump sum has been paid:
See section 49M.

- (2B) For the purposes of subsection (2A), the maximum commutation factor is the number calculated in accordance with the formula:

$$\frac{80 + A}{20}$$

where *A* is:

- (a) if the number (treating zero as a number) of whole periods of 12 months between 30 June 1982 and the date of retirement of the recipient member is less than 20—that number of periods; or
 - (b) in any other case—20.
- (3) Where a person makes an election under this section, then, subject to subsections (8) and (9):
- (a) there shall be paid to him by the Commonwealth an amount equal to the amount specified in the election as the amount that is to be payable to him by virtue of the commutation; and
 - (b) the amount per annum of the retirement pay payable to him, on and after the day on which the election takes effect, is the amount per annum that, but for this paragraph and subsection 98K(1), would be payable reduced by an amount calculated by dividing the amount referred to in paragraph (a) by the expectation of life factor that, having regard to the age and sex of the person on the day on which the election takes effect, is applicable to him under Schedule 3.

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- (4) For the purposes of this section, an election shall be deemed to have been made, and shall take effect, on the day on which the notice of election is received by CSC or the day following the day on which the person retires, whichever is the later.
- (5) Where:
- (a) a person becomes entitled to retirement pay under subsection 23(1); and
 - (b) the person had on a previous occasion become entitled to retirement pay under that section; and
 - (c) on that occasion the person had made an election under subsection (1) of this section (in this section called the *previous election*) to commute a portion of his or her retirement pay; and
 - (d) the person's retirement pay was subsequently cancelled under subsection 62(1) on his or her again becoming an eligible member of the Defence Force;
- then, subject to subsection (7), subsection (3) applies to the person as if:
- (e) the person:
 - (i) were entitled to make an election under subsection (1) to commute a portion of his or her retirement pay; and
 - (ii) has made the election on the day immediately following the day on which the person retired; and
 - (f) the election specified the amount prescribed by subsection (6) as the amount that is to be payable to the person because of the commutation.
- (6) For the purposes of paragraph (5)(f), the prescribed amount is:
- (a) if the previous election made by the person had specified the maximum amount (in this subsection called the *previous maximum amount*) that could have been specified in that election in accordance with subsection (2A)—an amount equal to the maximum amount (in this subsection called the *putative maximum amount*) that the person could (under subsection (2A)) specify in an election made under subsection (1) if the person were entitled to make the election on his or her becoming entitled to the retirement pay; or
 - (b) if the previous election made by the person had specified a lesser amount than the previous maximum amount—an amount calculated by using the formula:

$$\frac{\text{Lesser amount}}{\text{Previous maximum amount}} \times \text{Putative maximum amount}$$

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- (7) Where, because of subsection (5), subsection (3) applies to a person (in this subsection called the *recipient member*), there must be deducted from the amount that, apart from this subsection, would be payable to the recipient member under paragraph (3)(a) an amount equal to the sum of:
- (a) the amount that was paid to the recipient member under that paragraph as a result of the previous election made by him or her; and
 - (b) any increase in that amount that the recipient member would have received if, on each occasion after the payment of the amount on which a person to whom a pension benefit was payable was entitled under section 98B to an increase in the rate of that pension benefit, the recipient member had been entitled to an increase in that amount calculated under that section in the same way as the increase in the rate of pension benefit was calculated.
- (8) If:
- (a) a member of the scheme makes an election under this section (*first election*); and
 - (b) the member's surcharge debt account is in debit when retirement pay becomes payable to the member; and
 - (c) the member also makes an election under subsection 124(1); the following provisions apply:
 - (d) the Commonwealth must pay to the member the difference between the amount (*specified amount*) specified in the first election as the amount that is to be payable to the member by virtue of the commutation and:
 - (i) the member's surcharge deduction amount; or
 - (ii) if the member's surcharge deduction amount exceeds the specified amount—so much of the surcharge deduction amount as does not exceed the specified amount;
 - (e) the amount per annum of the retirement pay payable to the member, on and after the day on which the first election takes effect, is:
 - (i) if subparagraph (ii) does not apply—the amount per annum referred to in paragraph (3)(b); or
 - (ii) if the member's surcharge deduction amount exceeds the specified amount—the amount per annum worked out by using the formula:

$$\text{Basic Rate} - \frac{\text{Excess}}{\text{Conversion factor}}$$

where:

basic rate means the amount per annum referred to in paragraph (3)(b).

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conversion factor is the factor that is applicable to the member under the determination made by CSC under section 124A.

excess means the amount by which the member's surcharge deduction amount exceeds the specified amount.

- (9) If:
- (a) a member of the scheme makes an election under this section; and
 - (b) the member's surcharge debt account is in debit when retirement pay becomes payable to the member; and
 - (c) the member does not make an election under subsection 124(1); and
 - (d) the member's surcharge deduction amount exceeds the amount of the member's productivity superannuation benefit; the following provisions apply:
 - (e) the Commonwealth must pay to the member an amount equal to the amount specified in the election as the amount that is to be payable to the member by virtue of the commutation;
 - (f) the amount per annum of the retirement pay payable to the member, on and after the day on which the election takes effect, is the amount per annum worked out by using the formula:

$$\text{Basic Rate} - \frac{\text{Excess}}{\text{Conversion factor}}$$

where:

basic rate means the amount per annum referred to in paragraph (3)(b).

conversion factor is the factor that is applicable to the member under the determination made by CSC under section 124A.

excess means the amount by which the member's surcharge deduction amount exceeds the amount of the member's productivity superannuation benefit.

Part VI—Benefits on death of member of scheme

Division 1—Spouse's pension

38 Spouse's pension on death of contributing member

Where a member of the scheme who is a contributing member dies before retirement and is survived by a spouse, the spouse is entitled to a pension at a rate equal to five-eighths of the rate at which invalidity pay would have been payable to the deceased member if, on the date

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of the deceased member's death, the deceased member had become entitled to invalidity benefit and had been classified as Class A under section 30 and (in the case of a deceased member whose surcharge debt account is in debit when the pension becomes payable) had made an election under subsection 124(1).

39 Spouse's pension on death of recipient member

- (1) Where a member of the scheme who is a recipient member dies and is survived by a spouse, then, subject to sections 47 and 75, the spouse is entitled to a pension at a rate equal to five-eighths of the rate at which retirement pay or invalidity pay was payable to the deceased member immediately before the member's death or, if the member had commuted a portion of the member's retirement pay under section 24 or a portion of the member's invalidity pay under section 32A, at a rate equal to five-eighths of the rate at which retirement pay or invalidity pay, as the case may be, would have been payable to the member immediately before the member's death if the member had not so commuted a portion of the member's retirement pay or invalidity pay, as the case may be.
- (2) In spite of subsection (1), if, on any of the 7 pay-days immediately following the death of a recipient member, the rate at which pension would, apart from this subsection, be payable to the spouse of the member is less than the rate (in this subsection called the *putative rate*) at which retirement pay or invalidity pay (as the case may be) would be payable to the deceased member on that day if the member had not died, the spouse is entitled to a pension at a rate equal to the putative rate.

Division 2—Children's pensions

42 Eligible children other than orphans

- (1) Pension is payable to an eligible child, not being an eligible orphan, in accordance with this section while he is an eligible child.
- (2) Pension under this section is payable to an eligible child, being the child of a contributing member who died before retirement, as follows, pension at the rate of \$312 per annum, as indexed in accordance with subsection 98B(5A), and additional pension at a rate equal to one-sixth of five-eighths of the rate at which invalidity pay would have been payable to the member if, on the date of his death, he had become entitled to invalidity benefit and had been classified as Class A under section 30.
- (3) Subject to sections 47 and 75, pension under this section is payable to an eligible child, being the child of a member of the scheme who was a recipient member at the time of his death, as follows, pension at the rate of \$312 per annum, as indexed in accordance with subsection 98B(5A), and additional pension at a rate equal to one-sixth of five-eighths of the rate at which retirement pay or invalidity pay was payable to the member

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immediately before his death, or, if the member had commuted a portion of his retirement pay under section 24 or a portion of his invalidity pay under section 32A, at a rate equal to one-sixth of five-eighths of the rate at which retirement pay or invalidity pay, as the case may be, would have been payable to the member immediately before his death if he had not so commuted a portion of his retirement pay or invalidity pay, as the case may be.

43 Eligible orphans

- (1) Pension is payable to an eligible orphan in accordance with this section while he is an eligible orphan.
- (2) Subject to subsections (2AA) and (2A), pension under this section is payable to an eligible orphan, being the child of a contributing member who died before retirement, as follows, pension at the rate of \$5,000 per annum, as indexed in accordance with subsection 98B(5A), and additional pension at a rate equal to one-eighth of five-eighths of the rate at which invalidity pay would have been payable to the member if, on the date of his death, he had become entitled to invalidity benefit and had been classified as Class A under section 30.

(2AA) If:

- (a) a contributing member dies and is survived by one or more eligible orphans; and
- (b) the member's surcharge debt account is in debit when pension becomes payable to the orphan or orphans;

then, subject to subsection (2A), there is payable to the orphan or each of the orphans, instead of the pensions described in subsection (2), a pension at the rate worked out by using the formula:

$$\text{Basic Rate} - \frac{\text{Surcharge deduction amount}}{\text{Conversion factor}}$$

where:

basic rate means the amount per annum equal to the sum of the rates of the pensions described in subsection (2).

conversion factor is the factor that is applicable to the member under the determination made by CSC under section 124A.

surcharge deduction amount means the member's surcharge deduction amount.

- (2A) Where the number of eligible orphans in respect of whom pensions are payable under subsection (2), or a pension is payable under subsection (2AA), because of the death of the contributing member is such that the sum of the rates of all the pensions so payable exceeds the rate at which invalidity pay would have been payable to the member in the

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circumstances mentioned in subsection (2), then, while that position exists, there is payable, in respect of each of the orphans, instead of the pensions described in subsection (2) or the pension described in subsection (2AA) (as the case may be), a pension at the rate calculated by dividing the number of orphans into the rate exceeded.

- (3) Subject to subsection (4) and sections 47 and 75, pension under this section is payable to an eligible orphan, being the child of a member of the scheme who was a recipient member at the time of his death, as follows, pension at the rate of \$5,000 per annum, as indexed in accordance with subsection 98B(5A), and additional pension at a rate equal to one-eighth of five-eighths of the rate at which retirement pay or invalidity pay was payable to the member immediately before his death or, if the member had commuted a portion of his retirement pay under section 24 or a portion of his invalidity pay under section 32A, at a rate equal to one-eighth of five-eighths of the rate at which retirement pay or invalidity pay, as the case may be, would have been payable to the member immediately before his death if he had not so commuted a portion of his retirement pay or invalidity pay, as the case may be.
- (4) Where the number of eligible orphans in respect of whom pensions are payable under subsection (3) because of the death of the recipient member is such that the sum of the rates of all the pensions so payable exceeds the rate of the retirement or invalidity pay used for the calculation of the orphans' pensions under that subsection, then, while that position exists, there is payable, in respect of each of the orphans, instead of the pensions described in subsection (3), a pension at the rate calculated by dividing the number of orphans into the rate exceeded.

Division 2—General provisions about pension increases

98AD Simplified outline of this Division

Certain pension benefits are indexed each 1 January and 1 July.

For pensioners aged under 55, the indexation is based on positive movements in the consumer price index.

For pensioners aged 55 or older, movements in the consumer price index are relevant, but they are only part of the indexation method.

For all pensioners, there are rules dealing with special cases including pension benefits that have only recently become payable and situations involving commutation of a portion of a pension benefit.

98B Increase in certain pensions

Increase

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- (1) Subject to this Part, a pensioner is entitled, at the commencement of a prescribed half-year, to an increase in the pensioner's relevant rate of pension benefit in relation to that half-year. The increase is worked out by using:
- (a) if the pensioner is aged 55 or older at the commencement of the prescribed half-year—the 55-plus percentage; and
- (b) otherwise—the prescribed percentage.

Increase by prescribed percentage

- (2) The increase provided for by subsection (1), for a pensioner aged under 55 at the commencement of a prescribed half-year (the ***relevant prescribed half-year***), is the prescribed percentage of the pensioner's relevant rate of pension benefit in relation to the relevant prescribed half-year.

Prescribed percentage

- (3) Subject to subsection (3A), the ***prescribed percentage*** for a prescribed half-year is:

$$\frac{\text{First quarter CPI number} - \text{Base quarter CPI number}}{\text{Base quarter CPI number}} \times 100$$

where:

base quarter CPI number means the CPI number in respect of the March quarter or September quarter that:

- (a) is before the first quarter of the half-year immediately before the prescribed half-year; and
- (b) has the highest CPI number.

CPI number, in respect of a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Statistician in respect of the quarter.

first quarter CPI number means the CPI number in respect of the first quarter of the half-year immediately before the prescribed half-year.

- (3A) If the first quarter CPI number is equal to or less than the base quarter CPI number, then, for the relevant prescribed half-year:
- (a) the prescribed percentage is taken to be 0%; and
- (b) subsection (1) does not provide for an increase for a pensioner aged under 55 at the commencement of that half-year.

Relevant rate of pension benefit

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- (4) The ***relevant rate*** of a pensioner's pension benefit, in relation to a relevant prescribed half-year, is:
- (a) in relation to a pensioner who is a recipient member to whom invalidity pay is payable—the rate at which invalidity pay was payable to the pensioner immediately before the commencement of the relevant prescribed half-year or, if a notional rate of invalidity pay is applicable to the pensioner in accordance with subsection (5) and the notional rate of invalidity pay so applicable immediately before the commencement of that half-year is lower than the rate at which invalidity pay was payable to the pensioner immediately before the commencement of that half-year, the notional rate of invalidity pay so applicable immediately before the commencement of that half-year;
 - (ab) in relation to a pensioner who is the spouse of a recipient member to whom, immediately before his death, invalidity pay was payable—a rate equal to five-eighths of the rate at which invalidity pay would have been payable to the deceased recipient member immediately before the commencement of the relevant prescribed half-year if he had not died or, if a notional rate of invalidity pay is applicable to the deceased recipient member in accordance with subsection (5) and the notional rate of invalidity pay so applicable immediately before the commencement of that half-year is lower than the rate at which invalidity pay would have been payable to the deceased recipient member before the commencement of that half-year if he had not died, a rate equal to five-eighths of the notional rate of invalidity pay so applicable immediately before the commencement of that half-year;
 - (ac) in relation to a pensioner who is the spouse of a person who, immediately before his death, was a contributing member—the rate at which pension benefit was payable to the pensioner immediately before the commencement of the relevant prescribed half-year;
 - (b) in relation to a pensioner who is a recipient member to whom retirement pay is payable—the rate at which retirement pay was payable to the pensioner immediately before the commencement of the relevant prescribed half-year or, if a notional rate of retirement pay is applicable to the pensioner in accordance with subsection (5) and the notional rate of retirement pay so applicable immediately before the commencement of that half-year is lower than the rate at which retirement pay was payable to the pensioner immediately before the commencement of that half-year, the notional rate of retirement pay so applicable immediately before the commencement of that half-year;
 - (c) in relation to a pensioner who is the spouse of a recipient member to whom, immediately before his death, retirement pay was payable—a rate equal to five-eighths of the rate at which retirement pay would have been payable to the deceased recipient member immediately before the commencement of the relevant prescribed half-year if he had not died or, if a notional rate of retirement pay is applicable to the deceased recipient member in accordance with subsection (5) and

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the notional rate of retirement pay so applicable immediately before the commencement of that half-year is lower than the rate at which retirement pay would have been payable to the deceased recipient member immediately before the commencement of that half-year if he had not died, a rate equal to five-eighths of the notional rate of retirement pay so applicable immediately before the commencement of that half-year;

- (d) in relation to a pensioner to whom subsection 42(2) or 43(2) applies—the rate at which pension benefit referred to as additional pension was payable immediately before the commencement of the relevant prescribed half-year to the pensioner under whichever of those subsections is applicable;
 - (e) in relation to a pensioner to whom subsection 42(3) or 43(3) applies and who is the child of a deceased recipient member—a rate equal to such proportion as, under subsection (6), is the appropriate proportion of the rate at which retirement pay or invalidity pay, as the case may be, would, immediately before the commencement of the relevant prescribed half-year, have been payable to the deceased recipient member if he had not died or, if a notional rate of retirement pay or invalidity pay, as the case may be, is applicable to the deceased recipient member in accordance with subsection (5) and the notional rate of retirement pay or invalidity pay, as the case may be, so applicable immediately before the commencement of that half-year is lower than the rate at which retirement pay or invalidity pay, as the case may be, would have been payable to the deceased recipient member immediately before the commencement of that half-year if he had not died, a rate equal to such proportion as, under subsection (6), is the appropriate proportion of the notional rate of retirement pay or invalidity pay, as the case may be, so applicable immediately before the commencement of that half-year; or
 - (f) in relation to a pensioner to whom a pension benefit is payable under section 43A or 44—a rate determined by CSC, being the rate which, in the opinion of CSC, is the appropriate rate to be regarded as the relevant rate of pension in relation to the pensioner for the relevant prescribed half-year.
- (4A) For the purposes of paragraphs (4)(ab), (c) and (e), in working out the rate at which invalidity pay or retirement pay would have been payable to a deceased recipient member, work out any increases to which the member would have been entitled on or after the later of:
- (a) 1 July 2014; and
 - (b) the day of the member's death; using the pensioner's age at the time of the increase (not the age that the member would have been at that time, had the member not died).
- (5) For the purposes of subsection (4):

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(aa) a notional rate of invalidity pay is applicable to a recipient member if and only if that member:

(i) is a member of the scheme who:

(A) was retired after the commencement of section 32A; and

(B) on his retirement, was classified as Class C under section 30; and

(ii) has not elected under section 32A to commute a portion of his invalidity pay equal to or greater than 4 times the amount per annum of the invalidity pay to which he was entitled upon his retirement;

and the notional rate of invalidity pay applicable to the member at a particular time is the rate at which invalidity pay would have been payable to him at that time if he had immediately upon his retirement commuted a portion of his invalidity pay equal to 4 times the amount per annum of the invalidity pay to which he was entitled;

(ab) a notional rate of invalidity pay is applicable to a deceased recipient member if and only if that deceased member:

(i) was a member of the scheme who:

(A) was retired after the commencement of section 32A; and

(B) on his retirement, was classified as Class C under section 30; and

(ii) had not, before his death, elected under section 32A to commute a portion of his invalidity pay equal to or greater than 4 times the amount per annum of the invalidity pay to which he was entitled upon his retirement;

and the notional rate of invalidity pay applicable to the deceased member at a particular time is the rate at which invalidity pay would have been payable to him at that time if he had not died and if he had immediately upon his retirement commuted a portion of his invalidity pay equal to 4 times the amount per annum of the invalidity pay to which he was entitled;

(a) a notional rate of retirement pay is applicable to a recipient member if and only if that member has not elected under section 24 to commute a portion of his retirement pay equal to or greater than 4 times the amount per annum of the retirement pay to which he was entitled upon his retirement, and the notional rate of retirement pay applicable to the member at a particular time is the rate at which retirement pay would have been payable to him at that time if he had immediately upon his retirement commuted a portion of his retirement pay equal to 4 times the amount per annum of the retirement pay to which he was entitled; and

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- (b) a notional rate of retirement pay is applicable to a deceased recipient member if and only if that deceased member had not, before his death, elected under section 24 to commute a portion of his retirement pay equal to or greater than 4 times the amount per annum of the retirement pay to which he was entitled upon his retirement and the notional rate of retirement pay applicable to the deceased member at a particular time is the rate at which retirement pay would have been payable to him at that time if he had not died and if he had immediately upon his retirement commuted a portion of his retirement pay equal to 4 times the amount per annum of the retirement pay to which he was entitled.

Increases in children's pensions

- (5A) If the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter of the half-year immediately preceding a prescribed half-year exceeds the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter of any earlier half-year, not being a half-year earlier than the half-year that commenced on 1 July 1985, sections 42 and 43 have effect, in that prescribed half-year, as if:
 - (a) for the amount of \$312 specified in subsections 42(2) and (3); and
 - (b) for the amount of \$5,000 specified in subsections 43(2) and (3); there were substituted, on the first day of that prescribed half-year, an amount calculated by adding to the existing amount the prescribed percentage of the existing amount.
- (5B) For the purposes of the application of subsection (5A) to a provision specified in that subsection, the existing amount is:
 - (a) in relation to the prescribed half-year that commenced on 1 July 2001—the amount that was the existing amount in relation to that provision, as calculated under this section immediately before the commencement of *[this amending item]*; and
 - (b) in relation to any subsequent prescribed half-year—the amount that, because of a previous application or previous applications of subsection (5A), is taken to have been substituted, or last substituted, for the amount specified in that provision.
- (6) For the purposes of subsection (4), the appropriate proportion is:
 - (a) in the case of a pension benefit payable under subsection 42(3)—one-sixth of five-eighths; and
 - (b) in the case of a pension benefit payable under subsection 43(3)—one-eighth of five-eighths.

Death of recipient member on 30 June or 31 December

- (7) Where, by reason of the death of a recipient member on 30 June or 31 December (as the case requires) immediately preceding the commencement of a prescribed half-year,

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a pension benefit becomes payable, on the following day, to another person, that other person shall be entitled, at the commencement of that prescribed half-year, to such an increase in the rate of that pension benefit as he would have been entitled to had the pension benefit become payable to him on that 30 June or 31 December (as the case requires).

Appendix 4

THE CONSUMER PRICE INDEX VERSUS AVERAGE WEEKLY EARNINGS

1. Introduction

The key recommendation on DFRDB benefit adjustment, in the Jess Report, is recommendation (6) which states:

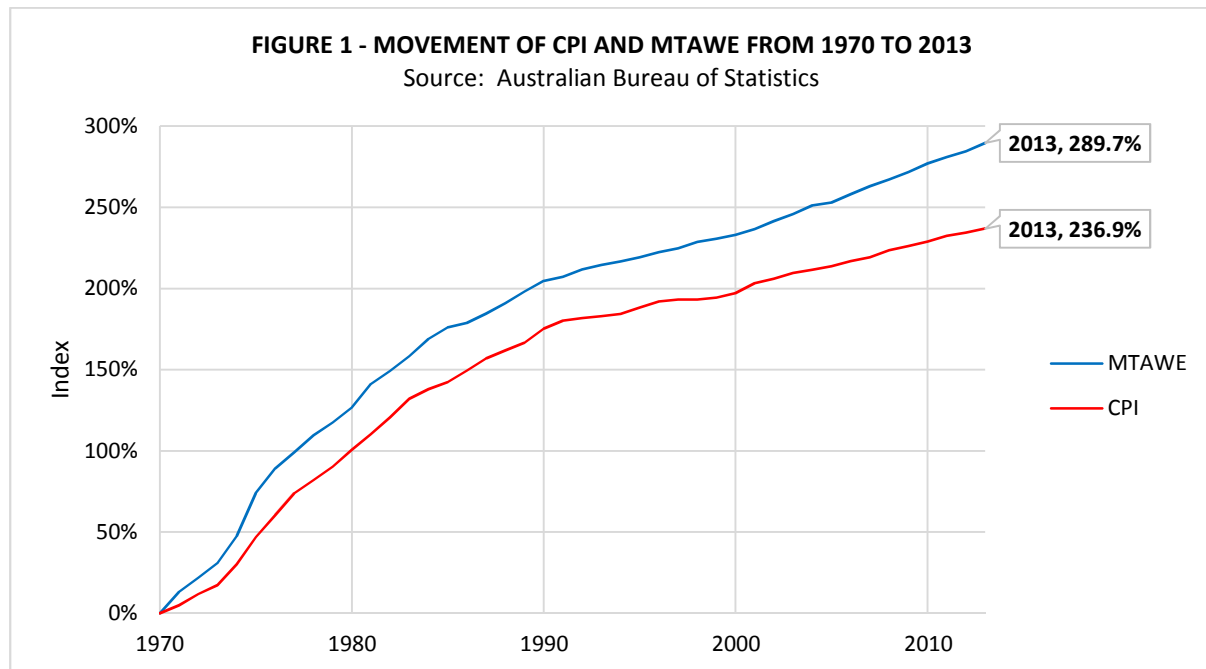
“That retired pay and invalid pay be expressed as a percentage of final pay and be adjusted annually so that relativity with average weekly earnings is maintained.”

This recommendation flows from the Jess Committee’s discussion in paragraphs 115 and 124, (see Appendix 1), in which, the Jess Committee specifically rejected the use of the Consumer Price Index (CPI) because *“because it considers that the index does not fairly represent changes in general community standards.”*

The Jess Report refers to a table (Figure X), extracted from the then Commonwealth Actuary’s last report on the Commonwealth Public Service Superannuation Fund. Recreated in part from Figure X, Table 1 illustrates the reason for the Jess Committee’s concern.

TABLE 1 – CPI FALL BELOW MTAWA FROM 1955 TO 1970			
Year	MTAWE	CPI	CPI Lag
1969-70	229.5%	109.4%	-120.1%
1964-65	167.3%	94.0%	-73.3%
1959-60	134.3%	85.7%	-48.6%
1954-55	105.1%	74.0%	-31.1%
Total Fall of the CPI below the MTAWE Index			89.0%

Figure 1 illustrates the movement of the CPI and MTAWE indexes from 1970 to 2013.

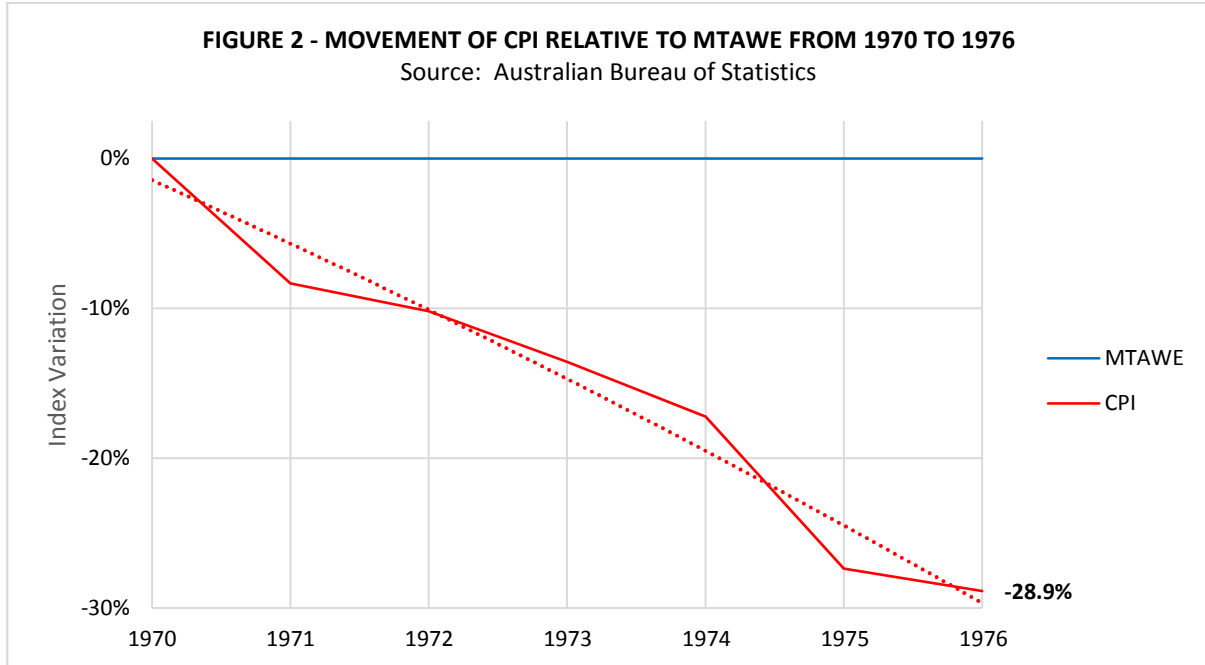


From 1970 to 2013, the total fall of the CPI below the MTAWE Index was 52.8%.

Appendix 4

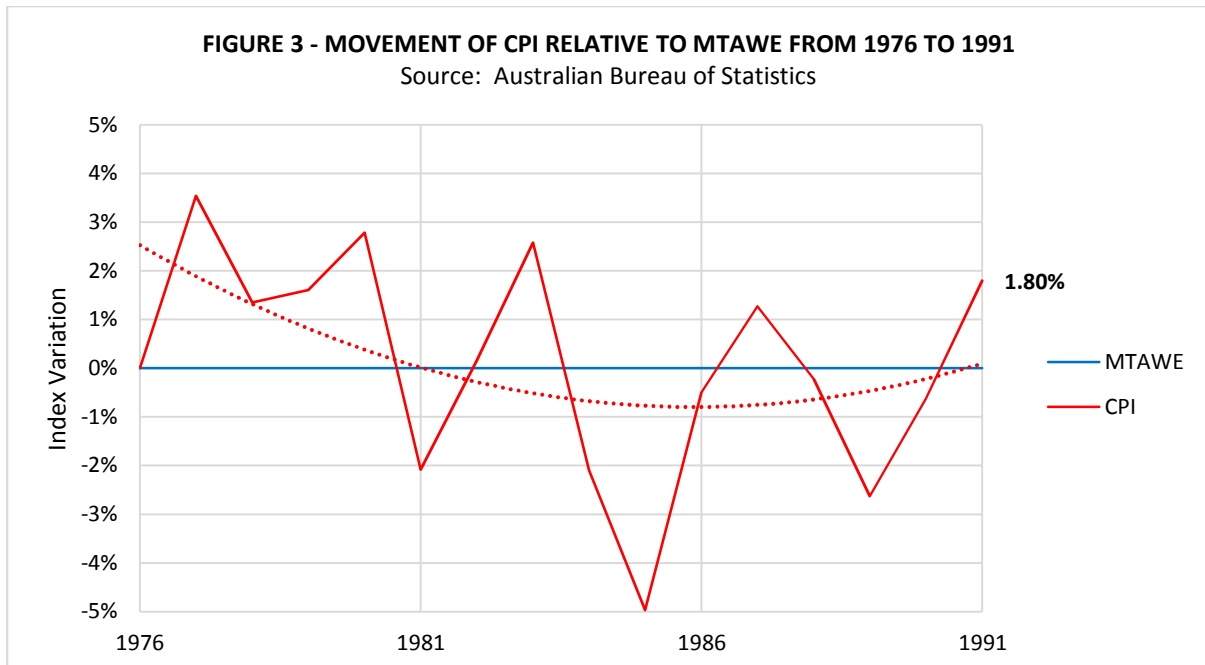
THE CONSUMER PRICE INDEX VERSUS AVERAGE WEEKLY EARNINGS

Figure 2 shows the movement of the CPI relative to the MTAWWE Index from 1970 to 1976.



From 1962 to 1976, the total fall of the CPI below the MTAWWE Index was 55.69%.

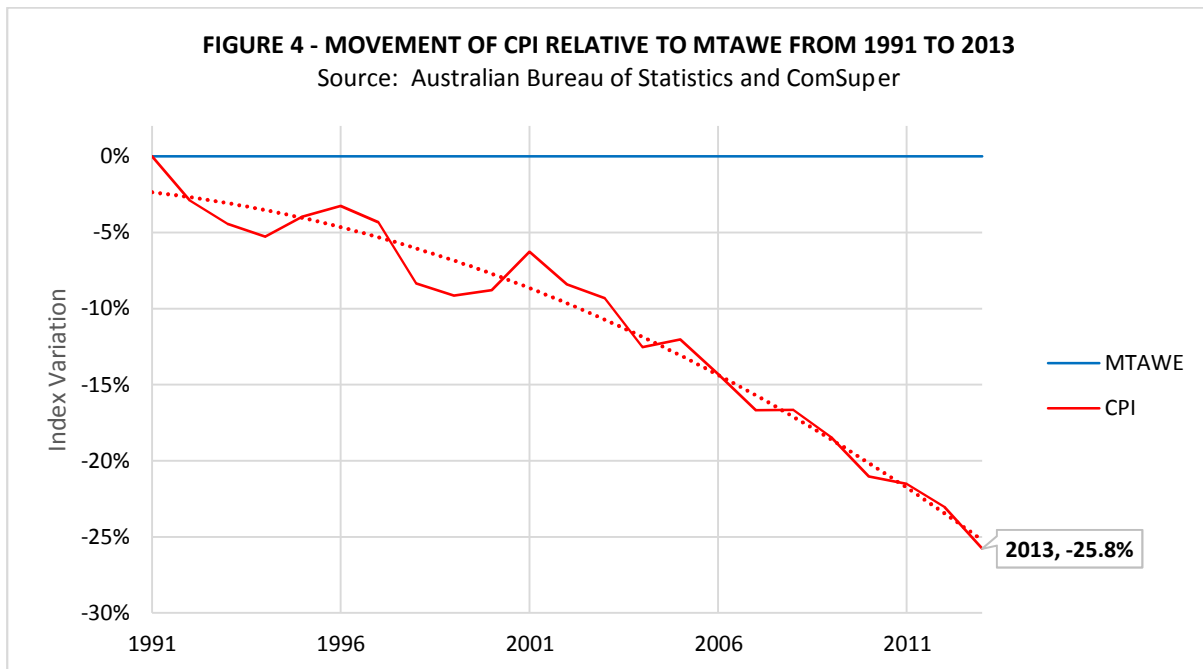
Figure 3 shows the movement of the CPI relative to the MTAWWE Index from 1976 to 1991.



From 1976 to 1991, the CPI rose above the MTAWWE Index by 1.8%.

Appendix 4

THE CONSUMER PRICE INDEX VERSUS AVERAGE WEEKLY EARNINGS



From 1991 to 2013, the total fall of the CPI below the MTAW E Index was 25.8%.

2. Conclusion

The CPI and MTAW E statistics available on the ABS web site do not date back before 1962. However, the historical movements of those indexes since 1962 remain consistent with those observed by the Jess Committee in its 1972 report.

The CPI continues to remain unsuitable an index which fairly represents changes in general community standards.

The Jess Committee's view is supported by the Australian Bureau of Statistics (ABS). In its evidence to the Senate Select Committee on Superannuation and Financial Services, in 2001, the ABS concluded that:

"... if the purpose was to maintain a relative standard of living with other groups in the community then an earnings measure of some sort would be a more appropriate vehicle for indexation."

Appendix 5

THE REDUCTION OF RETIREMENT PAY

1. Introduction

To calculate the extent of the reduction in retirement pay, the indexed retirement pay of a representative population of DFRDB recipients is compared with the retirement pay that would have been payable to that population, if it were adjusted in accordance with the movements in MTAW.

2. A Representative DFRDB Recipient Population

Table 1 defines the ranks of the representative DFRDB recipient population.

TABLE 1 - REPRESENTATIVE DFRDB RECIPIENT POPULATION RANKS		
Navy	Army	RAAF
Petty Officer (PO)	Sergeant (Sgt)	Sergeant (Sgt)
Chief Petty Officer (CPO)	Warrant Officer Class 2 (WO2)	Flight Sergeant (FSgt)
Lieutenant Commander (LCdr)	Major (Maj)	Squadron Leader (SqnlDr)
Commander (Cdr)	Lieutenant Colonel (LtCol)	Wing Commander (WgCdr)
Captain (Capt)	Colonel (Col)	Group Captain (GpCapt)

Table 2 defines the representative DFRDB recipient population's pay grades, years of service and their applicable percentage of final salary entitlement to retirement pay.

TABLE 2 - REPRESENTATIVE POPULATION (PAY GRADES AND YEARS OF SERVICE)				
Rank (Navy/Army/RAAF)	Lowest Pay Grade		Highest Pay Grade	
	Years of Service	Retirement Pay Entitlement	Years of Service	Retirement Pay Entitlement
PO / Sgt / Sgt	20	35.00%	30	51.25%
CPO / WO2 / FSgt	22	38.00%	32	55.50%
LCdr / Maj / SqnlDr	22	38.00%	32	55.50%
Cdr / LtCol / WgCdr	25	42.50%	35	62.75%
Capt / Col / GpCapt	30	47.50%	40	76.50%

Table 3 shows what their initial per annum retirement pay rates would have been, had those members retired in January 1991.

TABLE 3 – PER ANNUM RETIREMENT PAY RATES IN JANUARY 1991				
Rank (Navy/Army/RAAF)	Lowest Pay Grade		Highest Pay Grade	
	Salary	Retirement Pay	Salary	Retirement Pay
PO / Sgt / Sgt	\$22,294	\$7,803	\$28,824	\$14,772
CPO / WO2 / FSgt	\$31,099	\$11,818	\$33,237	\$18,447
LCdr / Maj / SqnlDr	\$39,215	\$14,902	\$41,778	\$23,187
Cdr / LtCol / WgCdr	\$48,897	\$20,781	\$52,886	\$33,186
Capt / Col / GpCapt	\$57,948	\$27,525	\$59,752	\$45,710

Appendix 5**THE REDUCTION OF RETIREMENT PAY****3. Calculation of Per Annum and Total Retirement Pay**

Table 4 shows the calculation of the per annum and total retirement pay for a Navy Petty Officer and Army/RAAF Sergeant on the lowest pay grade after 20 years of service, based on the rates of salary which were in effect in November 1990.

TABLE 4 - CALCULATION OF PER ANNUM AND TOTAL RETIREMENT PAY						
Year	Indexed per Movements in the CPI			Indexed per Movements in MTAW		
	Index	Per Annum	Total	Index	Per Annum	Total
1990		\$7,803	\$7,803		\$7,803	\$7,803
1991	4.90%	\$8,185	\$15,988	2.47%	\$7,996	\$15,799
1992	1.70%	\$8,324	\$24,313	4.60%	\$8,364	\$24,163
1993	1.20%	\$8,424	\$32,737	2.72%	\$8,591	\$32,754
1994	1.40%	\$8,542	\$41,279	2.24%	\$8,784	\$41,539
1995	3.90%	\$8,875	\$50,154	3.99%	\$9,135	\$50,673
1996	3.70%	\$9,204	\$59,358	2.84%	\$9,394	\$60,067
1997	1.30%	\$9,323	\$68,682	2.09%	\$9,590	\$69,658
1998	0.00%	\$9,323	\$78,005	3.80%	\$9,955	\$79,613
1999	1.10%	\$9,426	\$87,431	2.44%	\$10,198	\$89,812
2000	2.80%	\$9,690	\$97,121	3.26%	\$10,531	\$100,342
2001	6.00%	\$10,271	\$107,392	3.78%	\$10,930	\$111,272
2002	2.90%	\$10,569	\$117,961	4.40%	\$11,410	\$122,682
2003	3.40%	\$10,929	\$128,890	5.26%	\$12,010	\$134,692
2004	2.00%	\$11,147	\$140,037	1.98%	\$12,248	\$146,940
2005	2.30%	\$11,403	\$151,440	5.49%	\$12,920	\$159,860
2006	3.00%	\$11,746	\$163,186	4.10%	\$13,450	\$173,310
2007	2.50%	\$12,039	\$175,225	5.28%	\$14,159	\$187,469
2008	4.20%	\$12,545	\$187,770	3.38%	\$14,637	\$202,107
2009	2.70%	\$12,884	\$200,654	3.71%	\$15,181	\$217,287
2010	2.70%	\$13,231	\$213,885	6.18%	\$16,118	\$233,405
2011	3.50%	\$13,695	\$227,579	4.29%	\$16,811	\$250,216
2012	2.00%	\$13,968	\$241,548	3.78%	\$17,446	\$267,662
2013	2.50%	\$14,318	\$255,865	5.28%	\$18,367	\$286,029
2014	2.40%	\$14,661	\$270,527	0.58%	\$18,473	\$304,503
2015	1.50%	\$14,881	\$285,408	0.36%	\$18,539	\$323,042
2016	0.40%	\$14,941	\$300,349	1.83%	\$18,880	\$341,922
Differences between indexation per CPI and MTAW					-\$3,939	-\$41,573

The per annum and total retirement pay, for the remainder of the DFRDB recipient population, described in Tables 1 and 2, are calculated in the same manner as in Table 4 above.

Due to the variation in the commencement of pay periods and the change to bi-annual adjustment of benefits, the accumulation of annual retirement pay rates does not produce exact amounts of total retirement pay, however, the totals produced are a very close approximation.

Appendix 5**THE REDUCTION OF RETIREMENT PAY**

Table 5 shows the comparative rates of retirement pay when the indexation of the retirement pay entitlements, of the retiree population described in Appendix 5, is based on the CPI and the MTAWWE index.

TABLE 5 - INDEXATION COMPARISON					
Indexation \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnlDr	Cdr LtCol WgCdr	Capt Col GpCapt
In July 2016	\$35,742	\$44,633	\$56,102	\$80,296	\$110,599
Indexed per MTAWWE	\$18,880	\$28,593	\$36,056	\$50,282	\$71,857
In July 2016	\$28,285	\$35,321	\$44,397	\$63,543	\$87,524
Indexed per CPI	\$14,941	\$22,628	\$28,533	\$39,791	\$56,865
On Retirement	\$14,772	\$18,447	\$23,187	\$33,186	\$45,710
In January 1991	\$7,803	\$11,818	\$14,902	\$20,781	\$27,525

4. Relativity with Current DFRDB Retirement Pay Rates

To demonstrate that the fall of the CPI below MTAWWE results in a real reduction of DFRDB benefits, a comparison is made between; the indexed 1991 retirement pay rates for the sample population, as at 2016, and the retirement pay rates that would apply if the same population retired in 2016.

Table 6 shows the rates of salary which came into effect on 5 November 2015 and the initial retirement pay rates which would be applicable for the sample population in July 2016.

TABLE 6 – PER ANNUM RETIREMENT PAY RATES IN JULY 2016				
Rank (Navy/Army/RAAF)	Lowest Pay Grade		Highest Pay Grade	
	Salary	Retirement Pay	Salary	Retirement Pay
PO / Sgt / Sgt	\$60,927	\$21,324	\$100,723	\$51,621
CPO / WO2 / FSgt	\$68,143	\$25,894	\$109,173	\$60,591
LCdr / Maj / SqnlDr	\$86,313	\$32,799	\$136,314	\$75,654
Cdr / LtCol / WgCdr	\$123,216	\$52,367	\$171,539	\$107,641
Capt / Col / GpCapt	\$144,875	\$68,816	\$193,278	\$147,858

Table 7 compares; the indexed 1991 retirement pay rates of the sample population, as at July 2016, with the initial retirement pay rates applicable if that sample population retired in July 2016.

The Gross Reduction of DFRDB Benefits

Appendix 5

THE REDUCTION OF RETIREMENT PAY

TABLE 7 - RETIREMENT PAY COMPARISON					
Retirement \ Rank	PO Sgt Sgt	CPO WO2 FSgt	LCdr Maj SqnLdr	Cdr LtCol WgCdr	Capt Col GpCapt
Retired in July 2016	\$50,608	\$59,403	\$74,171	\$105,530	\$144,958
	\$20,906	\$26,268	\$32,156	\$51,340	\$72,792
Retired in 1991 Indexed to July 2016	\$28,285	\$35,321	\$44,397	\$63,543	\$87,524
	\$14,941	\$22,628	\$28,533	\$39,791	\$56,865

5. The Effect of Commutation

The effect of commutation in these comparison is ignored because the increase in the reduction in retirement pay, which results from commutation, is offset by the increase of the reduced retirement pay.

In the minority of cases where a member does not commute, the fall in retirement pay below MTAW is exacerbated because the full amount of retirement pay is not indexed.

Appendix 6

LIFE EXPECTANCY FACTORS

(Period Average) Life Expectancy: “The average number of additional years a person can be expected to live for if he or she experiences the age-specific mortality rates of the given area [or population] and time period for the rest of his or her life”.

Source: *Longevity Bulletin - UK Institute and Faculty of Actuaries*

1. The Significant aspects of Life Expectancy

Two aspects of Life Expectancy are significant to the DFRDB Scheme:

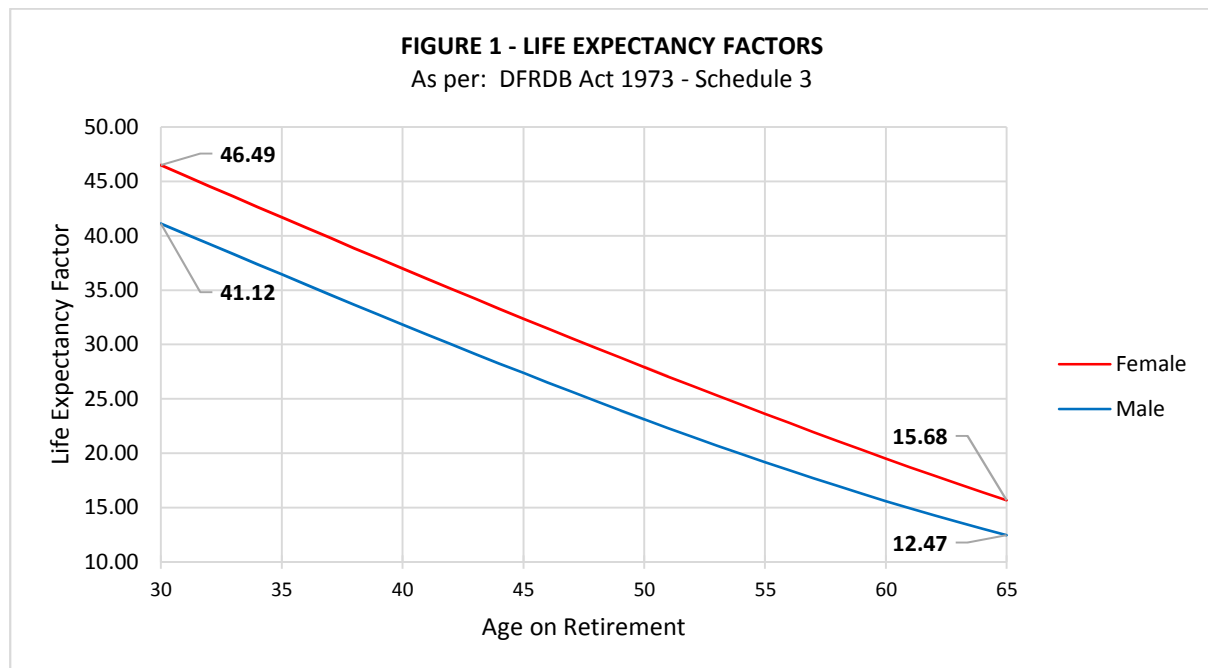
- a. The Life Expectancy Factors used to determine the reduction of retirement pay after a member commuted a portion of his/her retirement pay entitlement and
- b. The actual Life Expectancy of the DFRDB recipient population, i.e. how long that population is expected to survive.

The DFRDB scheme uses (period average) Life Expectancy Factors, which are assumed to be the mean number of years, a member at a given age, is expected to live to in order to determine the reduction of ongoing retirement pay after commuting a portion of his/her retirement pay entitlement.

The Life Expectancy Factors, which appear in Schedule 3 of the DFRDB Act, are identical to the 1960-1962 “Life expectancy at single ages” tables for males and females, which appear in;

ABS 3105.0.65.001 Australian Historical Population Statistics, 2014

Figure 1 illustrates those Life Expectancy Factors.



Appendix 6

LIFE EXPECTANCY FACTORS

2. Mean Life Expectancy

From the tables promulgated by the ABS it is not possible to demonstrate the distribution of the probability of survival of any single age group, but it is possible to form a view of the whole DFRDB member/recipient population by determining the Mean Life Expectancy of that population. This is most readily determined from the ages attained by individuals on reaching the Life Expectancy Factors which applied at the time of their election to commute.

Figure 2 illustrates the age attained on reaching the Life Expectancy Factors illustrated in Figure 1.

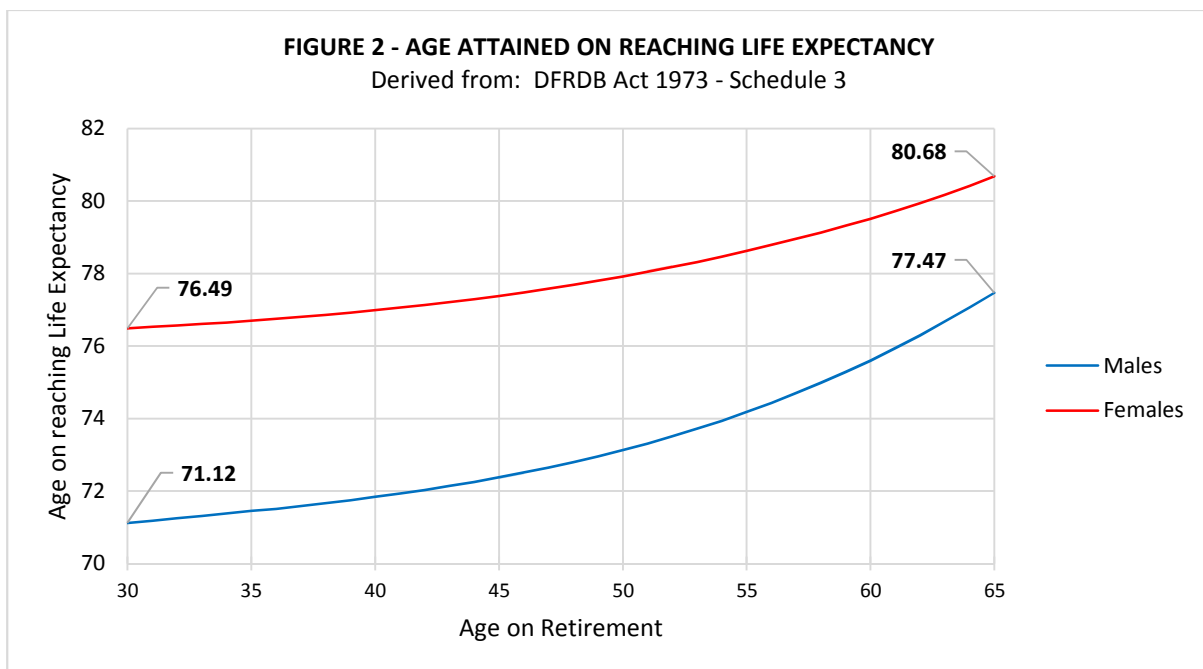


Figure 2 shows that for females, the age on reaching life expectancy ranges from 76.49 to 80.68. The mean age is 77.96 and the median age is 78.59.

For males it is 71.12 to 77.47 with a mean age of 73.28 and a median age is 74.30.

3. Longevity versus Mortality

Actuarial life expectancy calculations are based on the mortality rate, i.e. the probability of dying. However, life expectancy is a poor measure of survival, due to the skewness of its distribution.

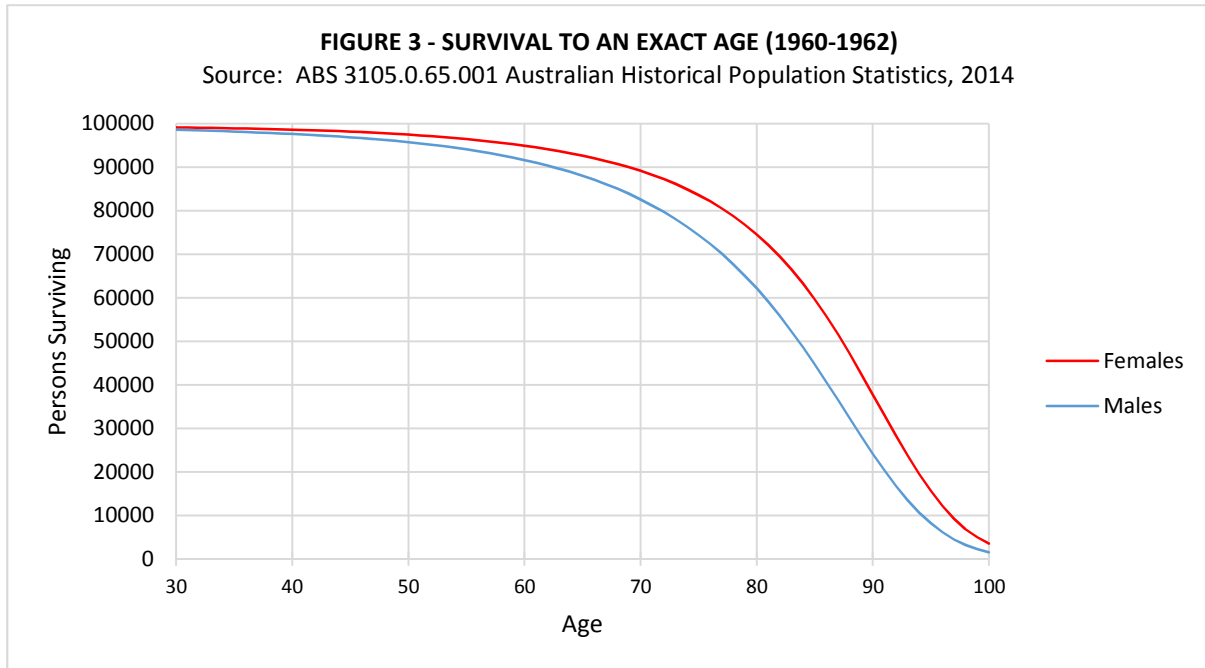
The distribution of survival (i.e. the mode), sometimes termed the *Probability Density for Survival*, is not readily apparent in Figures 1 and 2 above. *Probability Density for Survival* tables are not published by the ABS, however, they can readily be derived from the following tables which are published in the ABS life tables.

Appendix 6

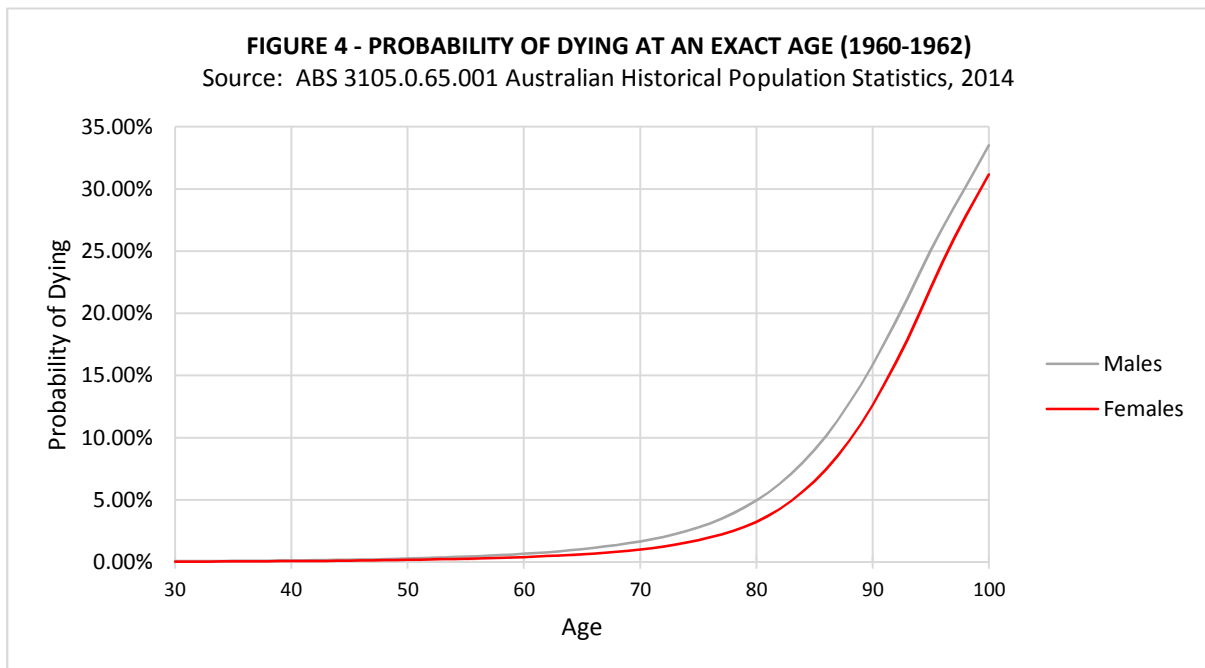
LIFE EXPECTANCY FACTORS

- a. Number of persons at exact age and
- b. Probability of dying between exact age x and exact age $x+1$.

Figures 3 illustrates the number of persons surviving to any given age.



Figures 4 illustrates the probability of dying at any given age.



The *Probability Density for Survival* (survival distribution) is derived from the product of the number of persons surviving to a given age and the probability of dying at a given age.

Appendix 6

LIFE EXPECTANCY FACTORS

Figure 5 illustrates the survival distribution derived from the 1960-1962 tables which appear in;

ABS 3105.0.65.001 Australian Historical Population Statistics, 2014

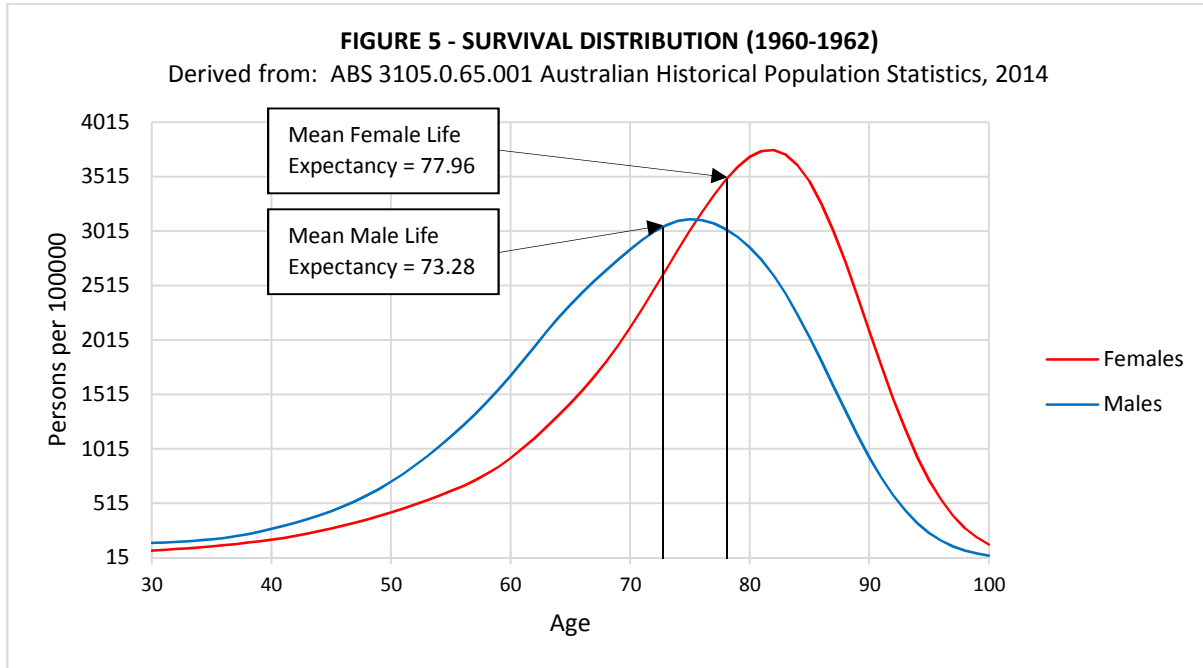


Figure 5 shows that even in the 1960-1962 life tables, the mean Life Expectancy Factors, of 73.28 for males and 77.96 for females, are an underestimation of the probability of survival of the DFRDB recipient population, which is approximately 75 for males and 82 for females.

4. Actual Life Expectancy of the DFRDB Member/Recipient Population

In most countries mortality rates at all ages are continuing a long history of decline. This means that longevity is improving and each generation can expect longer lifespans than their parents and grandparents. This is also true of the DFRDB recipient population.

The latest ABS Life Tables are published in;

ABS 3302.0.55.001 Life Tables, States, Territories and Australia, 2012-2014

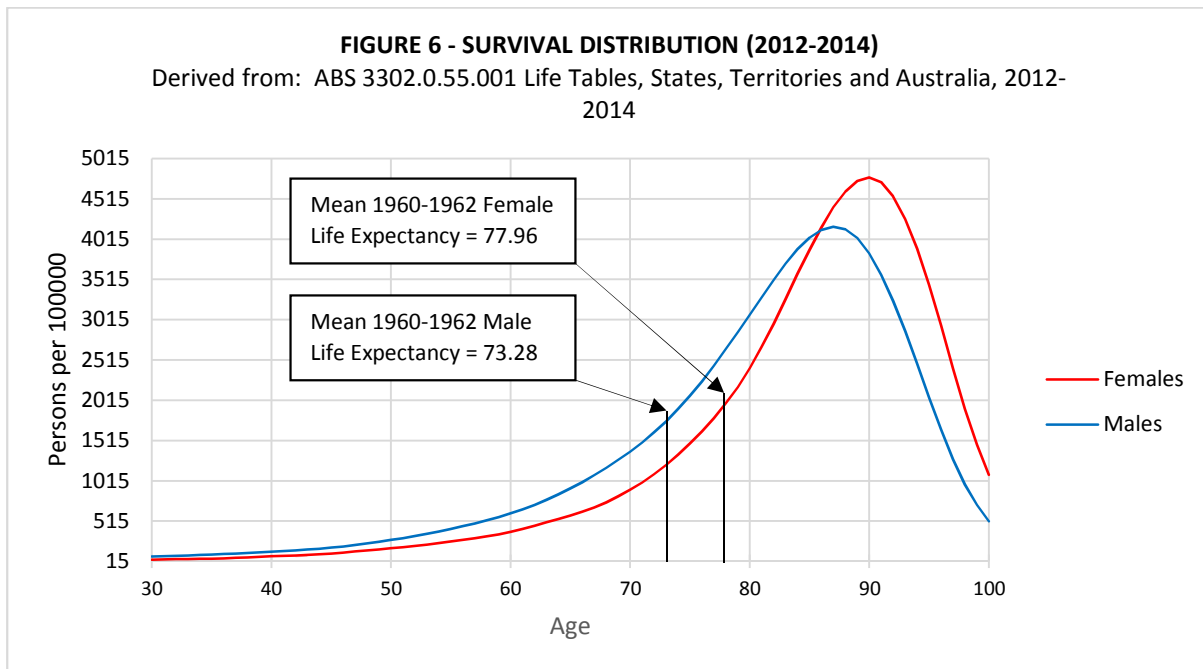
From those tables it is possible to establish that that for females, the age on reaching life expectancy now ranges from 85.00 to 87.20. The mean age is 85.79 (an increase of 7.82) and the median age is 86.10 (an increase of 7.51 years).

For males, the age on reaching life expectancy now ranges from 81.20 to 84.60 (an increase of 9.09 years) with a mean age of 82.37 and the median age is 82.80 (an increase of 8.51 years).

Figure 6 illustrates the *Probability Density for Survival* (survival distribution), based on the 2012-2014 ABS Life Tables.

Appendix 6

LIFE EXPECTANCY FACTORS



From Figure 6 it is clearly evident that the 2012-2014 survival distribution is even more skewed than was the case in 1960-1962. Furthermore, the probability of survival (the mode) has increased to approximately 87 (an increase of 12 years) for males and 90 for females (an increase of 9 years).

From the distributions shown in Figure 6, it can readily be determined that of the current DFRDB member/recipient population;

- a. 79% of males will survive beyond their mean 1960-1962 life expectancy of 73.28 years and
- b. 79% of females will survive beyond their mean 1960-1962 life expectancy of 77.96 years.

5. Conclusion

It is clearly evident in Figure 6 that period average life expectancy is a misleading factor, because it leads to an underestimation of how long the DFRDB member/recipient population is going to live. It cannot be used to form the basis for any valid long-term actuarial assumptions for the ageing DFRDB member/recipient population.

Because the distribution of survival is left skewed and not symmetrically distributed about the life expectancy mean, the permanent reduction of retirement pay in respect of commutation, imposes a substantial penalty on those members, who survive beyond that life expectancy.

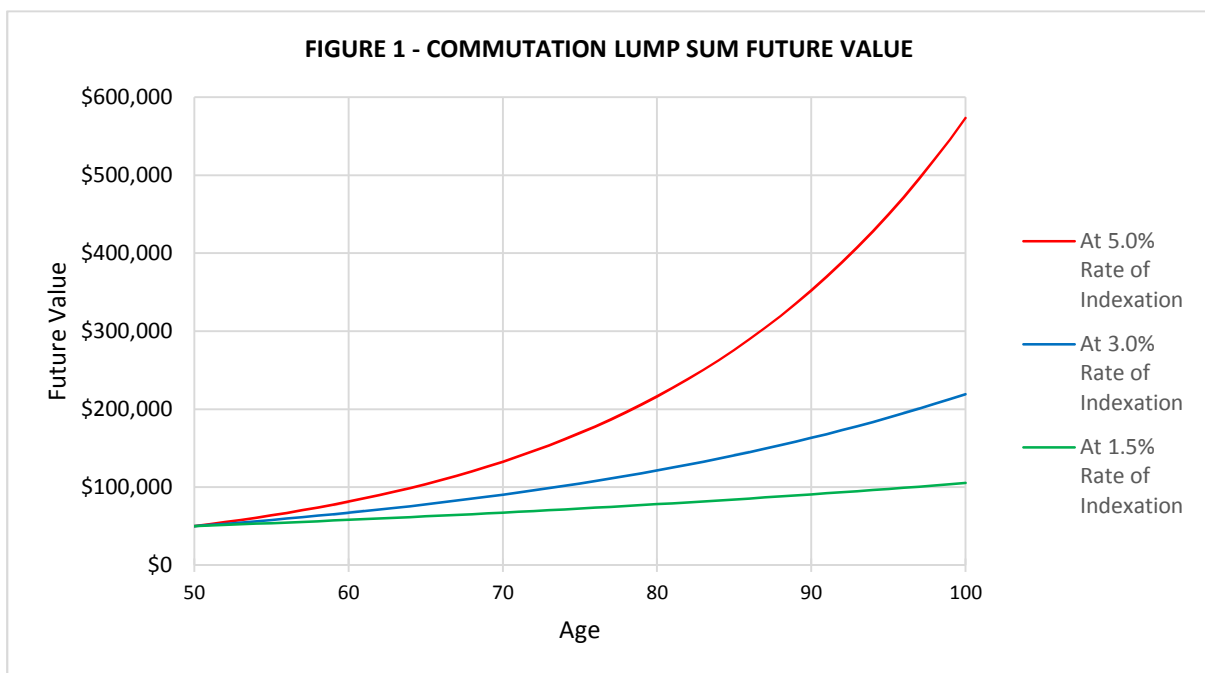
Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

1. Commutation Lump Sum Future Value per the DFRDB Act

When a DFRDB recipient member re-enlists, after having retired and commuted a portion of his/her retirement pay entitlement, Section 24(7) of the DFRDB Act states the Future Value of the Commutation Lump Sum is calculated by indexing it in the same manner as his/her reduced retirement pay. This amount of the Future Value of the Commutation Lump Sum, at the time of re-enlistment, is then deducted from that member's subsequent maximum commutation entitlement.

Figure 1 illustrates the Future Value of a \$50,000 commutation lump sum at linear indexation rates of 5.0%, 3.0% and 1.5%.



2. Indexation of the Reduction in Retirement Pay

If a male member who commuted \$50,000 was 50 years of age on retirement, his life expectancy, under Schedule 3 of the DFRDB Act would be 23.13 years.

Therefore, his retirement pay would be reduced by:

$$\frac{\$50,000}{23.13} = \$2,161.69 \text{ per annum}$$

Figure 2 illustrates the Cumulative Future Value of that retirement pay reduction, at linear indexation rates of 5.0%, 3.0% and 1.5%.

Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

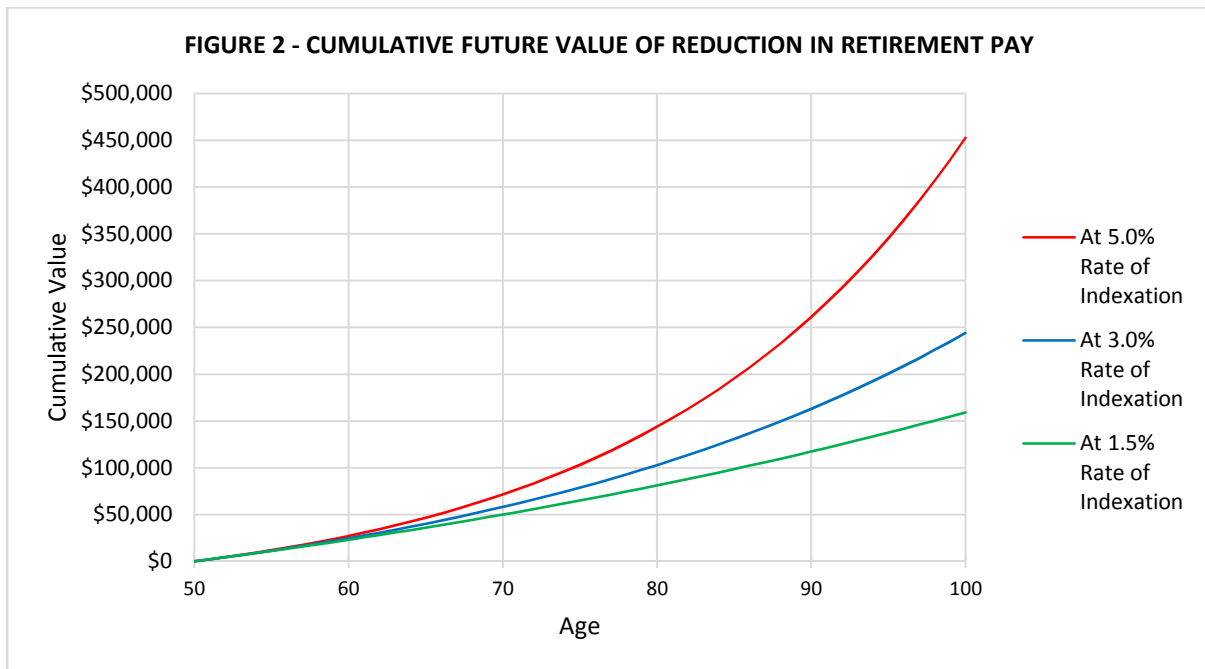
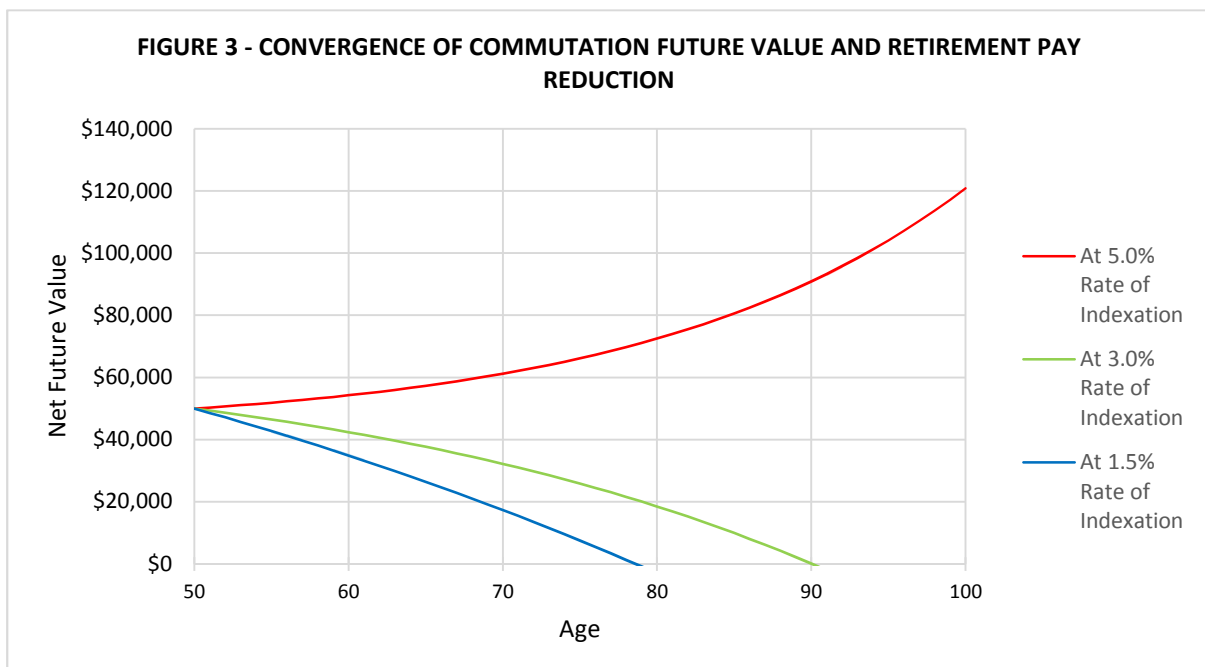


Figure 3 illustrates the convergence of the vales illustrated in Figures 1 and 2 above by deducting the cumulative future value of the retirement pay reduction from the future value of the commutation lump sum.



This view of the Net Commutation Lump Sum Future Value leads to a perception, within the Government bureaucracy, that the DFRDB commutation arrangement is overly generous.

This is evidenced in a report on the Long Term Costs of Military Superannuation Schemes, prepared by the Australian Government Actuary in 2011.

Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

Paragraph 4.44 of that report, states:

“Members retiring from the DFRDB (other than on the grounds of invalidity A or B) have the option to convert part of their pension to a lump sum. Experience over the last two decades suggests that members choose to take the maximum allowable lump sum. As the conversion factors provide for a lump sum which is greater than actuarial value of the forgone pension at virtually all ages, this is not a surprising outcome. Accordingly, it has been assumed that all retiring members take advantage of this option to the maximum extent permissible.”

This perception and the manner of calculating the future value of the commutation lump sum is not valid.

3. Future Value Calculation Formulae

Determination of the commutation lump sum future value does no differ in any way from the determination of the future value of the principal in any loan or mortgage scenario where, in an inflationary environment, the principal value at any time can be calculated using the following universal formula:

$$FV = PV (1 + r) - P \left[\frac{(1 + r) - 1}{r} \right]$$

Where: FV = Future Value of the Principal
 PV = Present Value of the Principal
 P = Repayment Amount
 r = Rate of Interest

In this formula, the re-payment amount is deducted from the Present Value of the Principal **after** the interest is added.

However, it is also common for the re-payment to be deducted from the Present Value of the Principal **before** the interest is added.

In that case, the following formula applies:

$$FV = \left[PV - P \left[\frac{(1 + r) - 1}{r} \right] \right] (1 + r)$$

Figure 4 illustrates the effect of using this formula to calculate the Future Value of the Principal in the case of a \$50,000 mortgage, at linear interest rates of 1.5%, 3.0% and 5.0% per annum, with annual repayments of \$2,161.69.

Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

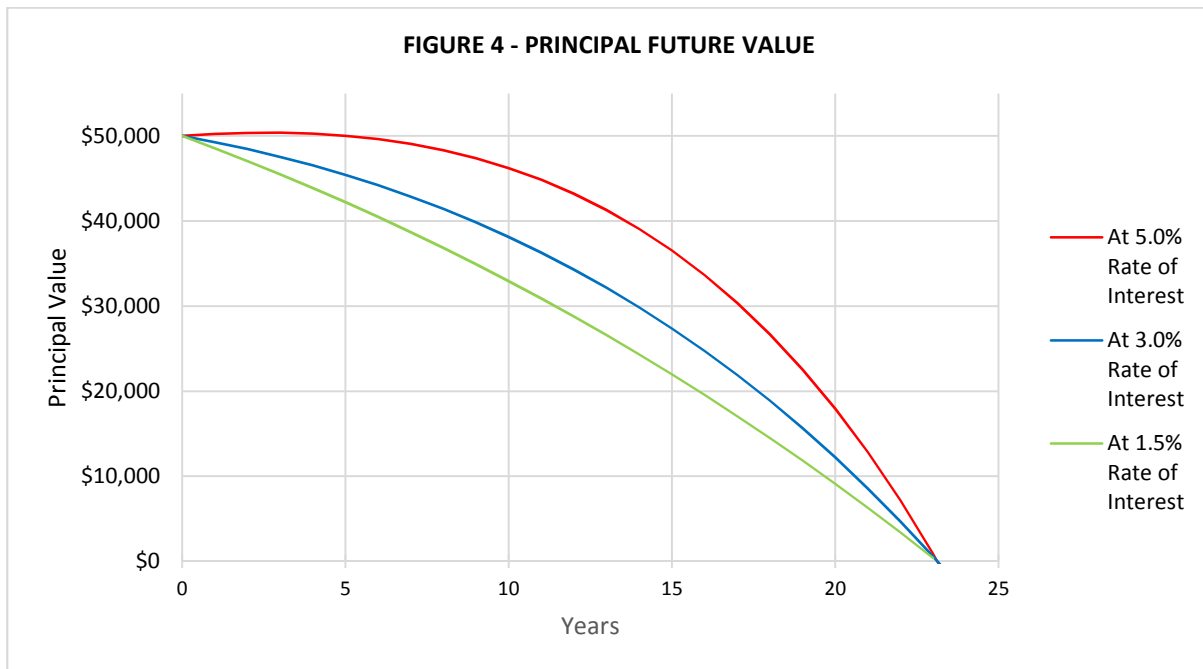


Figure 4 demonstrates that regardless of the interest rate, the Future Value of the Principal falls to zero at precisely the same time.

4. Calculation of the Commutation Lump Sum Future Value

The terms in the above formulae can readily be substituted with the terms that apply in the commutation arrangement, namely;

Where: FV= Future Value of the Commutation Lump Sum
 PV= Present Value of the Commutation Lump Sum
 P = Initial Retirement Pay Reduction Amount
 r = Annual Rate of Adjustment (Indexation)

An example of the commutation arrangement is that of a male who, at 50 years of age on retirement, commuted \$50,000. Under Schedule 3 of the DFRDB Act his life expectancy is 23.13 years, therefore, his retirement pay would be reduced by:

$$\frac{\$50,000}{23.13} = \$2,161.69 \text{ per annum}$$

Figure 3 illustrates the effect of using this formula to calculate the Future Value of the Commutation Lump Sum in this example.

Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

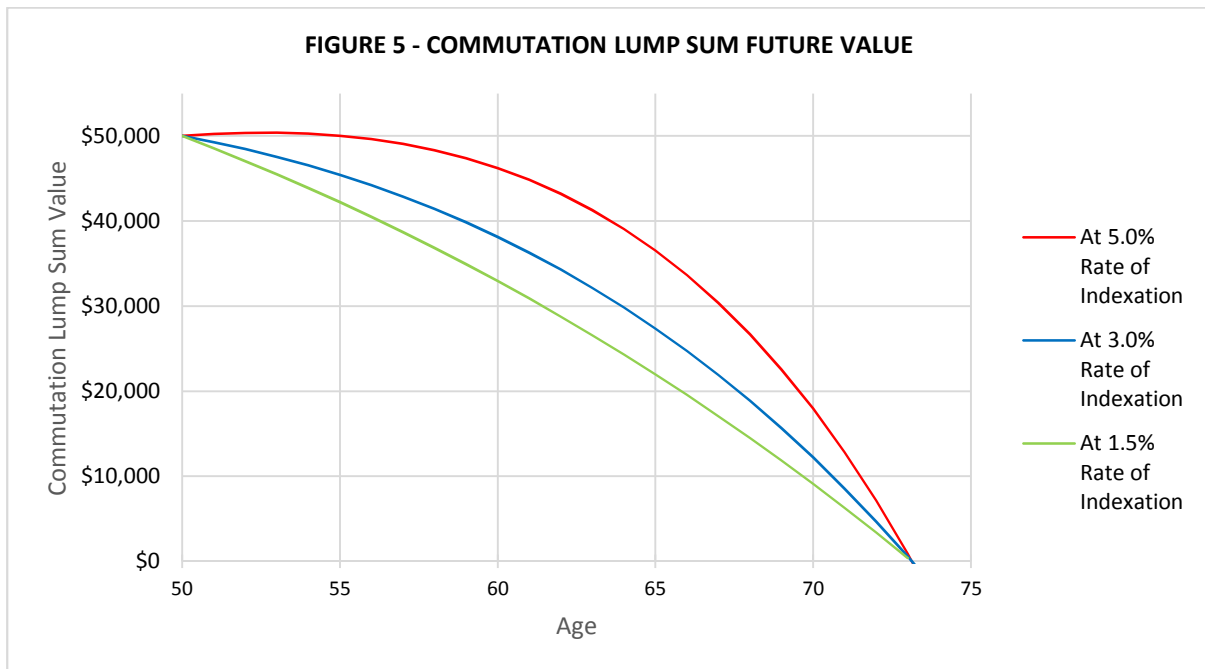


Figure 2 demonstrates that regardless of the interest rate, the Future Value of the Commutation Lump Sum falls to zero at precisely the same time (23.13 years) in each case.

Table 1 shows the exact age at which the Commutation Lump Sum Future Value falls to zero at each of the three indexation rates.

TABLE 1 – COMMUTATION LUMP SUM FUTURE VALUE			
Rate of Indexation	1.5%	3.0%	5.0%
Example 1: Exact Age at which the Commutation Lump Sum Future Value reaches \$0.00	73.13	73.13	73.13
Example 1: Cumulative Retirement Pay Reduction when the Commutation Lump Sum Future Value reaches \$0.00	\$59,248	\$70,708	\$90,423

Table 1 above shows that regardless of the rate of indexation, the Commutation Lump Sum Future Value reaches \$0.00 at exactly 73.13 years of age, which equals;

The individual's Age on Retirement (50) plus his Life Expectancy (23.13).

Figure 4 includes an additional example (Example 2) of a male who, at 40 years of age on retirement commuted \$40,000. Under Schedule 3 of the DFRDB Act his life expectancy is 31.84 years and his retirement pay would be reduced by:

$$\frac{\$50,000}{31.84} = \$1,570.35 \text{ per annum}$$

Appendix 7

FUTURE VALUE OF THE COMMUTATION LUMP SUM

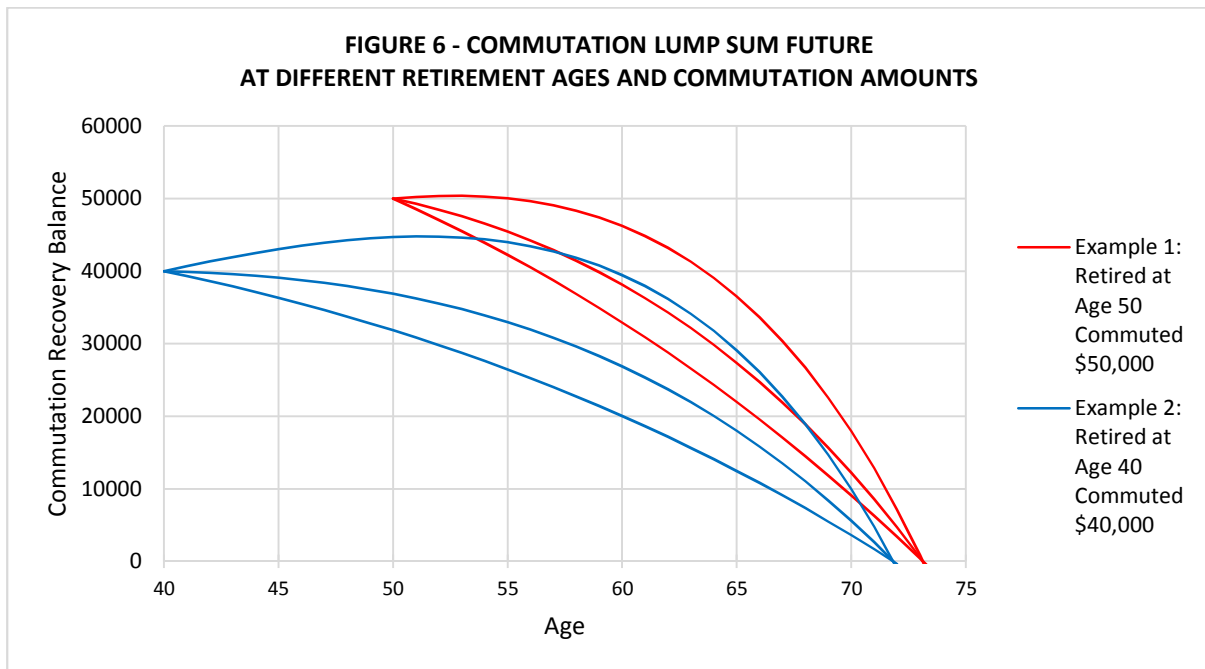


Table 3 shows the exact age at which the Commutation Lump Sum Future Value reaches zero at each of the three indexation rates.

TABLE 2 – COMMUTATION LUMP SUM FUTURE VALUE DIFFERENT RETIREMENT AGES AND COMMUTATION AMOUNTS			
Rate of Indexation	1.5%	3.0%	5.0%
Example 2: Exact Age at which the Commutation Lump Sum Future Value reaches \$0.00	71.84	71.84	71.84
Example 2: Cumulative Retirement Pay Reduction when the Commutation Lump Sum Future Value reaches \$0.00	\$48,850	\$59,294	\$82,639

Table 2 above shows that in Example 2, regardless of the rate of indexation, the Commutation Lump Sum Future Value falls to zero at exactly 71.84 years of age, which equals;

The individual's Age on Retirement (40) plus his Life Expectancy (31.84).

Conclusion

The calculation of the future value of the commutation lump sum as shown above and the cessation of retirement pay reduction when reaching life expectancy, describes a commutation arrangement which is precisely equitable and proportionate for every DFRDB recipient member, regardless of the amount commuted, the age on retirement and the rate of indexation.

Appendix 8

THE DFRDB AUTHORITY ASSERTION

1. The DFRDB Authority Assertion

The fundamental justification for the permanent reduction in retirement pay, in respect of commutation, was conveyed by the then Secretary of the DFRDB Authority, Mr. R. J. Perriman in *DFRDB Circular 193/7, dated 2 August 1973*. In that Circular Mr. Perriman states:

In paragraph 64:

“As commutation is the expression in the form of a lump sum of part of future benefit payments, a reduction in retirement pay will apply following commutation. The annual reduction is found by dividing the lump sum by the member’s life expectancy at the date of commutation.”

In paragraph 65:

“Although a life expectancy factor is used, full retirement pay is not restored should the member live beyond life expectancy. By the same token, should the member die before attaining the expected age, no attempt is made to recover the amount of the lump sum outstanding from dependents or the estate.”

This Circular was addressed to all Service Departments but the content of paragraph 65 was not conveyed to Defence Force retirees.

This assertion implies that the continued reduction of the retirement pay, of members who survive beyond their life expectancy, offsets a perceived loss to the Commonwealth in the case of those members who die before attaining the expected age.

That assertion is not correct, because the commutation lump sum is recovered, by the Commonwealth, through a reduction in retirement pay and not a re-payment of the lump sum by the member, his spouse or his dependent offspring.

2. The Effect of a Recipient Member’s Death before reaching Life Expectancy

When a DFRDB member commutes a portion of retirement pay entitlement, retirement pay is reduced in accordance with his/her life expectancy.

When a recipient member dies and is survived by a spouse, his/her retirement pay is further reduced to the level of the spouse’s benefit.

If the recipient member dies and has no dependents, his/her retirement pay ceases. That is, it is reduced to by an amount equal to his retirement pay at the time of death.

In both cases, it constitutes a reduction in the Commonwealth’s liability in respect of that member.

These effects can be illustrated using the example of a male DFRDB recipient member who retires at the age of 50 with a retirement pay entitlement of \$40,000. His life expectancy per Schedule 3 of the DFRDB Act is 23.13 years, thereby reducing his retirement pay to \$33,083 (\$40,000 divided by 23.13).

Appendix 8

THE DFRDB AUTHORITY ASSERTION

With the projections based on a linear indexation rate of 1.5% per annum, Figure 1 illustrates the reduction of the member's retirement pay if he died at age 53.

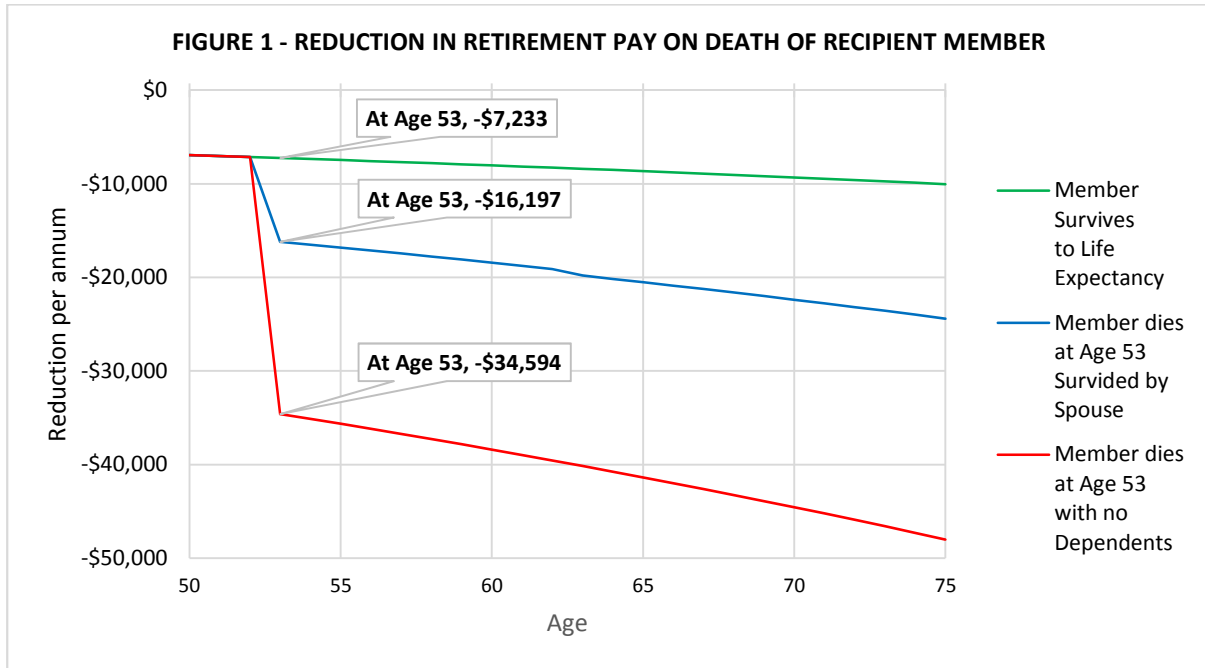
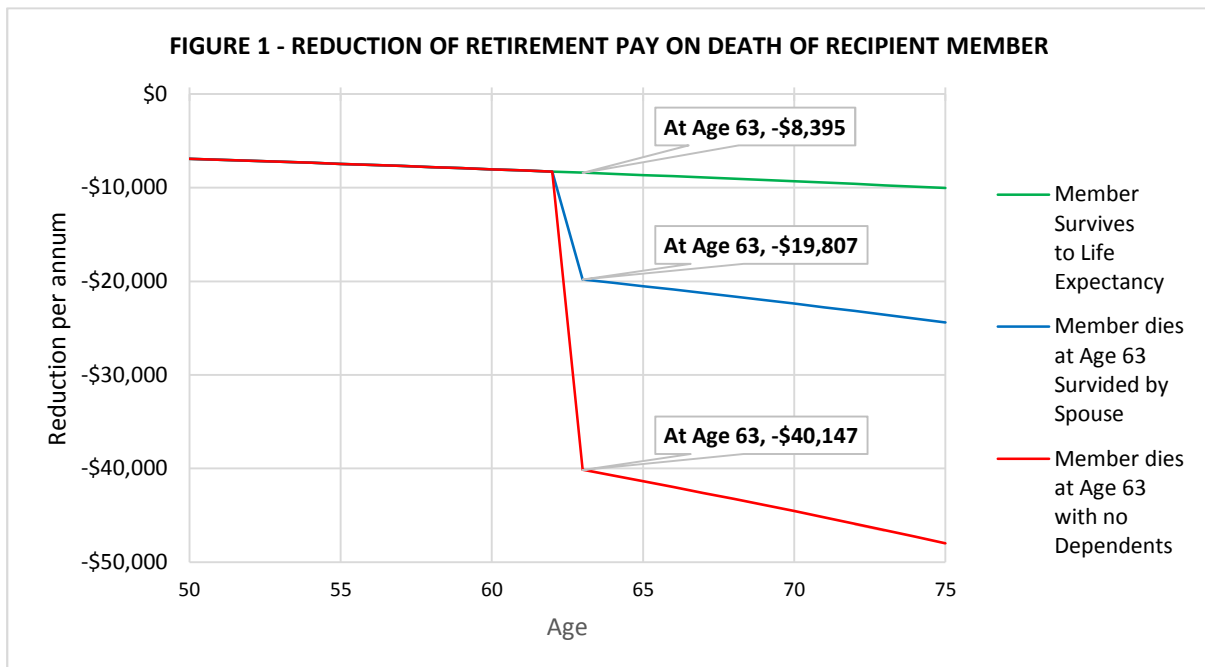


Figure 2 illustrates the reduction of the member's retirement pay if he died at age 63.



If the member in the above example commuted 4 times his retirement pay entitlement, his lump sum payment would be \$160,000. The effect of the above scenarios, on the recovery of the commutation lump sum is illustrated in Figures 3 and 4.

Appendix 8

THE DFRDB AUTHORITY ASSERTION

Figure 3 illustrates commutation lump sum recovery where the recipient member dies and is survived by a spouse.

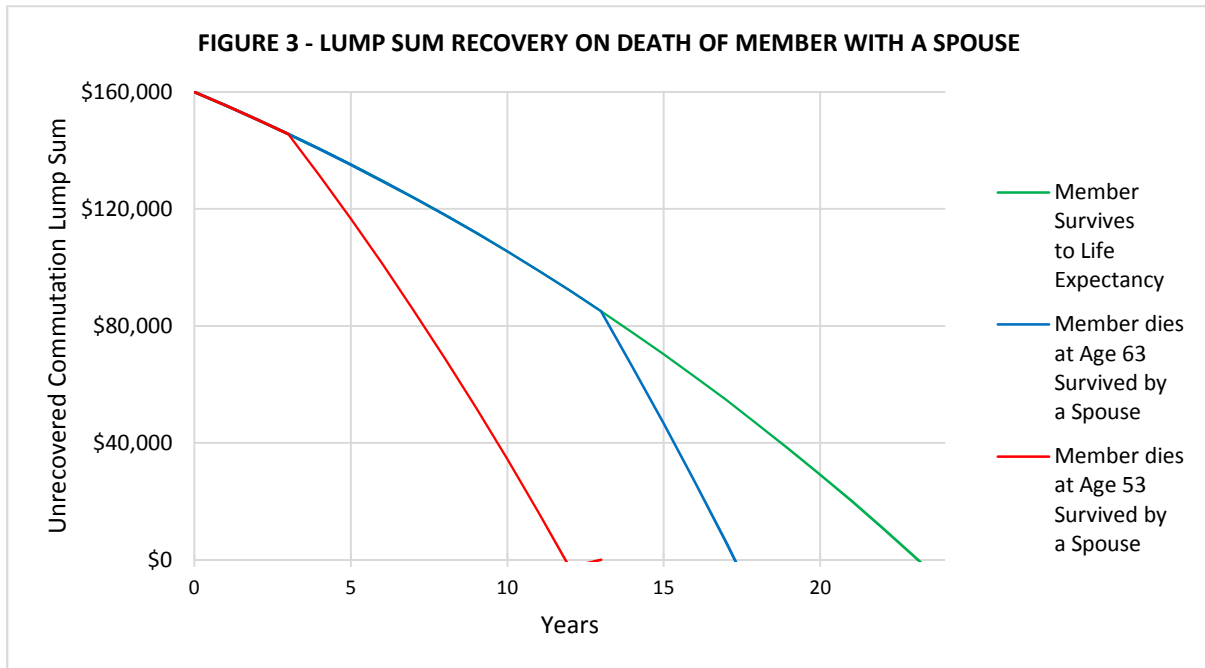
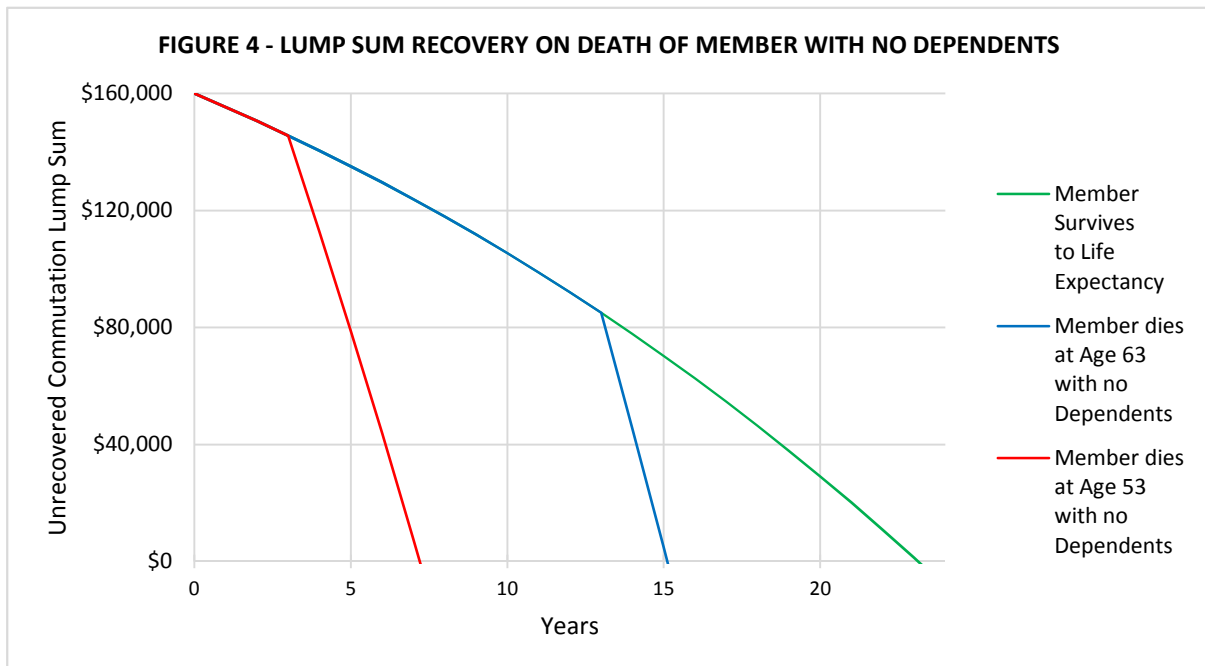


Figure 4 illustrates commutation lump sum recovery where the recipient member dies and has no dependents.



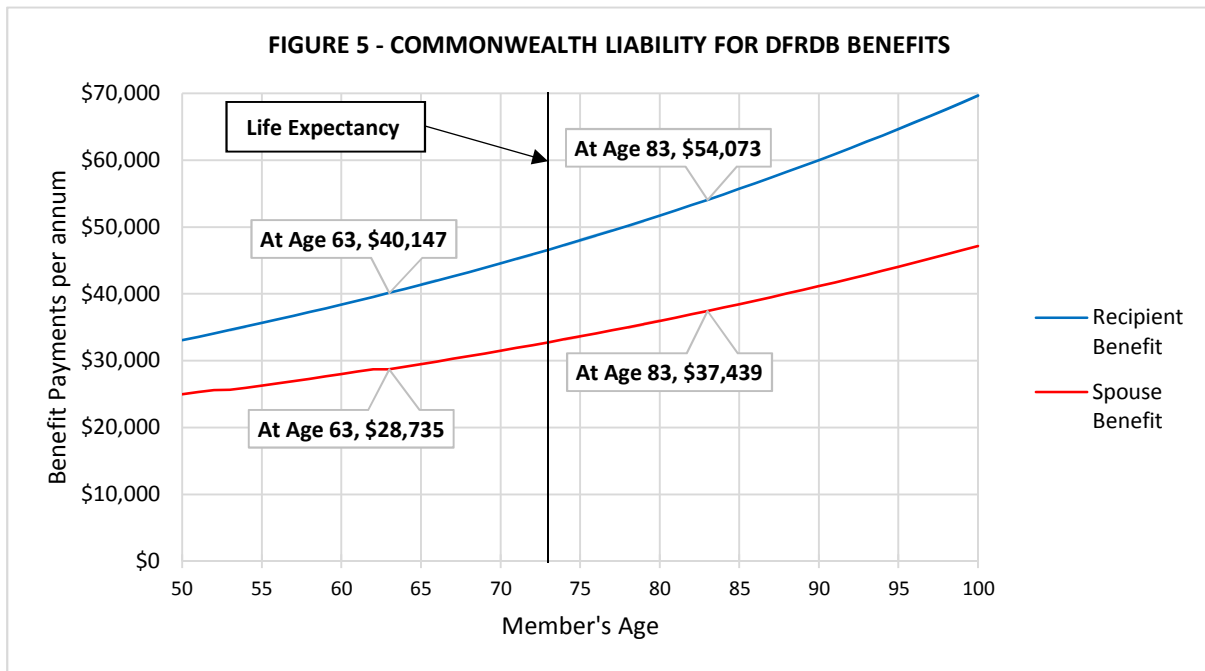
Appendix 8

THE DFRDB AUTHORITY ASSERTION

Table 1 compares the rate of commutation lump sum recovery in the above scenarios.

TABLE 1 - RECOVERY OF THE COMMUTATION LUMP SUM	
Commutation Lump Sum	\$160,000
Lump Sum Recovery Period:	Years
Member dies aged 53 - with no Dependents	7.21
Member dies aged 53 - with Spouse	11.86
Member dies aged 63 - with no Dependents	15.12
Member dies aged 63 - with Spouse	17.27
Survived to Life Expectancy	23.13

Using the above example, Figure 5 illustrates the Commonwealth's liability for payment of the recipient member's benefit, or in the event of his death, his spouse's benefit.

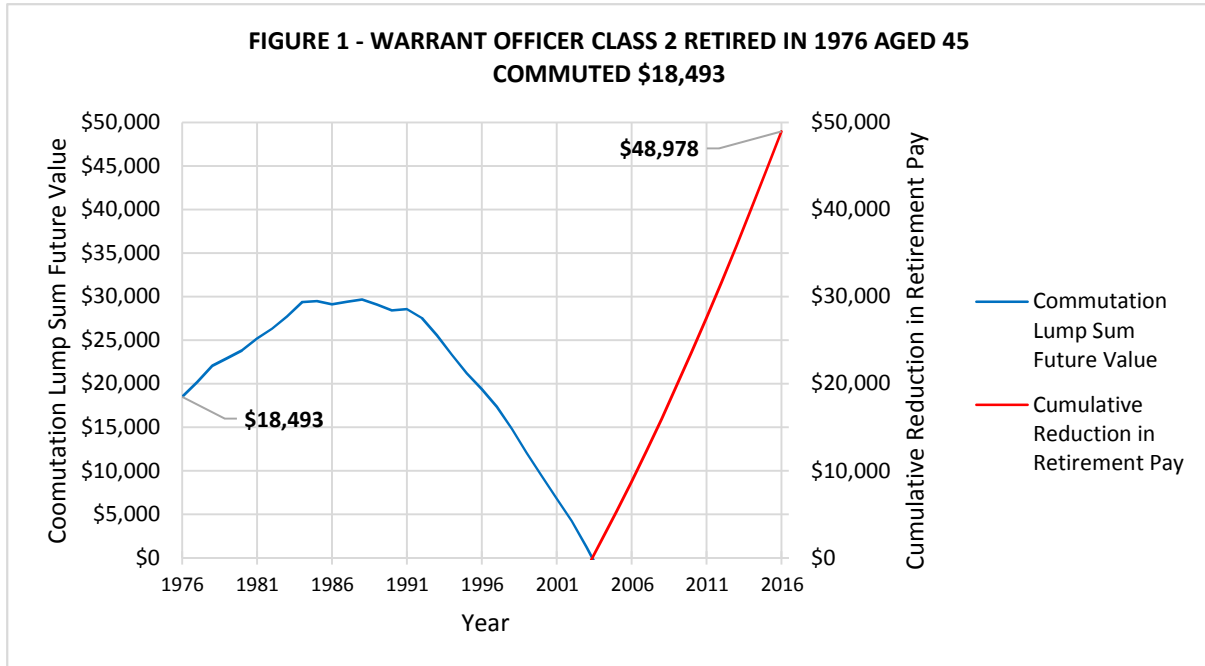


Appendix 9

IMPACT OF PERMANENT REDUCTION OF RETIREMENT PAY

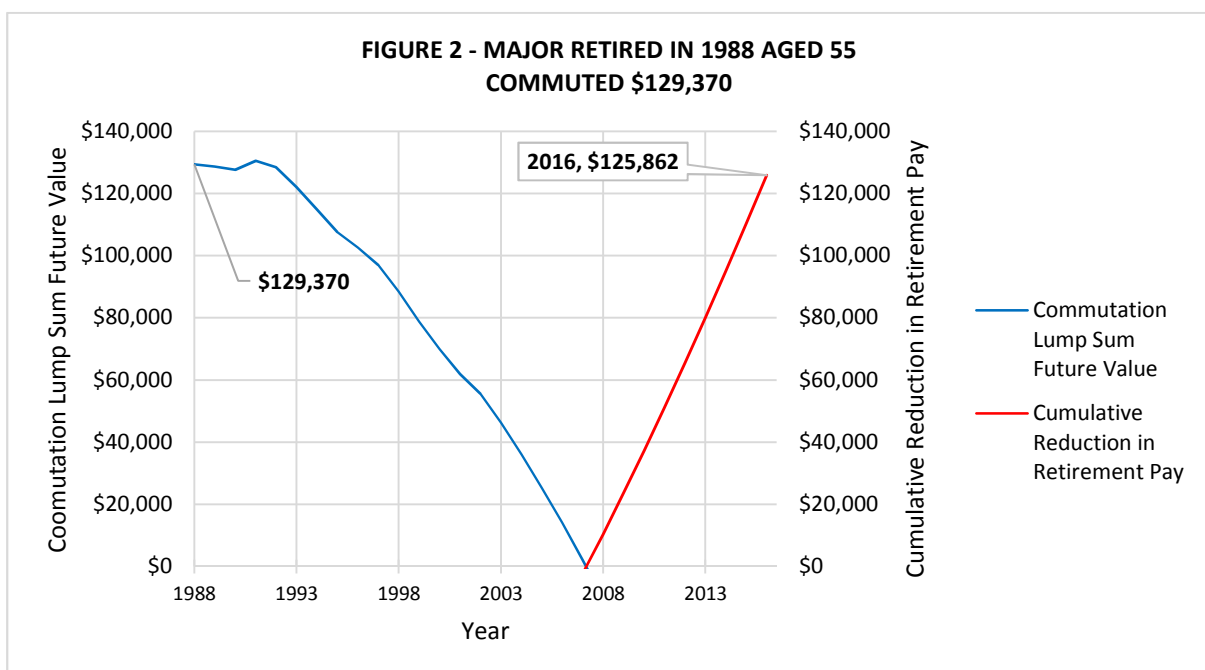
1. Case Study 1

Figure 1 illustrates the current situation of a Warrant Officer Class 2 who retired in 1976, aged 45 with a life expectancy of 27.38 years and commuted \$18,493.



2. Case Study 2

Figure 2 illustrates the current situation of an Army Major who retired in 1988, aged 55 with a life expectancy of 19.19 years and commuted \$129,370.

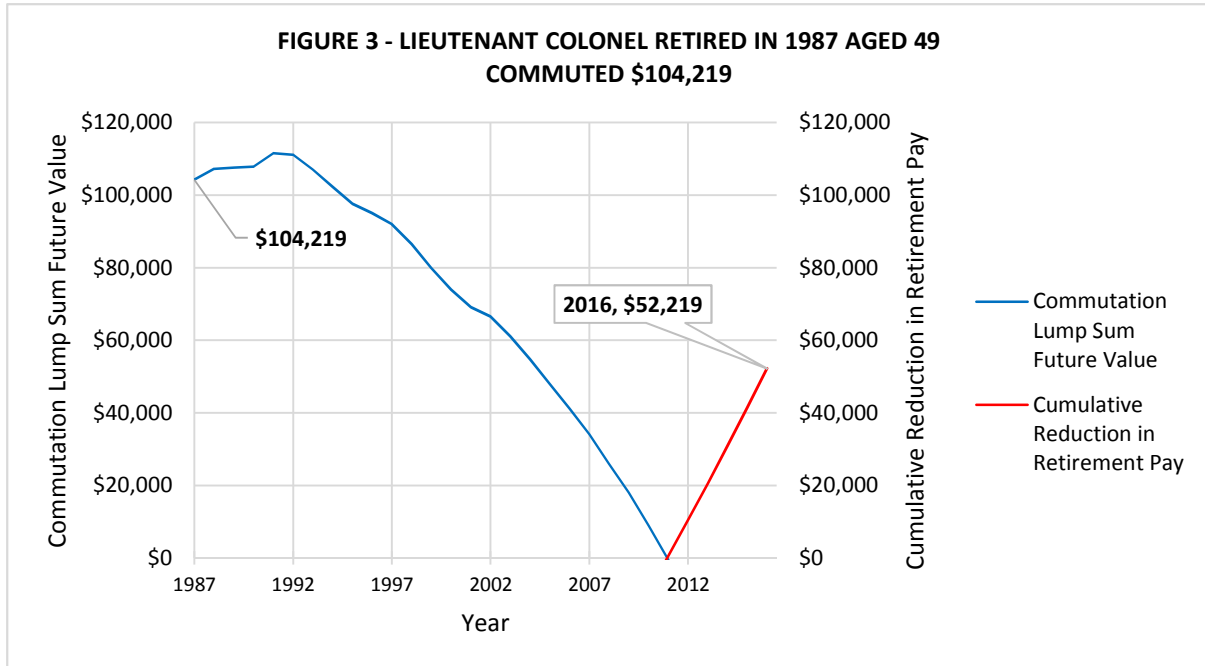


Appendix 9

IMPACT OF PERMANENT REDUCTION OF RETIREMENT PAY

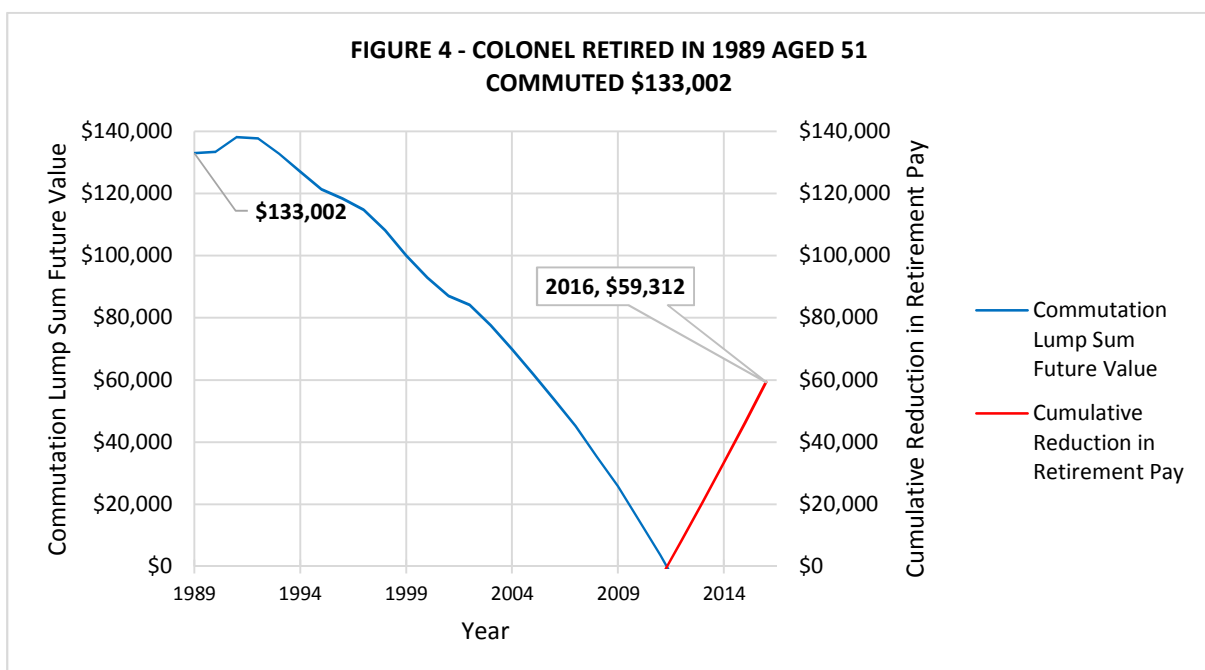
3. Case Study 3

Figure 3 illustrates the current situation of a Lieutenant Colonel who retired in 1987, aged 49 with a life expectancy of 23.96 years and commuted \$104,219.



4. Case Study 4

Figure 3 illustrates the current situation of a Lieutenant Colonel who retired in 1989, aged 51 with a life expectancy of 22.31 years and commuted \$133,002.



Appendix 9

IMPACT OF PERMANENT REDUCTION OF RETIREMENT PAY

5. Summary

Figure 5 provides a composite view of the commutation lump sum recovery by the Commonwealth in the individual case studies.

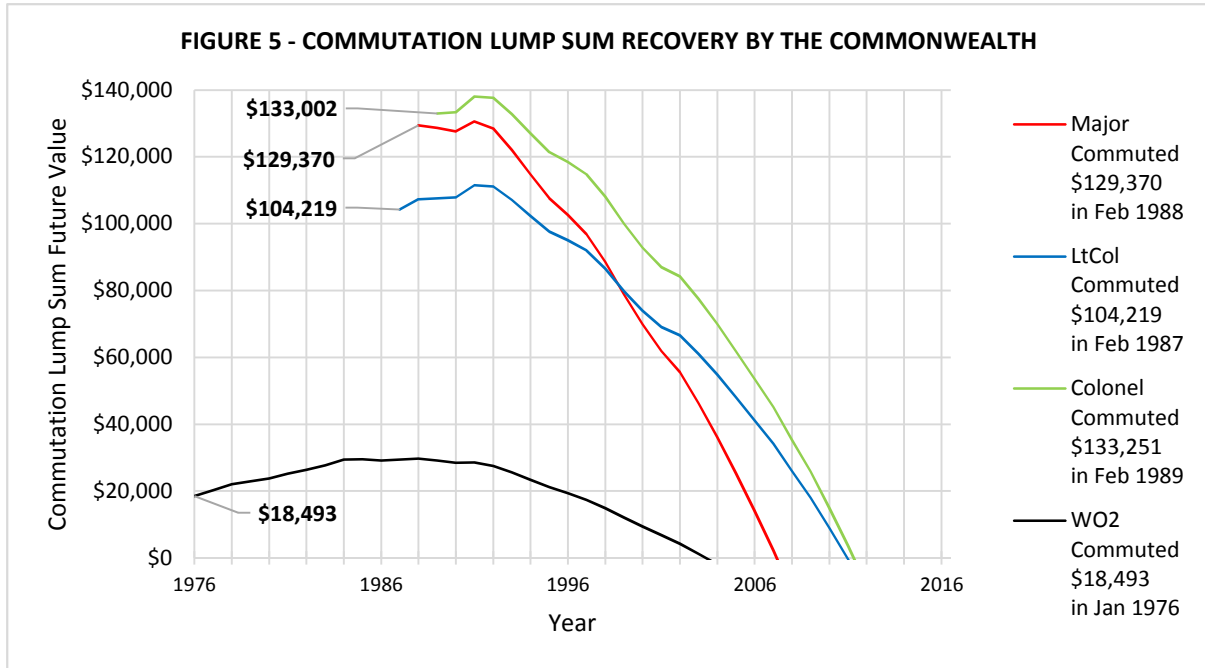
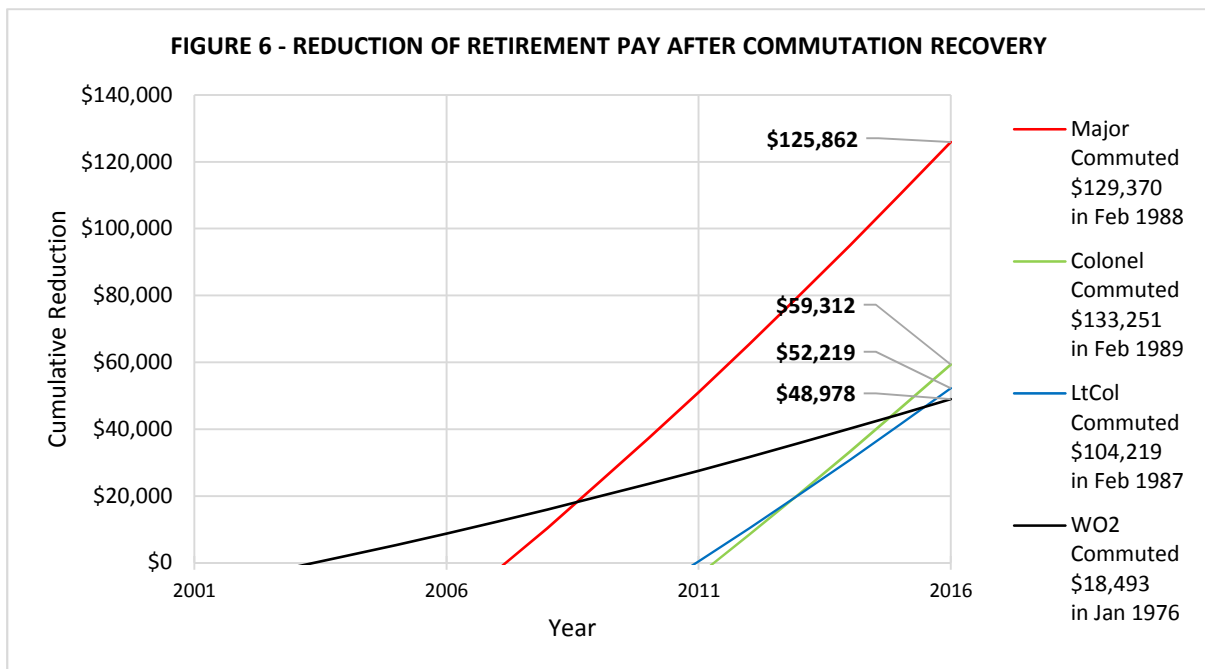


Figure 6 provides a composite view of the cumulative reduction in retirement pay, after commutation lump sums were fully recovered by the Commonwealth.



Appendix 9

IMPACT OF PERMANENT REDUCTION OF RETIREMENT PAY

Table 1 below provides a summary of the four case studies.

TABLE 1 – CASE STUDY SUMMARY				
Case Study	1	2	3	4
Rank on Retirement	WO2	Maj	LtCol	Col
Date of Retirement	20/01/1976	14/02/1988	16/02/1987	6/02/1989
Age on Retirement	45	55	49	51
Current Age	85	83	78	78
Life Expectancy in Years	27.38	19.18	23.96	22.31
Commutation Lump Sum	\$18,493	\$129,370	\$104,219	\$133,002
Retirement Pay Reduction	\$675	\$6,745	\$4,350	\$5,962
Total Reduction of Retirement Pay to July 2016	\$105,833	\$318,996	\$225,300	\$263,090
Multiple of Commutation Lump Sum	5.72	2.47	2.16	1.98
Date when Life Expectancy was reached	27/06/2003	15/04/2007	24/01/2011	25/05/2011
Total Reduction in Retirement Pay after the Commutation Lump Sum was recovered	\$48,978	\$125,862	\$52,219	\$59,312
Proportion of Commutation Lump Sum	265%	97%	50%	45%

Table 1 shows the vast sums being withheld from individual DFRDB recipients after the Commonwealth had fully recovered their commutation lump sums.

The amounts withheld average \$71,593 and range from almost one half to more than two and a half times the amount commuted by these members.

6. Conclusion

In no way does the permanent reduction of retirement pay, in exchange for a fixed lump sum payment, represent a proportional and equitable commutation arrangement.

Appendix 10

RE-ENLISTMENT AFTER COMMUTATION

1. Re-enlistment after Commutation

The following example is an actual case study, where a male Navy Lieutenant Commander retired in January 2000 aged 37 with a life expectancy of 34.59 years. He received a commutation lump sum of \$88,565 and his initial ongoing retirement pay was reduced by \$2,560 (\$88,565 divided by 34.59) per annum.

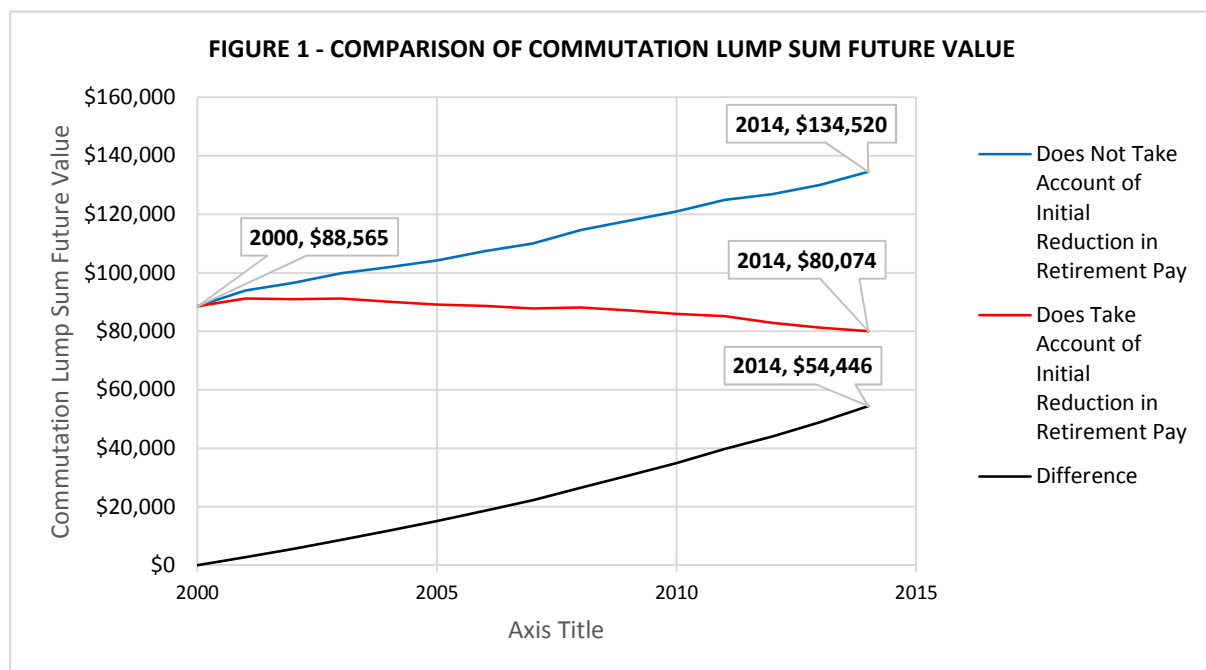
In May 2014, he re-enlisted for a 2 year engagement, at which time, his retirement pay ceased. At that point, his initial commutation lump sum was assessed by ComSuper to have a future (indexed) value of \$134,520.

The Lieutenant Commander retired again at the end of his second engagement aged 52, with a life expectancy of 22.72 years. His maximum commutation entitlement was now \$244,661 but with the deduction of indexed initial commutation lump sum, the amount payable to him was only \$110,141 (\$244,661 less \$134,520).

The reduction of his ongoing retirement pay, in respect of his second commutation, was determined to be \$11,807 (\$244,661 divided by 22.72).

When the reduction of the Lieutenant Commander's retirement pay is taken into account by using the formula described in Appendix 3, the future value of his initial commutation lump sum is only \$80,074 which would increase the amount payable by \$54,446 (33%) to \$164,587 (\$244,661 less \$80,074).

Figure 1 compares the future (indexed) value of Lieutenant Commander's initial commutation lump sum, when the reduction in his retirement pay is and is not taken into account.



Appendix 10

RE-ENLISTMENT AFTER COMMUTATION

2. Calculation of Commutation Lump Sum Future Value

Figure 1 above charts the data listed in Table 1 below, the calculation of which used the following formulae:

- a. Reduction in Retirement Pay = $C_{-1} \times (1 + B)$, rounded to the nearest dollar.
- b. Commutation Future Value = $D_{-1} \times (1 + B)$, rounded to the nearest dollar.
(Does not take Reduction in Retirement Pay into account)
- c. Commutation Future Value = $(D_{-1} - C_{-1}) \times (1 + B)$, rounded to the nearest dollar.
(Takes Reduction in Retirement Pay into account)

TABLE 1 - COMMUTATION LUMP SUM FUTURE VALUE					
A	B	C	D	E	F
Year	CPI Rate	Reduction in Retirement Pay Formula 2(a)	Commutation Future Value Using Formula 2(b)	Commutation Future Value Using Formula 2(c)	Difference
2000	2.80%	\$2,560	\$88,565	\$88,565	\$0
2001	6.00%	\$2,714	\$93,879	\$91,165	\$2,714
2002	2.90%	\$2,793	\$96,602	\$91,016	\$5,586
2003	3.40%	\$2,888	\$99,886	\$91,223	\$8,663
2004	2.00%	\$2,945	\$101,884	\$90,102	\$11,782
2005	2.30%	\$3,013	\$104,227	\$89,161	\$15,066
2006	3.00%	\$3,104	\$107,354	\$88,732	\$18,622
2007	2.50%	\$3,181	\$110,038	\$87,769	\$22,268
2008	4.20%	\$3,315	\$114,659	\$88,141	\$26,519
2009	2.70%	\$3,404	\$117,755	\$87,116	\$30,639
2010	2.70%	\$3,496	\$120,934	\$85,972	\$34,962
2011	3.30%	\$3,612	\$124,925	\$85,198	\$39,728
2012	1.60%	\$3,669	\$126,924	\$82,891	\$44,033
2013	2.50%	\$3,761	\$130,097	\$81,202	\$48,895
2014	3.40%	\$3,889	\$134,520	\$80,074	\$54,446

Appendix 11

NOTIONAL RETIREMENT PAY

1. Notional Retirement Pay

The outcome of the Defence Force Retirement and Death Benefits (Amendments) Bill 1977 was the inclusion, in the DFRDB Act, of Part XA—Pension increases.

Section 98B defines the automatic adjustment (indexation) arrangement and sub-section 98B (5) introduces a *notional* rate of retirement pay on which the automatic adjustment of benefits is based for the following:

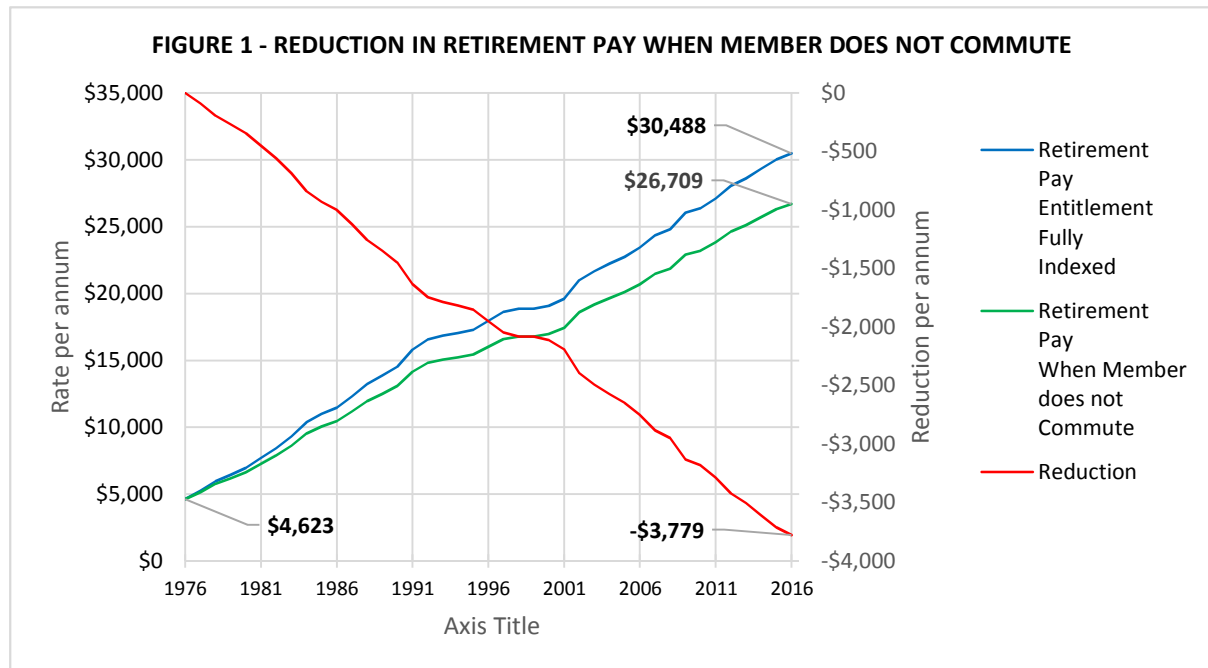
- Members who do not commute at least 4 years of their retirement pay entitlement.
- Spouses of serving contributors and deceased recipients and
- Dependent offspring

Notional rate of retirement pay, is the reduced rate of retirement pay which would result if 4 times the full retirement pay entitlement had been commuted.

The case of an Army Warrant Officer Class 2, who retired in 1976 with an initial retirement pay entitlement of \$4,623 per annum, is used to illustrate the arrangement.

2. Resultant Reduction in Retirement Pay

Figure 1 illustrates the reduction in retirement pay which would apply if the Warrant Officer did not commute a minimum amount of at least 4 times his retirement pay entitlement.

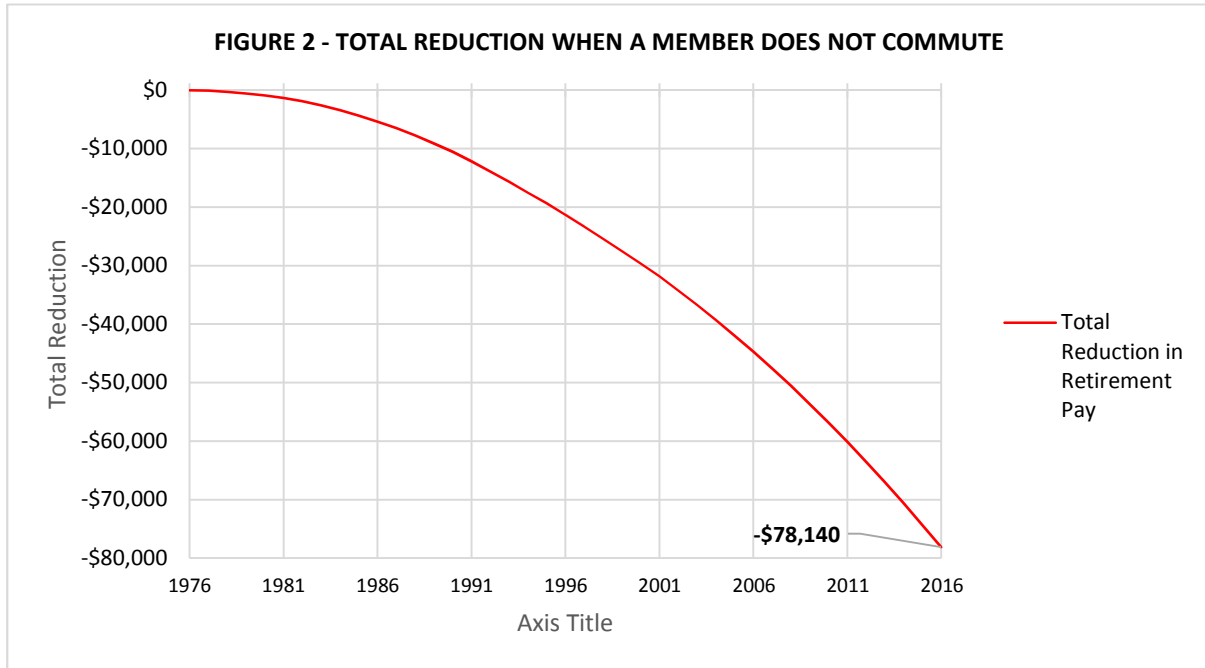


If the Warrant Officer did not commute the minimum amount, by 2016 his retirement pay would have been reduced by \$3,779 per annum.

Appendix 11

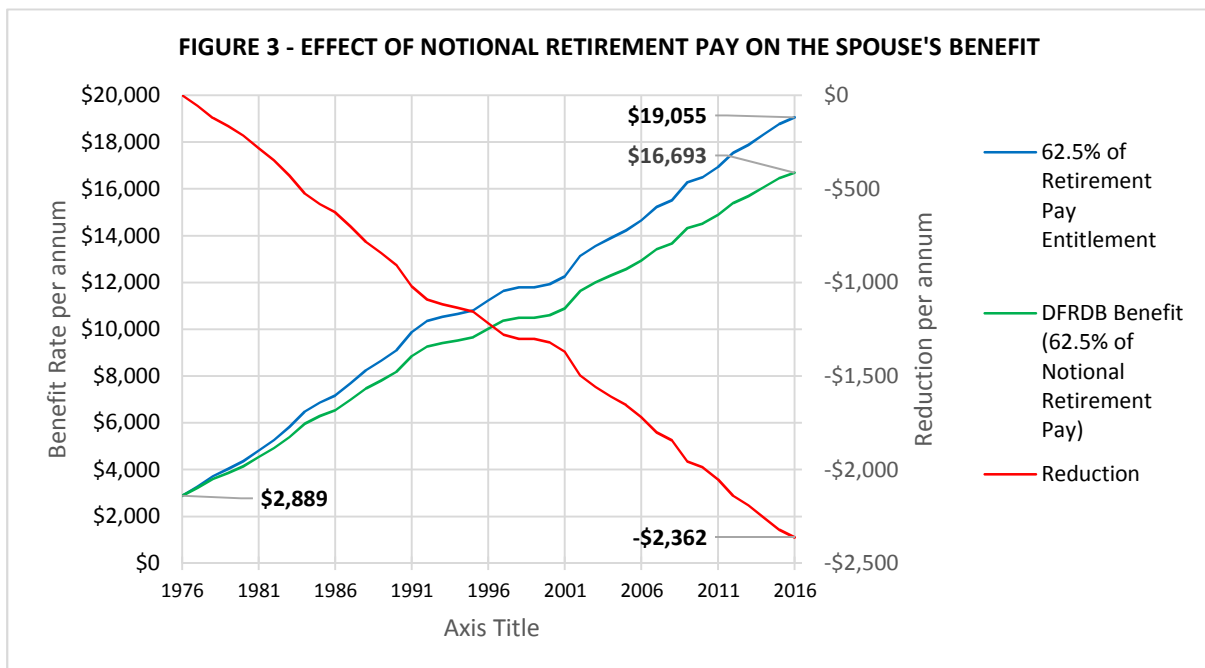
NOTIONAL RETIREMENT PAY

Figure 2 illustrates the total reduction in the Warrant Officer's retirement pay.



3. Effect of Notional Retirement Pay on the Spouse's Benefit

Figure 3 illustrates the effect of notional retirement pay on the benefit payable to the Warrant Officer's spouse in the event of his death, regardless of whether or not he opted to commute the minimum amount.



Appendix 11

NOTIONAL RETIREMENT PAY

Had the Warrant Officer died in 2016, his spouse would have received \$2,362 per annum less than she should be entitled to under Jess Committee recommendation 14 (c) which states; *“That for the purpose of determining a widow's entitlement commutation should be disregarded.”*.

Ostensibly, the concept of notional retirement was introduced:

- a. To satisfy recommendation 15(a) of the Jess Report which states: *“That the widow of a recipient member receive an annuity of five-eighths of his **retired pay** entitlement at the date of his death.”*
- b. To reduce the spouse benefit, over time, because 62.5% of the retirement pay entitlement was seen to be more generous than 67% of reduced retirement pay benefit provided under the Commonwealth Public Service Superannuation scheme in similar circumstances. And
- c. Because it was assumed every retiree would exercise the option to commute at least 4 times his/her retirement pay entitlement.

4. Comparison with the Commonwealth Public Service Superannuation Scheme

In representations to the Prime Minister, DFRDB members claimed that this indexation arrangement places the spouses of deceased Defence Force retirees at a disadvantage when compared with the spouse benefit structures for pre 2005 members of parliament and Commonwealth public servants.

On behalf of the Prime Minister, the Office of the Assistant Minister for Defence rejected those claims.

Attachment 5, is a letter to the author, dated 15 Sep 2015, from Robert McKeller, Chief of Staff, for the then Assistant Minister for Defence, the Honourable Stuart Robert MP.

In that letter, Mr McKeller states:

*“Your paper titled **Unjust Government Legislation targets the widows of deceased Defence Force retirees** outlines your views that the DFRDB reversionary recipients are at a financial disadvantage.*

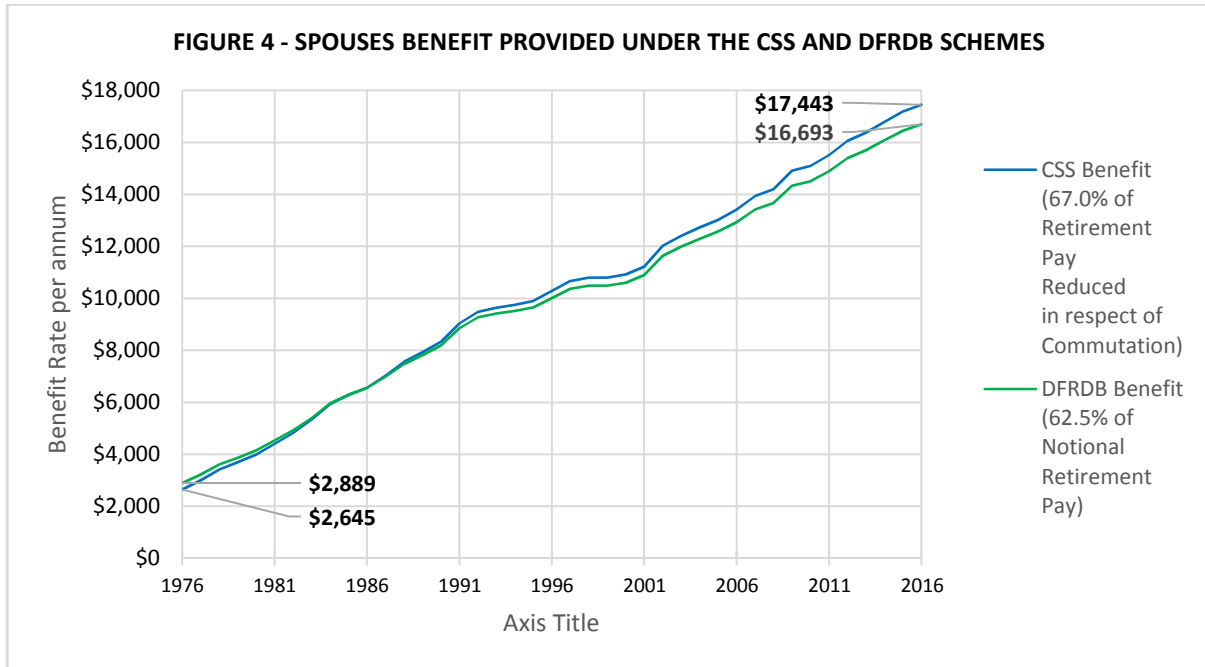
DFRDB spouse benefits were reviewed as part of the 1990 Defence Force Retirement and death Benefits Review. The Review Committee, chaired by Sir William Cole, presented a Report to Parliament in June 1990.

It is noted in the Report that concerns expressed with the lower pension payable to DFRDB spouses (this is 62.5 per cent of contributor's pension entitlement) than the Commonwealth Superannuation Scheme spouses (67 per cent) were not correct. It was determined that benefits paid to DFRDB spouses are greater than the benefits paid to Commonwealth Superannuation Scheme spouses in similar circumstances as the elements of each scheme that determine the spouse benefit differ.”

Appendix 11

NOTIONAL RETIREMENT PAY

Using the Warrant Officer's circumstances, Figure 4 compares the spouses benefit provided under the DFRDB and Commonwealth Superannuation Scheme (CSS).



In 1976, when the Warrant Officer retired, the benefit payable to his spouse would be \$2,889 per annum and only \$2,645 under the CSS in similar circumstances. In 2016 however, his spouse's benefit would be only \$16,693 per annum while under the CSS, in similar circumstances, it would be \$17,443 per annum.

GENERAL ENQUIRIES

24, if you have any enquiries concerning benefits payable under the Scheme please do not hesitate to contact the Authority on Canberra (062) 52-7911 or write to:—

The DFRDB Authority,
PO Box 22,
Belconnen, ACT, 2616.

You may also visit the Authority to discuss your entitlements and should you wish to use this facility the counselling officer is located on Floor 4a, Unit 1, Cameron Offices, Chandler St, Belconnen, ACT, phone (062) 52-6338. The counselling officer is also available to discuss benefits under the DFRDB Scheme at Resettlement Seminars for long term members of the Defence Force who are retiring. It is strongly recommended that you obtain information on your retirement benefit entitlements before committing yourself to a retirement date.

LEAFLETS

Other Leaflets available are:—

Widows', Widowers' and Children's Benefits, (if you are retiring with an entitlement to retirement pay and you are married, separated, divorced or in a de facto relationship you should obtain and read a copy of this leaflet.)

Preservation of Rights

New Entrants

Invalidity Benefits

TABLE 1
PERCENTAGE OF RETIREMENT PAY APPLICABLE TO YEARS OF SERVICE

Total Number of Years of Effective Service Completed	Percentage of Pay at Retirement	Total Number of Years of Effective Service Completed	Percentage of Pay at Retirement
• 15	30.00	28	47.50
• 16	31.00	29	48.25
• 17	32.00	30	51.25
• 18	33.00	31	53.25
• 19	34.00	32	55.50
• see paragraph 3(b) (late entrants only)			
20	35.00	33	57.75
21	36.50	34	60.75
22	38.00	35	62.75
23	39.50	36	65.25
24	41.00	37	67.75
25	42.50	38	70.50
26	44.00	39	73.50
27	45.75	40	76.50
		or more	

TABLE 2
COMPUTATION OF RETIREMENT PAY: EXPECTATION OF LIFE FACTOR

Age (in yrs) at date of election received	Factor		Age (in yrs) at date of election received	Factor	
	male	female		male	female
31	40.18	45.53	46	26.51	31.48
32	39.25	44.57	47	25.65	30.58
33	38.31	43.61	48	24.80	29.69
34	37.38	42.65	49	23.96	28.80
35	36.45	41.70	50	23.13	27.92
36	35.51	40.75	51	22.31	27.05
37	34.59	39.81	52	21.51	26.18
38	33.67	38.86	53	20.72	25.32
39	32.75	37.92	54	19.94	24.47
40	31.84	36.98	55	19.18	23.63
41	30.93	36.06	56	18.43	22.79
42	30.03	35.13	57	17.70	21.96
43	29.14	34.21	58	16.99	21.13
44	28.25	33.29	59	16.29	20.32
45	27.38	32.38	60	15.60	19.51

TABLE 3
RETIREMENT PAY EXAMPLES

Example 1 is that of an Army Sergeant (equivalent Navy and Air Force ranks) who has completed 20 years of effective service at the age of 39. The salary used is that applicable as at 7 May 1981.

Rank	Sergeant
Salary (para 5)	\$16,811.00
Effective Service (paras 3 & 4)	20 years
Retirement Pay % (Table 1)	35%
Retirement Pay Per Annum	\$ 5,883.85
Retirement Pay Per Fortnight	\$ 225.68
Commulation (para 14)	\$23,535.40
Age 39 Factor (Table 2)	32.75
Reduction	\$ 718.64
Reduced Retirement Pay Per Annum	\$ 5,165.21
Reduced Retirement Pay Per Fortnight	\$ 198.12

Method of calculation used is:—

16,811.00 x 35%	\$ 5,883.85
5,883.85 x 4	\$23,535.40
23,535.40 ÷ 32.75	\$ 718.64
5,883.85 less 718.64	\$ 5,165.21
5,165.21 x 4 ÷ 365	\$ 198.12

Example 2 is that of an Army Major (equivalent Navy and Air Force ranks) who has completed 20 years of effective service at the age of 39. The salary used is that applicable as at 7 May 1981.

Rank	Major
Salary (para 5)	\$27,274.00
Effective Service (paras 3 & 4)	20 years
Retirement Pay % (Table 1)	35%
Retirement Pay Before Reduction	\$ 9,545.90
Notional Retiring Age Reduction for Age 39 (para 8)	9%
Reduction	\$ 859.13
Actual Retirement Pay Per Annum	\$ 8,686.77
Commulation (para 14)	\$34,747.08
Age 39 Factor (Table 2)	32.75
Reduction	\$ 1,060.98
Reduced Retirement Pay Per Annum	\$ 7,625.79
Reduced Retirement Pay Per Fortnight	\$ 292.50

Method of calculation used is:—

27,274.00 x 35%	\$ 9,545.90
9,545.90 x 9%	\$ 859.13
9,545.90 less 859.13	\$ 8,686.77
8,686.77 x 4	\$34,747.08
34,747.08 ÷ 32.75	\$ 1,060.98
8,686.77 less 1,060.98	\$ 7,625.79
7,625.79 x 4 ÷ 365	\$ 292.50

Further information is available from the Office of:
The Defence Force Retirement and
Death Benefits Authority
P.O. Box 22,
Belconnen ACT, 2616

This leaflet has been prepared by the Defence Force Retirement and Death Benefits (DFRDB) Authority to provide information on the benefits available to members of the Defence Force who are retiring with an entitlement to retirement pay. The leaflet relates to benefits payable under the DFRDB Act 1973 and the information is based on the legislation as at 1 December 1981. Further information may be obtained from the Authority at the address and phone number provided at the back of this leaflet.

ELIGIBILITY FOR RETIREMENT PAY

2. The DFRDB Scheme provides retirement benefits to members of the Defence Force who, on retirement, have completed the minimum qualifying period of service. The scheme is essentially based on the concept of completion of years of service rather than age at retirement.
3. You will be eligible to receive retirement pay if you leave the Defence Force on grounds other than invalidity if you have—
 - completed 20 years effective service;
 - completed 15 years but less than 20 years effective service and you have attained the retiring age for the rank held immediately before retirement; or
 - completed a second period of service (or more) and prior to rejoining you had been in receipt of retirement pay, or a deferred benefit payable under either the DFRDB or the previous Defence Forces Retirement Benefits Scheme. (As special arrangements apply in these cases you should contact the Authority for advice if this situation applies to you.)
4. In general, effective service for retirement purposes is the total of all continuous full-time contributory service plus all periods of past service that you may have purchased.

WHAT YOU GET

5. Your rate of retirement pay is a percentage of your annual rate of pay at the date of retirement, the percentage being determined by your total completed years of effective service. The annual rate of pay is the maximum rate of pay for your substantive, provisional or probationary rank and, if appropriate, your pay level (where increments are provided it is the maximum of the salary range) plus service allowance if payable. The only exception occurs in the case of Chaplains where certain intermediate points have been set because of the long salary ranges which apply.
6. If you have made an election to have a reduction in pay disregarded for the purpose of benefits under the Scheme you should contact the Authority to ascertain the rate on which retirement pay will be assessed.

7. Table 1 setting out the percentages of retirement pay applicable to years of effective service and Table III giving Two Retirement Pay Examples are at the back of this leaflet.

NOTIONAL RETIRING AGE (APPLIES TO OFFICERS ONLY)

8. If you are an officer and you have retired at your own request or you have been discharged on disciplinary grounds, and you have—
 - completed 20 years or more effective service; but
 - you have not attained the notional retiring age designated for the rank held immediately before retirement,
 then your **retirement pay entitlement (retirement pay not the percentage)** is reduced by 3% for each year that your age on retirement is less than the appropriate notional retiring age. The notional retiring ages applicable to Army Officers and equivalent ranks in Navy and Air Force are Major and below 42; Lt Colonel 45; Colonel and Brigadier 50; Major General 52; Lt General and General 55. Example 2 in Table III includes a notional retiring age adjustment.

DETIREMENT (APPLIES TO OFFICERS ONLY)

9. If you are an officer who, with effect from 1 October 1972, was transferred as an officer from the previous DFRB Scheme to the present DFRDB Scheme, then your rate of retirement pay available on retirement may be less than that which would have been applicable to you under the previous scheme. You may be 'in detirement' if you have attained the retiring age for rank held at 30 September 1972 or, under certain circumstances, if you retire to accept a resettlement opportunity or to meet the needs of service. Should you believe you might be 'in detirement' you should contact the Authority to ascertain the benefits and requirements.

10. If, on retirement, you have fulfilled the conditions for eligibility and you are in a detrimental situation you may elect, within 90 days after retirement, to receive retirement pay at the higher rate. An election may be made in writing but cannot be made any earlier than the day after your date of retirement. The election is conditional upon payment within that 90-day period of an additional contribution as determined by the Authority.

HOW TO APPLY FOR RETIREMENT PAY

11. Payment of Retirement Pay is generated by the Form DB9 Application for Retirement Pay/Invalidity Benefits. This form is generally completed about 4 weeks before discharge at parent units or at the

discharge centre/pay office. The form is sent from the unit or discharge centre to the Defence Force Pay Accounting Centre, Melbourne which will forward it to the Authority.

PAYMENT ARRANGEMENTS

12. Your first retirement pay cheque can be expected approximately 4 to 6 weeks after your official discharge date. In most cases payment of arrears from the day following retirement will be issued by means of a separate cheque. Payments are made fortnightly and may be paid direct to an account in your name, or to an account held jointly with your spouse, with—

- most savings banks
- any trading bank (i.e. cheque accounts)
- an approved building society
- an approved credit union

or by cheque to your residential or postal address. Arrangements can also be made for payment overseas.

Please indicate your requirements on Form DB9 where applicable or by letter to the Authority.

13. Taxation deductions are made from fortnightly pension payments by the Authority's paying agents. The agents are the Department of Finance in Canberra and the Northern Territory and the Department of Social Security in the Capital City of each State. The agents will forward a group certificate at the end of each financial year.

COMMUTATION

14. If you are eligible to receive retirement pay you may elect, **within 12 months after your date of retirement**, to commute a portion of your retirement pay, that is, receive a lump sum prepayment of part of your future retirement pay. The maximum amount that you may commute is 4 times your annual retirement pay applicable at the date of retirement. Your reduced retirement pay following commutation is determined in accordance with your life expectancy on the date the election is received by the Authority. It should be noted that, in law, you are regarded as attaining a particular age on the day preceding the anniversary of your birth. The life expectancy factors are provided at Table II at the back of this leaflet. Examples of retirement pay and commutation are also provided at the back of this leaflet.

15. An election for commutation can be made on Form DB55A, which is available at your discharge centre/pay office, or by letter to the Authority. An election made, or received by the Authority, on or before your date of retirement is invalid.

16. Any outstanding DFRDB debt that you have on retirement e.g. shortfall in contributions, repayment of advance on gratuity, repayment for the purchase of past service may be deducted from the lump sum on commutation providing you elect for the lump sum within 90 days after retirement.

17. You are required by the Commissioner of Taxation to declare 5% of the gross amount of your lump sum in your income tax return for the year in which it is paid.

PAYMENT OF COMMUTATION

18. There are only 2 methods of payment available in respect of the lump sum. These are by cheque—

- sent to your residential or postal address; or
- to you, care of your bank, building society or credit union manager. (You make the arrangements with the manager to credit your account.) If payment is required care of your 'bank manager' you should also request that the manager provide, to the Authority, written agreement of the arrangement.

19. In most cases the lump sum can be expected approximately 4 weeks after the election and relevant documentation e.g. Form DB9 and discharge advice, is received by the Authority.

20. A letter will be issued by the Authority with details of your entitlements and payment arrangements. The letter should be received prior to your first retirement pay payment.

PENSION INCREASES

21. Pensions payable under the DFRDB Scheme are increased in July each year based on the movement of the Consumer Price Index for the 12 month period ending March 31 of that year. The increase in the first year is on a pro-rata basis according to the number of months that you have been a pensioner.

YOU CAN APPEAL

22. If you are dissatisfied with a decision made by the Authority you can apply in the first instance to the Authority for the decision to be reconsidered. A request for the Authority to reconsider a decision should be made within 30 days after you have received advice of that decision and the grounds on which the request is being made should also be stated. Supporting evidence should be forwarded with, or as soon as possible after, your request.

23. If you are dissatisfied with the Authority's decision after reconsideration, you can apply to an independent body, the Administrative Appeals Tribunal, for a review of the Authority's decision.

The DFRDB Scheme is designed, in part, as a form of insurance covering the family in the event of the death of a member of the Defence Force or a retired member who was eligible to receive retirement pay, invalidity pay or a deferred benefit. This leaflet has been prepared by the Defence Force Retirement and Death Benefits (DFRDB) Authority to provide information on the benefits available to eligible dependants and is based on the legislation as at 1 Dec. 1984. It does not apply, however, to those pensioners who retired before 1 Oct. 1972. Further information may be obtained from the Authority at the address and telephone number at the back of this leaflet.

WHO IS ELIGIBLE FOR BENEFITS

2. Benefits are payable to eligible widows, widowers and children.

Although the term widow is used throughout this leaflet, benefits for widowers are paid under the same conditions as are widows' benefits.

3. An **eligible widow** means a person who was:—

- legally married to the member at the time of his death and was living with him as his wife on a permanent and bona fide domestic basis;
- not legally married to the member at the time of his death, but had lived continuously with him in a de facto relationship for at least 3 years immediately before his death.

Where (i) the person was legally married to the member at the time of death but not living with him on a permanent and bona fide domestic basis; or
(ii) the de facto relationship had not existed continuously for 3 years immediately prior to the member's death

pension is payable only where the Authority is of the opinion that she was wholly or substantially dependent on the member at the time of death.

Note: Where the marriage or de facto relationship commenced after the pensioner attained age 60, additional conditions apply and you should contact the Authority for advice if this situation applies in your case.

An **eligible child** is:—

- a child of a member (including an adopted or foster child, a stepchild, or a ward)
- an ex-nuptial child of a member and a child or ex-nuptial child of the widow of a member who, in the opinion of the Authority, was (or in the case of an ex-nuptial child of the member born after his death, would have been) wholly or substantially dependent on the member at the time of death.

An **eligible orphan** is:—

- an eligible child who has lost both parents through death, or who is in the care, custody and control of a

person who has not, at any time, been paid a widow's pension under the scheme.

Payment on behalf of an eligible child or eligible orphan is made while that child is:

- under age 16; or
- over age 16 but under age 25 and is undertaking full time study at a school, college or university and not ordinarily in employment or engaged in work.

4. Where a member dies whilst serving with the Defence Force, the family of the member will be contacted by the relevant Service Office (Navy, Army or Air Force) and provided with the appropriate application forms. The completed forms and the relevant marriage certificate, and birth certificates of the eligible children, should be sent to the Service unit which will send them to the DFRDB Authority.

5. Where a member dies whilst he is receiving, or is eligible to receive, a pension, the Authority or the paying agent (see Item 19) should be advised as soon as possible. Application forms which are available from the Authority, most Defence Force bases and paying agents, should be completed and returned direct to the Authority, together with the marriage certificate and birth certificates of eligible children.

6. The death certificate is required but may be forwarded when available.

7. The marriage and children's birth certificates should be located so that they can be easily obtained and forwarded if required. Payment of benefits may be delayed pending receipt of these certificates. In the case of members retiring from the Defence Force the marriage and birth certificates may be sent to the Authority at the time of retirement. The certificates will be returned after copies are taken and placed on individual files for use if required.

8. If the DFRDB pension is to be the widow's major or sole source of income she may care to submit an Income Tax Instalment Declaration and Medicare Levy Variation Return (if applicable) with the paying agent or the Authority. The forms are available from Post Offices.

ENTITLEMENT TO SOCIAL SECURITY BENEFITS

9. As the widow **may** also have an entitlement under the provisions of the Social Services Act she should contact the Department of Social Security in her State to ascertain her eligibility for such benefits.

EVIDENCE OF DEPENDENCE

10. Where a widow is required to provide evidence of dependence, (refer Item 3(i) and (ii)) such evidence should include reference to:

- (i) the amount of fortnightly household income, the source of that income and the fortnightly expenditure incurred;

- (ii) whether the member had provided a marital home through ownership (or joint ownership), by payment of rent, or by payment towards the purchase price;
- (iii) whether the member had made payment of household and the widow's personal expenses;
- (iv) whether the widow was the sole, or a substantial beneficiary under the member's will; and
- (v) where applicable, whether payment of an allotment from the late member's pay was being made to his wife.

THE BENEFITS

11. An eligible widow of a member who dies in service receives a pension, FOR LIFE, based on five-eighths of 76.5% of the member's annual pay for DFRDB purposes at the time of death.

e.g. member's salary was \$21,933 (Petty Officer/Sergeant Pay Level 4 or 5) 5/8ths of 76.5% of \$21,933 is \$10,486.72 gross per annum, or \$402.23 gross per fortnight.

An eligible widow of a member who dies whilst in receipt of, or whilst eligible to receive, retirement pay, invalidity pay or a deferred pension benefit, receives a pension, FOR LIFE, based on five-eighths of the member's pension at the date of death.

e.g. member's pension was \$7,676.55, 5/8ths of \$7,676.55 is \$4,797.84 gross per annum, or \$184.03 gross per fortnight.

Respective of whether the death of a member occurs in service or as a pensioner each eligible child (other than an orphan) receives a pension based on one-sixth of the widow's pension plus \$312.00 per annum.

e.g. 1/6th of \$10,486.72 plus \$312.00 is \$2,059.79 gross per annum or \$79.01 gross per fortnight.

or

1/6th of \$4,797.84 plus \$312.00 is \$1,111.64 gross per annum, or \$42.64 gross per fortnight.

Each eligible orphan receives one-eighth of the pension that would have been payable to a widow plus \$702.00 per annum.

e.g. 1/8th of \$10,486.72 plus \$702.00 is \$2,012.84 gross per annum, or \$77.20 gross per fortnight.

or

1/8th of \$4,797.84 plus \$702.00 is \$1,301.73 gross per annum, or \$49.93 gross per fortnight.

12. If a retired member had commuted a portion of his annual pension to a lump sum, the pensions payable to eligible dependants are based on the pension the member would have been receiving had he not commuted.

Note:

- No provision exists for a widow or child to commute a portion of their pension entitlements.



THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS SCHEME

Widows', Widowers', and Children's Benefits

Further information is available from the Office of
the Defence Force Retirement and
Death Benefits Authority
P.O. Box 22
Belconnen A.C.T. 2616

December 1984

- A widow's pension is payable for the rest of her life irrespective of her income or of whether she remarries.
- Although a child's pension is based on the widow's pension, it is payable in addition to that pension.

SINGLE MEMBERS

13. Where a member who has no eligible dependants dies an amount of one and one half times the contributions paid into the Scheme will be paid to the estate.

CHILDREN'S PENSIONS

14. Shortly before a child attains 16 years of age, the person to whom the child's pension is being paid will receive an application for student's pension. If the child is a full-time student, the form should be completed, certified by the Principal or Registrar of the place of education and returned to the Authority. If the child is not a full-time student then pension will cease at age 16.

15. A similar procedure applies to children over the age of 16 years. A Student Pension Review form is sent at the end of each school year. If at the start of the next school year the student resumes full-time study the completed and certified form should be returned to the Authority. Arrangements will be made early after the commencement of the school year to cease the pension where the child does not resume full-time study.

16. When a student ceases full-time study, the person to whom the pension is being paid should notify the Authority as far in advance as possible so that an overpayment is prevented.

17. Pensions are automatically ceased when a student attains 25 years of age.

18. In the event of the death of the remaining parent, children's/students' pensions are payable at the orphans' rate of pension.

PAYMENT ARRANGEMENTS

19. Payment of pensions will commence as soon as possible after receipt by the Authority of the relevant documents, which in normal cases will be approximately 4 weeks. Thereafter payment will be made fortnightly and may be paid direct to an account in the name of the recipient with:—

- most savings banks
- any trading bank (i.e. cheque account)
- an approved building society
- an approved credit union

or by cheque to a postal address. Arrangements can also be made for payment overseas if the recipient will be absent from Australia for 12 months or more. Payment is made by the Authority's paying agents; the Department of Finance in the ACT and Northern Territory and the Department of Social Security in each State. Deductions for income tax are made each fortnight from pension entitlements by the

paying agent who also issues group certificates at the end of each financial year. A child's pension does not form part of the taxable income of the widow.

PENSION INCREASES

20. Pensions payable under the DFRDB Scheme are increased in July each year based on the movement of the Consumer Price Index for the 12 month period ending March 31 of that year.

YOU CAN APPEAL

21. If you are dissatisfied with a decision made by the Authority you can apply in the first instance to the Authority for the decision to be reconsidered. A request for the Authority to reconsider a decision should be made within 30 days after you have received advice of that decision and the grounds on which the request is being made should also be stated.

22. If you are dissatisfied with the Authority's decision after reconsideration, you can apply to an independent body, the Administrative Appeals Tribunal, for a review of the Authority's decision.

FREEDOM OF INFORMATION

23. The Freedom of Information Act provides a right of access to the documents held by Government agencies including documents relating to your personal affairs. This right may be pursued in accordance with the provisions of that Act.

GENERAL ENQUIRIES

24. If you have any enquiries concerning benefits payable under the DFRDB Scheme please do not hesitate to contact the Counselling Officer on Canberra (062) 526338 or write to:—

The DFRDB Authority,
P.O. Box 22,
Belconnen, ACT, 2616.

LEAFLETS

Other Leaflets on the DFRDB Scheme are:—

New Entrants
Preserved Benefits
Retirement Benefits
Invalidity Benefits.

This leaflet has been prepared by the Defence Force Retirement and Death Benefits (DFRDB) Authority to provide information on the benefits available to members of the Defence Force who are retiring with an entitlement to retirement pay. The leaflet relates to benefits payable under the DFRDB Act 1973 and the information is based on the legislation as at 1 January 1985. Further information may be obtained from the Authority at the address and phone number provided at the back of this leaflet.

ELIGIBILITY FOR RETIREMENT PAY

2. The DFRDB Scheme provides retirement benefits to members of the Defence Force who, on retirement, have completed the minimum qualifying period of service. The scheme is essentially based on the concept of completion of years of service rather than age at retirement.

3. You will be eligible to receive retirement pay if you leave the Defence Force on grounds other than invalidity if you have:—

- completed 20 years effective service;
- completed 15 years but less than 20 years effective service and you have attained the retiring age for the rank held immediately before retirement; or
- completed a second period of service (or more) and prior to rejoining you had been in receipt of retirement pay, or a deferred benefit payable under either the DFRDB or the previous Defence Forces Retirement Benefits Scheme. (As special arrangements apply in these cases you should contact the Authority for advice if this situation applies to you.)

4. In general, effective service for retirement purposes is the total of all continuous full-time contributory service plus all periods of past service that you may have purchased.

WHAT YOU GET

5. Your rate of retirement pay is a percentage of your annual rate of pay at the date of retirement, the percentage being determined by your total completed years of effective service. The annual rate of pay is the maximum rate of pay for your substantive, provisional or probationary rank and, if appropriate, your pay level (where increments are provided it is the maximum of the salary range) plus service allowance if payable. The only exception occurs in the case of Chaplains where certain intermediate points have been set because of the long salary ranges which apply.

6. If you have made an election to have a reduction in pay disregarded for the purpose of benefits under the Scheme you should contact the Authority to ascertain the rate on which retirement pay will be assessed.

7. Table I setting out the percentages of retirement pay applicable to years of effective service and Table IV giving two Retirement Pay Examples are at the back of this leaflet.

NOTIONAL RETIRING AGE (APPLIES TO OFFICERS ONLY)

8. If you are an officer and you have retired at your own request or you have been discharged on disciplinary grounds, and you have:—

- completed 20 years or more effective service; but
- you have not attained the notional retiring age designated for the rank held immediately before retirement,

then your **retirement pay** entitlement (**retirement pay not the percentage**) is reduced by 3% for each year that your age on retirement is less than the appropriate notional retiring age. The notional retiring ages applicable to Army Officers and equivalent ranks in Navy and Air Force are Major and below 42; Lt Colonel 45; Colonel and Brigadier 50; Major General 52; Lt General and General 55. Example 2 in Table IV includes a notional retiring age adjustment.

DETRIMENT (APPLIES TO OFFICERS ONLY)

9. If you are an officer who, with effect from 1 October 1972, was transferred as an officer from the previous DFRB Scheme to the present DFRDB Scheme, then your rate of retirement pay available on retirement **may** be less than that which would have been applicable to you under the previous scheme. You may be 'in detriment' if you have attained the retiring age for rank held at 30 September 1972 or, under certain circumstances, if you retire to accept a resettlement opportunity or to meet the needs of service. Should you believe you might be 'in detriment' you should contact the Authority to ascertain the benefits and requirements.

HOW TO APPLY FOR RETIREMENT PAY

10. Payment of Retirement Pay is generated by the Form DB9 'Application for Retirement Pay/Invalidity Benefits'. This form is generally completed about 4 weeks before discharge at parent units or at the discharge centre/pay office. The form is sent from the unit or discharge centre to the Defence Force Pay Accounting Centre, Melbourne which will forward it to the Authority.

PAYMENT ARRANGEMENTS

11. Your first retirement pay cheque can be expected approximately 4 to 6 weeks after your official discharge date. In most cases payment of arrears from the day following retirement will be issued by means of a separate cheque. Payments are made fortnightly and may be paid direct to an account in your name, or to an account held jointly with your spouse, with:—

- most savings banks
- any trading bank (i.e. cheque accounts)
- an approved building society
- an approved credit union

Arrangements can also be made for payment overseas if your absence from Australia will be for 12 months or more.

Please indicate your requirements on Form DB9 where applicable or by letter to the Authority.

12. Taxation and Medicare Levy deductions are made from fortnightly pension payments by the Authority's paying agents. The agents are the Department of Finance in Canberra and the Northern Territory and the Department of Social Security in the Capital City of each State. The agents will forward a group certificate at the end of each financial year.

COMMUTATION

13. If you are eligible to receive retirement pay you may elect, within 12 months after your date of retirement to commute a portion of your retirement pay; that is, receive a lump sum prepayment of part of your future retirement pay. The maximum amount that you may commute is shown in table III. As you will see the maximum amount available increases by .05 times in each whole period of 12 months following 30 June 1983 up to a maximum rate of 5 times retirement pay. Your reduced retirement pay following commutation is determined in accordance with your life expectancy on the date the election is received by the Authority. The life expectancy factors are provided at Table II. Examples of retirement pay and commutation are also provided at the back of this leaflet.

HOW TO APPLY FOR COMMUTATION

14. An election for commutation can be made on Form DB55A, which is available at your discharge centre/pay office, or by letter to the Authority. An election made, or received by the Authority, on or before your date of retirement is invalid.

15. Any outstanding DFRDB debt that you have on retirement e.g. shortfall in contributions, repayment of advance on gratuity, repayment for the purchase of past service may be deducted from the lump sum on commutation providing you elect for the lump sum within 90 days after retirement.

TAXATION OF LUMP SUM

16. The question of taxation of superannuation lump sums is complex and this leaflet can only provide a guide. The taxation law has been changed to provide new arrangements for the taxation of commutation lump sum payments made after 1 July 1983. Under the new arrangements the Authority is required to deduct taxation, if appropriate, from the part of your commutation lump sum which relates to service after 30 June 1983. Members will be advised by the Authority shortly after payment of the amount of tax deducted and will be provided with details of the apportionment of the lump sum for service up to and after 30 June 1983. The part which relates to service prior to 1 July 1983 will remain subject to the former rules and members will be required to declare 5% of this part as income in their income tax return for the year in which the commutation lump sum is received. Any further questions regarding taxation should be directed to a Deputy Commissioner for Taxation in each State.

PAYMENT OF COMMUTATION

17. There are only 2 methods of payment available in respect of the lump sum. These are by cheque:—

- sent to your residential or postal address; or
- to you, care of your bank, building society or credit union manager. (You make the arrangements with the manager to credit your account.) If payment is required care of your 'bank manager' you should also request that the manager provide, to the Authority, written agreement of the arrangement.

18. In most cases the lump sum can be expected approximately 4 weeks after the election and relevant documentation e.g. Form DB9 and discharge advice, is received by the Authority.

19. A letter will be issued by the Authority with details of your entitlements and payment arrangements. The letter should be received prior to your first retirement pay payment.

PENSION INCREASES

20. Pensions payable under the DFRDB Scheme are increased in July each year, and are based on the upward movement of the Consumer Price Index for the 12 month period ending March 31 of that year. The increase in the first year is on a pro-rata basis according to the number of months that you have been a pensioner. Pension increases are based on the amount of retirement pay that would be applicable had four times the amount of retirement pay been commuted.

YOU CAN APPEAL

21. If you are dissatisfied with a decision made by the Authority you can apply in the first instance to the Authority for the decision to be reconsidered. A request for the Authority to reconsider a decision should be made within 30 days after you have received advice of that decision and the grounds on which the request is being made should also be stated. Supporting evidence should be forwarded with, or as soon as possible after, your request.

22. If you are dissatisfied with the Authority's decision after reconsideration, you can apply to an independent body, the Administrative Appeals Tribunal, for a review of the Authority's decision.

GENERAL ENQUIRIES

23. If you have any enquiries concerning benefits payable under the Scheme please do not hesitate to contact the Authority on Canberra (062) 52-7911 or write to:—

The DFRDB Authority,
PO Box 22,
Belconnen, ACT, 2616.

You may also visit the Authority at Unit 1, Cameron Offices, Chandler St, Belconnen, ACT, to discuss your entitlements. If you wish to use this facility you should arrange an appointment with a counselling officer on phone (062) 52-6338. The counselling officer is also available to discuss benefits under the DFRDB Scheme at Resettlement Seminars for members of the Defence Force who are retiring. It is strongly recommended that you obtain information on your retirement benefit entitlements before committing yourself to a retirement date.

LEAFLETS

Other Leaflets available are:—

Widows', Widowers' and Children's Benefits. (If you are retiring with an entitlement to retirement pay and you are married, separated, divorced or in a de facto relationship you should obtain and read a copy of this leaflet.)

Preserved Benefits

New Entrants

Invalidity Benefits

7. **TABLE I**
PERCENTAGE OF RETIREMENT PAY APPLICABLE TO YEARS OF SERVICE

Total Number of Years of Effective Service Completed	Percentage of Pay at date of Retirement	Total Number of Years of Effective Service Completed	Percentage of Pay at date of Retirement
* 15	30.00	28	47.50
* 16	31.00	29	49.25
* 17	32.00	30	51.25
* 18	33.00	31	53.25
* 19	34.00	32	55.50
* see paragraph 3(b) (late entrants only)		33	57.75
20	35.00	34	60.25
21	36.50	35	62.75
22	38.00	36	65.25
23	39.50	37	67.75
24	41.00	38	70.50
25	42.50	39	73.50
26	44.00	40	76.50
27	45.75	or more	

TABLE II
COMMUTATION OF RETIREMENT PAY: EXPECTATION OF LIFE FACTOR

Age (in yrs) at date election received	Factor		Age (in yrs) at date election received	Factor	
	male	female		male	female
31	40.18	45.53	46	26.51	31.48
32	39.25	44.57	47	25.65	30.58
33	38.31	43.61	48	24.80	29.69
34	37.38	42.65	49	23.96	28.80
35	36.45	41.70	50	23.13	27.92
36	35.51	40.75	51	22.31	27.05
37	34.59	39.81	52	21.51	26.18
38	33.67	38.86	53	20.72	25.32
39	32.75	37.92	54	19.94	24.47
40	31.84	36.99	55	19.18	23.63
41	30.93	36.06	56	18.43	22.79
42	30.03	35.13	57	17.70	21.96
43	29.14	34.21	58	16.99	21.13
44	28.25	33.29	59	16.29	20.32
45	27.38	32.38	60	15.60	19.51

TABLE III
MAXIMUM COMMUTATION ENTITLEMENT

Date of Retirement	Maximum Amount
1.7.82 to 30.6.83	4.00 times
1.7.83 to 30.6.84	4.05 "
1.7.84 to 30.6.85	4.10 "
1.7.85 to 30.6.86	4.15 "
1.7.86 to 30.6.87	4.20 "
1.7.87 to 30.6.88	4.25 "
etc	
1.7.2002 and later dates	5.00 (maximum)

**TABLE IV
RETIREMENT PAY EXAMPLES**

Example 1 is that of an Army Sergeant, pay level 4 and 5, (equivalent Navy and Air Force ranks) who has completed 20 years of effective service on 1 August 1985 at the age of 39. The salary used is that applicable as at 19 April 1984. All figures are gross and do not take into account taxation deductions.

Rank	Sergeant
Salary (para 5)	\$21,933.00
Effective Service (paras 3 & 4)	20 years
Retirement Pay % (Table I)	35%
Retirement Pay Per Annum	\$ 7,676.55
Retirement Pay Per Fortnight	\$ 294.44
Commutation (para 13) 4.00 times (ie former maximum)	\$30,706.20
Age 39 Factor (Table II)	32.75
Reduction	\$ 937.59
Reduced Retirement Pay Per Annum	\$ 6,738.96
Reduced Retirement Pay Per Fortnight	\$ 258.48
Method of Calculation used is:-	
$21,933.00 \times 35\%$	\$ 7,676.55
$7,676.55 \times 4$	\$30,706.20
$30,706.20 \div 32.75$	\$ 937.59
$7,676.55 \text{ less } 937.59$	\$ 6,738.96
$6,738.96 \times 14 \div 365$	\$ 258.48
Commutation (para 13) 4.15 times	\$31,857.68
Age 39 Factor (Table II)	32.75
Reduction	\$ 972.75
Reduced Retirement Pay Per Annum	\$ 6,703.80
Reduced Retirement Pay Per Fortnight	\$ 257.13
Method of Calculation used is:-	
$21,933.00 \times 35\%$	\$ 7,676.55
$7,676.55 \times 4.15$	\$31,857.68
$31,857.68 \div 32.75$	\$ 972.75
$7,676.55 \text{ less } 972.75$	\$ 6,703.80
$6,703.80 \times 14 \div 365$	\$ 257.13

Example 2 is that of an Army Major (equivalent Navy and Air Force ranks) who has completed 20 years of effective service on 10 May 1986 at the age of 39. The salary used is that applicable as at 19 April 1984. All figures are gross and do not take into account taxation deductions.

Rank	Major
Salary (para 5)	\$33,442.00
Effective Service (paras 3 & 4)	20 years
Retirement Pay % (Table I)	35%
Retirement Pay Before Reduction	\$11,704.70
National Retiring Age Reduction for Age 39 (para 8)	9%
Reduction	\$ 1,053.42
Actual Retirement Pay Per Annum	\$10,651.28
Actual Retirement Pay Per Fortnight	\$ 408.54
Commutation (para 13) 4.00 times	\$42,605.12
Age 39 Factor (Table II)	32.75
Reduction	\$ 1,300.92
Reduced Retirement Pay Per Annum	\$ 9,350.36
Reduced Retirement Pay Per Fortnight	\$ 358.64
Method of Calculation used is:-	
$33,442.00 \times 35\%$	\$11,704.70
$11,704.70 \times 9\%$	\$ 1,053.42
$11,704.70 \text{ less } 1,053.42$	\$10,651.28
$10,651.28 \times 4$	\$42,605.12
$42,605.12 \div 32.75$	\$ 1,300.92
$10,651.28 \text{ less } 1,300.92$	\$ 9,350.36
$9,350.36 \times 14 \div 365$	\$ 358.64
Commutation (para 13) 4.15 times	\$44,202.81
Age 39 Factor (Table II)	32.75
Reduction	\$ 1,349.70
Reduced Retirement Pay Per Annum	\$ 9,301.58
Reduced Retirement Pay Per Fortnight	\$ 356.77
Method of Calculation used is:-	
$33,442.00 \times 35\%$	\$11,704.70
$11,704.70 \times 9\%$	\$ 1,053.42
$11,704.70 \text{ less } 1,053.42$	\$10,651.28
$10,651.28 \times 4.15$	\$44,202.81
$44,202.81 \div 32.75$	\$ 1,349.70
$10,651.28 \text{ less } 1,349.70$	\$ 9,301.58
$9,301.58 \times 14 \div 365$	\$ 356.77



THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS SCHEME

Retirement Benefits

Further information is available from the Office of:
**The Defence Force Retirement and
Death Benefits Authority**
P.O. Box 22,
Belconnen A.C.T. 2616

January 1985



**Office of the Hon Stuart Robert MP
Assistant Minister for Defence**

MC15-002498

15 SEP 2015

Mr Jim Hislop
jghislop1937@hotmail.com

Dear Mr Hislop

Thank you for your email of 24 July 2015 to the Minister for Veterans' Affairs, Senator the Hon Michael Ronaldson, regarding Defence Force Retirement and Death Benefit (DFRDB) scheme legislation. This matter falls within the portfolio responsibilities of the Assistant Minister for Defence, the Hon Stuart Robert MP, who has asked me to respond on his behalf. The delay in response is regretted.

Your email seeks to draw attention to a submission by Mr Herb Ellerbock regarding concerns with DFRDB indexation legislation. The submission is currently circulating among the ex-service community and seeks the rectification of perceived injustices toward DFRDB retirement pay and reversionary pension recipients. Mr Ellerbock's submission is essentially arguing that recent improvements to the indexation methodology for DFRDB pensions should be applied in a retrospective manner and paid for using funds from the Future Fund.

The DFRDB scheme, like all Commonwealth defined-benefit schemes, was developed as a structure of benefits. To highlight one element of the scheme without recognising the significant benefits provided by the whole scheme is not fair or reasonable. As recently as 2014, the Australian Government made changes to the DFRDB benefit structure that further increased the beneficial nature of the scheme. This change to indexation for DFRDB retirement pay and reversionary recipients aged 55 and over made a significant improvement to the overall package of DFRDB benefits.

I note you have referenced the Joint Select Committee on Defence Forces Retirement Benefits Legislation (Jess Committee). The Jess Committee recommended in 1970, prior to the introduction of DFRDB, that annual indexation of DFRDB pensions should be linked to average weekly earnings. This recommendation of the Jess Committee was not accepted and, at the time DFRDB legislation was passed by the Parliament, no indexation arrangements applied.

In 1976, the Parliament legislated for indexation of Commonwealth superannuation pensions, including DFRDB pensions. Since that time, DFRDB pensions were indexed in line with upward movements in the Consumer Price Index (CPI). This changed from 1 July 2014 for DFRDB pensioners aged 55 and over to an indexation methodology that is the same as that used for age and service pensions. The new indexation methodology is indexation by the greater of the CPI and the Pensioner and Beneficiary Living Cost Index measured against a floor percentage of Male Total Average Weekly Earnings.

The benefits of the new indexation methodology will become clearer over time. The compounding effect of improved indexation means that DFRDB pensions will move further ahead of an equivalent CPI indexed pension. Essentially, the pension is no longer tied to inflation only.

It is asserted in the submission that the cost to rectify the perceived injustices of DFRDB legislation would be significant and is proposed that draw down from the Future Fund would achieve this. The Future Fund was established to make provision for all unfunded Commonwealth superannuation liabilities, including DFRDB, that will become payable during the period when an ageing population is likely to place significant pressure on the Government's finances. The Future Fund's governing legislation stipulates that money may only be withdrawn once the superannuation liability is fully offset or 1 July 2020, whichever is earlier.

In light of the recent improvements to the indexation of DFRDB retirement pay and the overall beneficial nature of the scheme, the Government does not intend to undertake a further examination of the benefit structure of the closed DFRDB scheme.

I trust this information clarifies the matter for you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert McKellar', written in a cursive style.

Robert McKellar
Chief of Staff



**Office of the Hon Stuart Robert MP
Assistant Minister for Defence**

MC15-002615

Mr Herb Ellerbock
12 Alluvial Street
RUTHERGLEN VIC 3685

15 SEP 2015

Dear Mr Ellerbock

Thank you for your letter of 1 July 2015 to the Prime Minister, the Hon Tony Abbott MP, regarding Defence Force Retirement and Death Benefit (DFRDB) scheme legislation. This matter falls within the portfolio responsibilities of the Assistant Minister for Defence, the Hon Stuart Robert MP, who has asked me to respond on his behalf. The delay in response is regretted.

The DFRDB scheme, like all Commonwealth defined-benefit schemes, was developed as a structure of benefits. To highlight one or two elements of the scheme without recognising the significant benefits provided by the whole scheme is not fair or reasonable. As recently as 2014, the Australian Government made changes to the DFRDB benefit structure that further increased the beneficial nature of the scheme. This change to indexation for DFRDB retirement pay and reversionary recipients aged 55 and over made a significant improvement to the overall package of DFRDB benefits.

Your paper titled *Unjust Government Legislation targets the widows of deceased Defence Force retirees* outlines your views that the DFRDB reversionary recipients are at a financial disadvantage.

DFRDB spouse benefits were reviewed as part of the 1990 Defence Force Retirement and Death Benefits Review. The Review Committee, chaired by Sir William Cole, presented a Report to Parliament in June 1990.

It is noted in the Report that concerns expressed with the lower pension payable to DFRDB spouses (that is 62.5 per cent of contributor's pension entitlement) than to Commonwealth Superannuation Scheme spouses (67 per cent) were not correct. It was determined that benefits paid to DFRDB spouses are greater than the benefits paid to Commonwealth Superannuation Scheme spouses in similar circumstances as the elements of each scheme that determine the spouse benefit differ.

The Government has delivered on its commitment to improve the indexation of Defence Force Retirement Benefits and DFRDB pensions paid to those aged 55 and over. The substantial benefits of the 2014 indexation methodology will become clearer over time. The compounding effect of improved indexation means that pensions will not only move further ahead of an equivalent consumer price index only indexed pension, but will also increase at a higher rate than the cost of living.

Any change to the formula for determining the DFRDB spouse benefits would require substantial changes to the entire reversionary benefit structure of the scheme. In light of the recent improvements to the indexation of DFRDB retirement pay and the overall beneficial nature of the scheme, the Government does not intend to undertake a further examination of the benefit structure of the closed DFRDB scheme.

I regret I am unable to be of further assistance to you on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert McKellar', written in a cursive style.

Robert McKellar
Chief of Staff



Australian Government

Department of Defence
Defence People Group

Assistant Secretary
People Policy and Employment
Conditions
BP33-3-002
Brindabella Park
CANBERRA ACT 2600

DPG/PPEC/OUT/2016/112

Mr Steve Irons MP
Member for Swan
PO Box 1060
EAST VICTORIA PARK WA 6981

Dear Mr Irons

Thank you for your representation of 23 May 2016, on behalf of the Victoria Park RSL concerning the commutation and life expectancy factors for the Defence Force Retirement and Death Benefits scheme to the Assistant Minister for Defence, the Hon Michael McCormack MP. The Assistant Minister has asked me to respond on his behalf.

As you aware, the Government is currently in a caretaker period pending the forthcoming Federal election. In accordance with the caretaker conventions, departments avoid commenting on Government policy or on matters that could commit an incoming government.

Mr Irons has included a letter from Mr Herb Ellerbock in his correspondence. Prior to the caretaker period commencing, the Assistant Minister provided the following response to Mr Herb Ellerbock. Mr Ellerbock's letter of May 2016 does not raise any new issues. I understand a copy of Mr Ellerbock's letter was provided to your office.

The Defence Force Retirement and Death Benefits scheme, like all Commonwealth defined-benefit schemes, was developed as a structure of benefits. The constituent highlights only one feature of the Scheme. However, all aspects provided by the Scheme should be considered in order to recognise the overall benefits provided. As recently as 2014, the Australian Government made changes to the Scheme benefit structure that further increased the beneficial nature of the scheme, by changing the indexation method to the same way as age and service pensions. This change to the indexation, of the Scheme retirement pay and reversionary recipients aged 55 and over, made a significant improvement to the overall scheme benefit.

The copy of the letter that your constituent provided has raised two issues with the Defence Force Retirement and Death Benefits legislation. The first is in regard to the application of section 24 of the *Defence Force Retirement and Death Benefits Act 1973*, which provides for the commutation (or exchange) of a portion of retirement pay for a lump sum payment that results in a permanently reduced pension. The author's understanding of this section of the *Defence Force Retirement and Death Benefits Act 1973* is not correct. Commutation is the early payment of part of a Defence Force Retirement and Death Benefits member's retirement pay in the form of a lump sum, and is part of the overall superannuation pension benefit, only paid in a different form.

The letter provided makes reference to a report presented to Parliament in May 1972 by the Joint Select Committee on Defence Forces Retirement Benefits legislation, chaired by Mr J D Jess CBE MP. The Joint Select Committee, commonly known as the Jess Committee, was established in September 1970 to undertake a review of the Defence Forces Retirement Benefits legislation. The commutation methodology incorporated into Defence Force Retirement and Death Benefits legislation was derived from this review.

It is a common misunderstanding that those members who choose to commute will have their retirement pay restored to the full amount once they exceed their life expectancy factor. This factor is simply an actuarially based element of the calculation undertaken to determine a member's lump sum and resultant pension benefit. Subsection 24(3) of the *Defence Force Retirement and Death Benefits Act 1973* provides for the payment of the commuted amount as specified in an election made by the member under subsection 24(1). It also provides for the permanent reduction of the pension to take into account the commutation. This reflects recommendation 14(b) of the Jess Committee. The pension is permanently reduced because the lump sum recipient can gain lifetime advantage depending on how they invest or use the lump sum.

The letter provided also refers to section 98B of the *Defence Force Retirement and Death Benefits Act 1973* which provides for increases to certain pensions. The term 'notional rate of retirement pay' is a term used in the *Defence Force Retirement and Death Benefits Act 1973* to identify the amount of Defence Force Retirement and Death Benefits benefit that is to be indexed. It is suggested that using the notional rate of retirement pay to index pensions results in a reduction of the quantum of the benefits of the Defence Force Retirement and Death Benefits members, their spouses, and any children.

A person can elect to commute up to five times their annual pension, which is permanently reduced to reflect the fact that part of the benefit has been paid early in the form of a lump sum. The reduced pension is indexed twice yearly. If a member does not elect to commute, or commutes less than four times the pension (which was the maximum amount that could be commuted at the time the indexation arrangements came into existence), then indexation is only applied to notional retirement pay, which is the rate of pension that would be payable if the member had commuted four times the pension. This is set out in section 98B of the *Defence Force Retirement and Death Benefits Act 1973* and has been the method of indexing Defence Force Retirement and Death Benefits pensions since indexation arrangements were legislated in 1976.

The Government delivered on its commitment to improve the indexation of Defence Force Retirement Benefits and Defence Force Retirement and Death Benefits pensions paid to those aged 55 and over. The substantial benefits of the 2014 indexation methodology will become clearer over time. The compounding effect of improved indexation means that pensions will not only move further ahead of an equivalent pension indexed by the Consumer Price Index only, but will also increase at a higher rate than the cost of living.

I trust this information will be of assistance to you.

Yours sincerely



LISA ARNOLD

Acting Assistant Secretary

People Policy and Employment Conditions

Defence People Group

Tel: (02) 6127 2358

31 May 2016

From:

"Srhoj Tamara (W. Entsch MP)" <Tamara.Srhoj@aph.gov.au>

To:

"Ross L Grant" <rossross@westnet.com.au>

Sent:

Wed, 21 Dec 2016 01:56:53 +0000

Subject:

Defence Force DFRDB Scheme

Good Afternoon Ross,

Further to your request, below is the brief correspondence we have received from the Minister in relation to your inquiry on the Defence Force DFRDB Scheme

The DFRDB scheme, like all Commonwealth defined-benefit schemes, was developed as a structure of benefits. As recently as 2014, the Australian Government made changes to the DFRDB benefit structure that further increased the beneficial nature of the scheme. This change to indexation for DFRDB retirement pay and reversionary recipients aged 55 and over made a significant improvement to the overall DFRDB benefit.

Section 24 of the Defence Force Retirement and Death Benefits Act 1973 (DFRDB Act), provides for the commutation (or exchange) of a portion of retirement pay for a lump sum payment that results in a permanently reduced pension. Commutation is the early payment of part of a DFRDB member's retirement pay in the form of a lump sum and is part of the overall superannuation pension benefit, only paid in a different form.

It is a common misunderstanding that those members who choose to commute will have their retirement pay restored to the full amount once they exceed their life expectancy factor. This factor is simply an actuarially-based element of the calculation undertaken to determine a member's lump sum and resultant pension benefit. Subsection 24(3) of the DFRDB Act provides for the payment of the commuted amount as specified in an election made by the member under subsection 24(1). It also provides for the permanent reduction of the pension to take into account the commutation. The pension is permanently reduced because the lump sum recipient can gain lifetime advantage depending on how they invest or use the lump sum.

Section 98B of the DFRDB Act provides for increases to certain pensions. The term 'notional rate of retirement pay' is a term used in the DFRDB Act to identify the amount of DFRDB benefit that is to be indexed. It is suggested that using the notional rate of retirement pay to index pensions results in a reduction of the quantum of both the DFRDB member's, and the spouse's, and children's (if any), benefits.

A person can elect to commute up to five times his or her annual pension, which is permanently reduced to reflect the fact that part of the benefit has been paid early in the form

of a lump sum. The reduced pension is indexed twice yearly. If a member does not elect to commute, or commutes less than four times the pension (which was the maximum amount that could be commuted at the time the indexation arrangements came into existence), then indexation is only applied to notional retirement pay, which is the rate of pension that would be payable if the member had commuted four times the pension. This is set out in section 98B of the DFRDB Act and has been the method of indexing DFRDB pensions since indexation arrangements were legislated in 1976.

The Government has delivered on its commitment to improve the indexation of Defence Force Retirement Benefits and DFRDB pensions paid to those aged 55 and over. The substantial benefits of the 2014 indexation methodology will become clearer over time. The compounding effect of improved indexation means that pensions will not only move further ahead of an equivalent CPI only indexed pension, but will also increase at a higher rate than the cost of living.

In light of the improved indexation changes to DFRDB pensions, the Government does not intend to undertake a further examination of the benefit structure of the now closed DFRDB scheme.

Unfortunately this would not be the response you were hoping for. I have also been corresponding with another guy, similar to your situation, and he produced the attached petition that he is obtaining signatures for. I advised him of the E-Petition (online) information which may be more of use to reach a larger majority of people.

Kind regards,

Tamara Srhoj

Executive Assistant to the MP

On behalf of the Hon. Warren Entsch MP

Federal Member for Leichhardt

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