



Australian Defence Force Retirees Association Inc.

No. A0108026R

We represent the interests of Defence Force Retirees regarding their Superannuation

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DFRDB UPDATE – SEPTEMBER 2021

The Senate FADT Committee's Inquiry

We had hoped for a Government response to the Senate FADT Committee's report before this Update, but to date there has been none.

The Effect of the *DFRDB Commutation Campaign*

Over the past two years, the *DFRDB Commutation Campaign* has focused on Commutation and the Department of Defence's misleading of members over its effect.

But that is not our main concern.

To recap:

In 1972, then Prime Minister Whitlam and Defence Minister Barnard overruled the objections of Treasury and the Department of Defence and committed to implementing the Jess Committee recommendations, which included the transfer of control and budget responsibility for Defence Force Superannuation from Treasury to Defence. From that point on, Defence initiated an insidious and sustained reduction of the defined benefits set down in the Jess Committee recommendations.

The wording of the Commutation provision in the DFRDB Act and the reference to outdated Life Expectancy Factors, which transformed the Commutation recommendation from a proportionate to a disproportionate exchange, was only the beginning.

In 1974 and 1976, two-sevenths (29%) of all DFRDB benefits was excluded from the interim cost-of-living adjustments.

In 1977, the automatic cost-of-living adjustments introduced were linked directly to the unrepresentative Consumer Price Index (CPI), and between 10% and 32% of retirement pay, Class C invalidity pay, and spouse's and children's pensions was excluded from those adjustments.

Defence could have continued with the 1974/1976 partial indexation formula to reduce the defined benefits. But, while it was not apparent to those serving at the time, it would soon have become evident. So, the cost-of-living adjustments were related to the Commutation entitlement, where the outdated Life Expectancy Factors determine the part excluded from adjustment.

It didn't matter if we commuted or not. The effect was the same.

In 1984, the part of the defined benefits excluded from the cost-of-living adjustments was progressively increased to between 11% and 40%. That was done under the guise of increasing the amount which could be commuted to compensate for the method of taxing lump sum payments. That increase affects only those who commuted their maximum entitlement from 1 July 1983 onwards.

Before the effect of Commutation is considered, the cumulative impact of CPI linked and partial cost-of-living adjustments is a reduction of up to more than 40% of our benefits, over our average lifespan, discriminating by age, gender, and date of separation from the Defence Force.

In 1991, the amendment that closed the DFRDB scheme to new members also substantially penalized members who re-enlisted after commuting and served at least one more year if they did not transfer to the MSBS scheme. This amendment to the Act was not publicized, so the members who re-enlisted and remained in the DFRDB scheme have suffered an additional lifetime penalty.

While not solely responsible, the *DFRDB Commutation Campaign*, which seeks a “reconsideration of the DFRDB Commutation issue”, has been the catalyst for the superficial inquiries by the Commonwealth Ombudsman in 2019 and the recent Senate FADT Committee, the findings of which are now cited by Defence in response to all DFRDB issues raised.

Those inquiries established that we were misled over the effect of Commutation. However, the focus in their Terms of Reference, on what we were told about Commutation, ensured that the extent of the deception and the far more detrimental effect of CPI-linked and partial cost-of-living adjustments would not see the light of day.

If all the expected outcomes of the *DFRDB Commutation Campaign* are met, the benefit to members will vary. Older members of more senior rank, who served for more extended periods and retired during the later years of the DFRDB scheme, will benefit to the greatest extent. However, the many lower ranks who retired earlier, at a younger age and with minimal qualifying service, and, who have suffered the most from the CPI-linked cost-of-living adjustments, will benefit the least.

The *DFRDB Commutation Campaign* has succeeded in giving prominence to the Commutation issue. But, given the outcome of the Ombudsman and Senate inquiries, it has been counter-productive to reversing the insidious and ongoing reduction of our benefits.

ADFRA’s objectives have always included the outcomes sought by the *DFRDB Commutation Campaign*, but ADFRA aims to restore all DFRDB benefits to the level members were told they would be entitled to if they served for 20 or more years.

The Interpretation of the Commutation Provision

The interpretation of the Commutation provision in the DFRDB Act has long been a point of contention and was tested in *Reynolds and Defence Force Retirement and Death Benefits Authority* [2001] AATA 599 (28 June 2001).

The AAT found against Reynolds, but we believe that decision was flawed. Accordingly, we have been working with one of our members, Clinton McKenzie, a retired lawyer, who has taken the matter to the Federal Court. A summary of proceedings can be viewed in [Federal Court Application Progress](#).

The Approach to the Prime Minister

From his failure to reply to ADFRA's correspondence, it is doubtful that the new Minister, the Hon Andrew Gee MP, intends to address the DFRDB issues, which has prompted this [Email to the Prime Minister](#), copied to the Deputy Prime Minister, Defence Minister and Minister for Defence Personnel.

The Need for more Pressure on Politicians

An Act of Parliament is required to stop the ongoing reduction of our DFRDB benefits. Hence, we must keep up the pressure on our local Members of Parliament and State Senators and impress on them that we will do our utmost to ensure there will not be a majority Government after the next Federal Election.

Senators and Members of Parliament individually decide their preferred contact method. To contact your local Member and State Senators, first find their home page in [List of Senators](#) or [List of Members](#), containing their contact details and best method of contacting them.

Jim Hislop OAM

President