



# 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 – DECEMBER 2024

### Another busy year is behind us

We are making progress, but it is slow, partly because other Ex-Service Organizations either show no interest in the DFRDB issue or, those who do, cannot agree on what DFRDB recipients want.

To support ADFRA's objectives, we have reviewed an extensive range of extrinsic information, including but not confined to:

- The May 1972 Report of the *Joint Select Committee on Defence Forces Retirement Benefits Legislation (the Jess Report)*;
- The Treasury and Department of Defence opposition to the *Jess Report* in *Submissions 913 and 916 to Cabinet*;
- Prime Minister McMahon's rejection of the *Jess Report* in his *Ministerial Statement* in the House of Representatives (the House) on 26 October 1972 and the ensuing responses.
- All the *Second Reading* speeches in the House relating to the introduction and debate of *Defence Force Retirement and Death Benefits Bill 1973 (the DFRDB Bill)* on 25 and 30 May 1973;
- All the *Second Reading* speeches in the House relating to the introduction and debate of *Defence Force Retirement and Death Benefits (Pension Increases) Bill 1974* on 13 and 20 November 1974;
- All the *Second Reading* speeches in the House relating to the introduction and debate of *Defence Force Retirement and Death Benefits (Pension Increases) Bill 1976* on 27 April and 4 May 1976;
- All the *Second Reading* speeches in the House relating to the introduction and debate of *Defence Force (Retirement and Death Benefits Amendments) Bill 1977* on 17 and 23 February 1977; and
- The Department of Defence *Submissions to Cabinet* which sought approval for the 1974 and 1976 interim increases and the 1977 amendments.

That information reveals compelling evidence that public servants in Treasury, the Government Actuary, the Department of Defence, and the Office of the Parliamentary Counsel fundamentally altered the commutation provision recommended by the *Jess*

*Committee* and adopted by the then newly elected Government in 1972, significantly reducing the defined benefits that Defence Force members were led to believe they would receive for serving 20 or more years.

The passage through Parliament of the altered commutation provision in 1973 and the partial indexation provisions in 1977 was ensured by:

- Obscuring the legislative intent with convoluted wording and misleading explanations;
- Introducing the legislation concurrently with other legislation; and
- Scheduling the *Second Reading* debates so there was inadequate time for proper scrutiny.

ADFRA has drafted legislative amendments to remedy the gross reduction of DFRDB benefits but our efforts to have the amendments proposed in a Private Member's Bill have been hindered by the protagonist of the *DFRDB Commutation Campaign* and his misconstrued "*20 x Commutation Factor*" argument and may further be hindered by the Defence Force Welfare Association (DFWA) which is pursuing its own misguided agenda.

## **We set the DFWA record straight**

An article *THE DFRDB COMMUTATION ISSUE* in [DFWA's Camaraderie Vol 55 No.3](#) begins:

*"THERE REMAINS CONTINUING CONFUSION in some quarters about the operations of the DFRDB Scheme, particularly in respect to the issue of commutation and the use of outdated life tables."*

The article relates to DFWA's long-term policy objectives of:

- Adjusting the DFRDB expectation of life factors so that they reflect the actual life expectancy of the member at the date he/she chose to commute.
- Recalculating the DFRDB pension reduction, of all living members who commuted, using their actual life expectancy at the time of their decision to commute.

The article states that this would be "*A simple legislative change*" which would be "*cost neutral*".

By "*cost neutral*", the author implies that those who live beyond their life expectancy must compensate the Commonwealth for the members who die before reaching their life expectancy. That is at odds with the primary *Jess Committee* recommendation; "***that the Commonwealth guarantee the benefits provided and meet all costs not covered by members' contributions.***"

DFWA's objectives stem from a fundamental misunderstanding of the DFRDB *commutation* and benefit adjustment (*indexation*) provisions in the DFRDB Act. This

misunderstanding originates from the cited article in *Camaraderie Vol No.1 of 2011 (the 2011 Article)*, which preceded the “*Fair Go*” campaign and *Fair Indexation Amendment Bill 2014*.

The ‘*fair indexation*’ outcome for members aged 55 and over, which DFWA attributes to the DFWA/ADSO led “*Fair Go*” campaign, **was a ‘confidence trick’**. That method of adjustment was introduced to adjust *Age Pension* benefits, circa 2009, where it was **designed to minimize the effect of the Male Total Average Weekly Earnings index**.

The main failing of “*Fair Go*” was that it did not seek to redress the effect of the “*unfair*”, Consumer Price Index (CPI) linked indexation. Any objective assessment would conclude that **the *Fair Indexation Amendment’s* outcome is insignificant**.

Moreover, **the effect of *Fair Indexation* is inequitable**, benefiting to the greatest extent members who retired near or after 2014 because the value of their benefits was not significantly eroded by the effect of the CPI, as was the case for the members who retired earlier.

DFWA’s objective of adjusting the life tables and recalculating the post-commutation reduction **would also be inequitable**, again being more beneficial for the members most recently retired.

In the cited *2011 Article*, the author demonstrates his limited understanding of the DFRDB *Commutation* issue with:

*“If commutation is treated as a loan, there is little doubt that the Department of Finance and Deregulation (DoFD) would then say that the interest rate will be X% and, when one does the sums, the residual pension may be even lower than at present and/or the commutation sum may never be “repaid” regardless of life table changes.*

*DFWA and its partners need to tread carefully on the life tables issue. An opportunistic DoFD may well agree to introduce updated life tables while then treating commutation as a loan, with significant additional disadvantage to ADF servicemen and women and their families.”*

The irony is that the outcome the author warned about had already been incorporated in the DFRDB Act by the altered commutation provision in 1973 and benefit adjustment (*indexation*) provisions in 1977.

Those provisions apply indexation increases to the permanently reduced benefits of the members who commuted, **in effect, applying interest** to the reduction.

To ensure members could not avoid the excessive interest applied by not commuting, the benefit adjustment provisions apply indexation increases to a ‘*notional*’ benefit, similar to the reduced benefit of the members who commuted.

Both measures significantly reduce the *defined benefits*, set down in the DFRDB Act, over the recipients’ lifetime.

If DFWA persists with its DFRDB policy objectives, the question must be asked: **Whose views are being represented and for whom is DFWA advocating?**

## Herb's CDDA Application

For those still following this saga, Herb has referred his case to the Commonwealth Ombudsman for further review. He has prepared an extensive presentation in support of his application which includes all the evidence we have gathered.

That will provide an opportunity for the Ombudsman to restore some confidence in his Office under section 15 of [Ombudsman Act 1976](#) which states:

- (1) *Where, after an investigation under this Act into action taken by a Department or prescribed authority has been completed, the Ombudsman is of the opinion:*
  - (a) *that the action:*
    - (iii) *was in accordance with a rule of law, a provision of an enactment or a practice but the rule, provision or practice is or may be unreasonable, unjust, oppressive or improperly discriminatory;*

## The Upcoming Federal Election

We continue to be an apolitical Association but voting for one or the other major parties who have already told us on numerous occasions, they have no intention of amending the DFRDB Act seems pointless.

We will request each political party's policy on amending the DFRDB Act and share their responses through our Updates and across all available social media platforms.

We are aware that many ex-ADF personnel are one party voters, but we ask that you give serious consideration to where you place your next vote.

## Season's Greetings

Finally, on behalf of the Committee and the ADFRA Research team I wish you a safe and **Merry Christmas** and a healthy, prosperous and **Happy New Year**.

*Jim Hislop* OAM

President