

# How Australia treats men and women who devoted their youth and much of their adult lives to the service of their country in the Australian Defence Force

## Summary

The job of the Australian Defence Force (ADF) is to deter and defeat armed attacks on Australia. That cannot be done without professional, experienced, and fit personnel.

In the early 1970s a new retirement and death benefits scheme was introduced for the ADF, because the pre-existing scheme did not provide sufficient incentive for young people to enlist and stay. Australia's defence capability was at risk.

We joined the ADF and re-enlisted for further periods of service because of what we were told about how that new retirement and death benefits scheme would work. However, in retirement and in old age, we have discovered that **the scheme does not deliver what we were given to expect.**

In 2019, the Commonwealth Ombudsman concluded we "*were misled due to defective administration by Defence*". But in fact, we were **deceived by** unscrupulous **bureaucrats** in Defence **and** a succession of **complicit Ministers.**

Compiled by:

**Australian Defence Force Retirees Association Inc.**

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**1 March 2023**

On behalf of the 40,000 odd surviving members of the Defence Force Retirement and Death Benefits scheme and some 10,000 dependants of those already deceased.

## Background

In 1970, a Joint Select Parliamentary Committee (the *Jess Committee*) was tasked with reviewing the then-current Defence Force Retirement Benefits (DFRB) legislation, introduced in 1948, because it was unduly complex.

In its May 1972 Report (the *Jess Report*), the *Jess Committee* acknowledged that the “special needs” of the Defence Force, that is, retaining experienced personnel while at the same time maintaining a young, physically capable fighting force, could not be catered for within the framework of the existing DFRB scheme or public service superannuation schemes.

The *Jess Committee* recommended the replacement of the DFRB scheme with a *Defined Benefit* scheme, in which:

Members’ contributions do not represent a fixed proportion of benefits paid, and where the Commonwealth guarantees those benefits and meets all costs not covered by members’ contributions;

Members’ contributions are paid into the Consolidated Revenue Fund, where they are not invested and earn no financial return for the members or the Commonwealth;

Members who served at least 20 years (15 years in special cases) are entitled to *retired pay* and *invalidity pay*, expressed as a percentage of their final salary, and adjusted annually to maintain relativity with average weekly earnings;

Members are entitled to commute, that is, to receive a lump sum payment of a part of their *retired pay* entitlement, an advance, to help them resettle into civilian life, in exchange for a proportionate reduction of their *retired pay*; and

Spouses and dependent children receive a proportion of a deceased member’s *retired pay* or *invalidity pay* after their death.

## The Defence Force Retirement and Death Benefits (DFRDB) Scheme

In October 1972, on the advice of Treasury, which opposed many of the recommendations, the McMahon Government decided not to act on the *Jess Committee* recommendations.

However, after its election, the Whitlam Government implemented a new scheme by enacting most of the *Jess Committee* recommendations in *Defence Force Retirement and Death Benefits Act 1973* (the *DFRDB Act*), effective 1 October 1972.

As the automatic adjustment of other Commonwealth Superannuation schemes was then under investigation, the initial *DFRDB Act* included no benefit adjustment provisions.

Notable however, is the *Commutation* provision in the Act, in which the reduction of *retired pay* after commutation, is calculated by dividing the commuted lump sum by the member’s *Life Expectancy*, determined from **1960-1962** Life Tables. Furthermore, the ambiguous wording of the provision allows an interpretation which transforms the meaning of the *Jess Committee*’s recommended “proportionate reduction” into a permanent reduction.

Effective 1 July 1976, the *DFRDB Act* was amended to incorporate automatic adjustment of benefits. The added *Pension Increases* provisions:

Related all benefit adjustments directly to increases in the Consumer Price Index (CPI); and

Excluded from adjustment, a part of *retired pay* and *invalidity pay*. The part excluded being inversely proportional to the member's *Life Expectancy*, also determined from the 1960-1962 Life Tables. The older the member, the shorter the life expectancy, and therefore, the greater the part excluded from adjustment.

When the Minister moved that the Bill be read a second time, he said; those updating arrangements achieved ***"consistency with those currently applying to comparable classes of pensioners under the Commonwealth Public Service superannuation schemes"***.

**Nothing could be further from the truth!** There are no comparable classes of pensioners in the Public Service. The DFRDB scheme is unique, was intended to be unique and had to be unique to achieve the intended Defence capability outcomes. DFRDB was **the only 'unfunded' scheme**, therefore, there could be no comparison with other Commonwealth schemes.

Effective 1 July 2014, the *DFRDB Act* was amended to incorporate *"Fair Indexation"*. That is, it aligned the adjustment of DFRDB benefits with the adjustment of the *Age Pension*. But only for recipients aged 55 and over. It follows then, that **'unfair' indexation remains in effect** for recipients under the age of 55.

The DFRDB scheme was closed to new members on 1 October 1991.

### The Effect on DFRDB Benefit Recipients

From 1991 to 2013, the CPI fell some 27% below Average Weekly Earnings, inequitably eroding and therefore, reducing the value of benefits depending on the date of retirement. The more than 60% of members of the DFRDB scheme who retired in or before 1991 suffered the greatest reduction of the value of their benefits.

In the more than eight years since it was introduced, *"Fair Indexation"* has reversed the eroding effect of the CPI by a mere 1.8%. But then, only for recipients aged 55 and over.

Partial indexation excludes from adjustment between 9% and 32% of *retired pay* and *invalidity pay*, where older male members, who typically served for the longest periods, suffer the greatest reduction of the value of their benefits, **in addition to** the reduction already caused by the failure of the CPI to maintain relativity.

The combined eroding effect of the CPI linked adjustments and partial adjustment has already reduced the value of *retired pay* and *invalidity pay* entitlements by up to more than 40%. This erosion continues; until the death of the recipient member, and if the deceased member is survived by a spouse, until the death of the spouse.

It is incongruous that many DFRDB members were not yet born in 1962. None-the-less, *Life Expectancy* has increased to such an extent that more than 80% of the members who commuted will outlive their 1960-1962 life expectancy. For many of them, the reduction of their *retired pay* has almost doubled the amount they commuted.

## Conclusion

From 1973 to 1991, the Department of Defence and successive Ministers **used the benefit entitlements** provided under the DFRDB scheme **to induce men and women to serve** and fulfil the manpower needs of the ADF.

In 1977, unscrupulous **bureaucrats incorporated an insidious depreciation formula** in the benefit adjustment legislation **which ensures** that those **entitlements would never be paid in full.**

The responsible Minister at the time knowingly or otherwise misled the Parliament about that adjustment method when he introduced the legislation, ensuring the passage of the Bill through the Parliament without question.

## The Armed Forces Covenant

***“To those who proudly protect our nation, who do so with honour, courage, and commitment, the Armed Forces Covenant is the nation’s commitment to you.***

***It is a pledge that together we acknowledge and understand that those who serve or who have served in the armed forces, and their families, should be treated with fairness and respect in the communities, economy and society they serve with their lives.”***

## Delivering on that Commitment

If those words are anything other than hollow rhetoric, the Australian Government and the Parliament must act to remedy what has been done to those who so proudly served.

Remediation must **restore and maintain the value of** the DFRDB benefit **entitlements** by:

1. Applying *Fair Indexation*, as defined by the DFRDB Act;
  - a. to the benefit entitlements of recipients of all ages, including those under the age of 55, and
  - b. to 100% of those benefit entitlements,
 

with effect from the date the payment of those benefits commenced.
2. Ceasing the reduction of *retired pay* of the members who commuted as soon as the total reductions equal the amount they commuted; and
3. Refunding, where necessary, the reductions which exceed the amount commuted.