



AUSTRALIAN DEFENCE FORCE RETIREES ASSOCIATION

We act on behalf of Defence Force Retirees and their Military Superannuation grievances

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THE DENIAL OF BENEFITS

in the

Defence Force Retirement and Death Benefits Scheme

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The Denial of Benefits in the DFRDB Scheme

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The Denial of Benefits under the DFRDB Scheme

EXECUTIVE SUMMARY

This submission, compiled by the [Australian Defence Force Retirees Association](#) on behalf of the more than 50,000 surviving beneficiaries of the Defence Force Retirement and Death Benefits (DFRDB) Scheme, describes a long-standing complaint about the denial of benefits under the DFRDB Scheme.

In 1972, there was a clear intent by the Government to implement a defined benefit superannuation scheme for military personnel, in which:

- a. Contributions of members would not be funded, with no nexus between members' contributions and their defined benefits;
- b. Members would have an entitlement, under a commutation arrangement, to receive an advance of a portion of their accrued benefits, in exchange for a proportional reduction of their ongoing benefits; and
- c. Members' benefits would be adjusted automatically to maintain the real value of those benefits and relativity with community standards.

The premise of this complaint is that provisions, incorporated in the DFRDB Scheme, do not accord with that intent resulting in unreasonable and discriminatory outcomes. Specifically:

- a. A lifetime reduction of ongoing benefits, in exchange for the commutation advance payment, is grossly disproportionate; and
- b. The pension increase provisions have failed to maintain the relativity of benefits because:
 - (i) As acknowledged by the Government in 2014, the index on which the pension increases were based was unfair and inequitable; and
 - (ii) Indexation increases are not applied to members' full benefits.

There was a failure to provide full disclosure of key information, which would have allowed a fully informed decision to be made by Service personnel, at the time of entering the commutation agreement. The failure to disclose this information resulted in a majority of eligible members taking up this option to their considerable detriment.

This submission contends that the DFRDB scheme is an *Implied Trust* and is, therefore, subject to Trust Law and Equity Conventions, and that, the Government has failed to meet its fiduciary obligations because it is conflicted between its budgetary interests and that of DFRDB members.

The Government has asserted its power to exploit DFRDB members who have no bargaining power to gain, at their expense, in a budgetary sense. This submission contends that this constitutes unconscionable conduct.

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1. Introduction

This submission describes a long-standing complaint regarding the denial of benefits under the Defence Force Retirement and Death Benefits (DFRDB) Scheme. It was compiled by the [Australian Defence Force Retirees Association](#), on behalf of the more than 50,000 surviving DFRDB Superannuation members.

2. Background

On 25 May 1973, the Hon Lance Barnard MP, Minister for Defence, Minister for the Navy, Minister for the Army, Minister for Air and Minister for Supply, [House of Representatives Hansard, 25 May 1973](#), introduced the Defence Force Retirement and Death Benefits Scheme (DFRDB) scheme, stating:

*These Bills represent the culmination of steps I initiated in this House some 3 years ago to have developed a retirement benefits scheme for members of the defence force that is both capable of understanding and **alive to the special features inherent in a military career.***

*The 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** (the Jess Committee). Honourable members will recall that the report (the [Jess Report](#)) of the Committee was tabled in the Parliament on 18 May 1972.*

***Contributions of members will no longer be funded** in the sense that they were under the old scheme. The Defence Forces Retirement Benefits Fund, with assets totalling some \$174m, will, in effect, be frozen as from the commencing date of the new scheme and my colleague, the Treasurer (Mr Crean), will be examining the arrangements necessary for winding it up. Consequently, **the Defence Forces Retirement Benefits Board** appointed under the existing Act, **which exercises a trustee role** in relation to the Fund, will continue in existence for the time being for that purpose, although there will be a minor change in its composition arising from the transfer of responsibility for the DFRB scheme from the Treasurer to myself as Minister for Defence.*

3. [Jess Report](#) Recommendations

The recommendations of the Jess Committee, which the Government agreed to implement, [House of Representatives Hansard, 26 October 1972](#), included:

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.** 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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Recommendation (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.***

Recommendation (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.*

Recommendation (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.***

Recommendation (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.*

Recommendation (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.*
- (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.*

Under the heading *COMMUTATION*:

Paragraph 106 states, inter alia;

*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.***

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Paragraph 109 states, inter alia;

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.

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 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.

4. The Government's Intent

It is clear from the above that the Government intended to implement a defined benefit superannuation scheme for military personnel, in which:

- d. Contributions of members would not be funded, with no nexus between members' contributions and their defined benefits;
- e. Members would have an entitlement to commute a portion of their accrued defined benefits, in exchange for a proportional reduction of their ongoing retirement pay; and
- f. Members' defined benefits would be adjusted automatically to maintain relativity with average weekly earnings.

5. Purpose

This submission will demonstrate, that the implementation of Government policy regarding the DFRDB Scheme encompassed actions which were administratively deficient, resulting in outcomes which are unreasonable and discriminatory. It will show:

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- c. In **Part 1 – Commutation**; that the exchange of a one-time lump-sum advance payment of a portion of accrued future superannuation entitlements, for a lifetime reduction of ongoing retirement pay or invalidity pay, is grossly disproportionate and inequitable, and discriminates against recipient members by gender, age on retirement and time of retirement.
- d. In **Part 2 – Pension Increases**; that the pension increase provisions, incorporated into the DFRDB Act, in 1977, have failed to maintain the relativity of benefits to changes in general community standards, i.e., the real value of DFRDB benefits;
- e. In **Part 3 – A Breach of Equity and Trust**; that the Government has failed to meet its fiduciary obligations because it is conflicted between its budgetary interests and that of DFRDB members.

PART 1 – COMMUTATION

6. The Commutation Provisions in the DFRDB Act

The *commutation* provisions in the DFRDB Act are defined in:

- a. Section [24](#) Commutation of Retirement Pay; and
- b. Section [32A](#) Commutation of Class C Invalidity Pay.

In essence Sections [24](#) and [32A](#) entitle a person, who is, or is about to become entitled to retirement pay or invalidity pay, to elect to commute a portion of that retirement pay or invalidity pay by giving written notice to CSC not earlier than 3 months before and not later than one year after becoming entitled to retirement pay or invalidity pay.

The maximum amount which may be commuted is four times the initial gross annual retirement pay or invalidity pay entitlement, if the election is made on or before 30 June 1983, increasing to five in increments of 0.05 per year over the next 20 years.

The annual amount of retirement pay or invalidity pay payable, on and after the day on which the election takes effect, is the amount commuted divided by the expectation of life factor, which is applicable under [Schedule 3 Commutation of retirement pay and Class C invalidity pay](#), having regard to gender and the age of the person on the day on which the election takes effect.

7. The Meaning and Purpose of *Commutation*

Neither [Section 3 Interpretations](#) nor any other part of the DFRDB Act defines the meaning or the purpose of *commutation*.

When The Hon. Lance Barnard, Minister for the Navy, Minister for the Army, Minister for Air and Minister for Supply, moved that ***Defence Force Retirement and Death Benefits Bill 1973***, containing the *commutation* provision, be read a second time, [House of Representatives](#)

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[Hansard, 25 May 1973](#), he did not refer to **commutation**. However, during his speech stated, inter alia:

The 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. Honorable members will recall that the report of the Committee was tabled in the Parliament on 18 May 1972.

Regarding the **commutation** provision, the Joint Select Committee on Defence Forces Retirement and Death Benefits Legislation report, dated May 1972, commonly referred to as the [Jess Report](#), includes Recommendation 14 COMMUTATION, which states:

- (a) *That provided that the option is exercised within twelve months from the 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.*

The [Jess Report](#) alludes to the purpose of the **commutation** provision in paragraph 106 which states, in part:

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.

The most common definition of the term **proportionately** is; **in a way that corresponds in size or amount to something else**. A reasonable assumption, therefore, is that the total reduction of retirement pay or invalidity pay after commutation should equal the amount commuted.

8. Information conveyed to Members of the Australian Defence Force

Typical examples of information about the DFRDB scheme which was conveyed to ADF members by the DFRDB Authority are:

- a. DFRDB Scheme Brochure - Transfer to the New Scheme - October 1973 (Exhibit 1)
- b. DFRDB Scheme Brochure - Retirement Benefits - October 1973 (Exhibit 2)
- c. DFRDB Scheme Brochure - Retirement Benefits - December 1981 (Exhibit 3)
- d. DFRDB Scheme Brochure - Widows', Widowers' and Children's Benefits - November 1981 (Exhibit 4)

Each of Exhibits 1, 2 and 3 includes, under the heading COMMUTATION, words to the effect:

If you are eligible to receive retirement pay you may elect to commute a portion of your retirement pay; that is, receive a lump sum prepayment of part of your future retirement pay.

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Your reduced retirement pay following commutation is determined in accordance with your life expectancy on the date the election is received by the Authority.

Examples in each of the leaflets show the calculation of the retirement pay reduction to be;

The Amount Commuted ÷ Life Expectancy

Since the life expectancy denotes a period in years, the meaning conveyed to service personnel, who were not actuaries, was that the expectation of life factor was used to establish a time frame for the recovery of the lump sum advance, by the Commonwealth.

This assumption is strengthened by the meaning conveyed in the ***Widows', Widowers' and Children's Benefits*** leaflets as in (Exhibit 4);

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.

In other words, in the event of the recipient's death before reaching the expectancy of life factor, there would be no further recovery of the commutation lump sum from the recipient's widow or estate. In any case, the Commonwealth's risk, in the event of the recipient's early death, **would be offset by the cessation of the recipient's retirement pay.**

Exhibits 1, 2 and 3 fail to provide full disclosure of the facts, which would allow a fully informed decision to be made by Service personnel at the time of entering the commutation agreement, in that:

- a. The expectation of life factors in [Schedule 3 Commutation of retirement pay and Class C invalidity pay](#) are based on the Australian Government Actuary's 1960-1962 Life Tables;
- b. Those life factors were, in the case of Exhibit 3, already 19 years out of date at the time of publication; and
- c. Due to increasing life expectancy, there was high degree of certainty that the recipient would retirement pay reductions would exceed the amount commuted thereby making commutation a disproportionate arrangement.

9. The Result of the Commutation Provision

[Annex A](#)-Result of the Commutation Provisions illustrates the impact of the commutation provision. [Figure 1](#) shows that the risk posed to DFRDB recipients, by the Commutation provision, is evenly distributed about the member's 1960-1962 life expectancy. However, the member's life expectancy has increased by more than 14 years, thereby shifting the risk entirely to the member.

[Annex A](#) also includes an analysis of the impact of commutation on a 461 member sample. It illustrates that the life expectancy of DFRDB Recipient Members has, on average, increased by nearly 14 years over the 1962 life expectancy factors on which the retirement pay

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reductions after commutation were based and that Members' retirement pay reduction after commutation will, on average, exceed the amount commuted by more than 50%.

The exchange of a lump sum advance of accrued benefits for a lifetime reduction of retirement pay is neither proportional nor equitable and is therefore **unreasonable**.

PART 2 - PENSION INCREASES

10. Legislative History of DFRDB Indexation

A search of the Federal Register of Legislation reveals the following Acts of Parliament which applied indexation increases to DFRDB benefits or incorporated changes to the indexation provisions in the DFRDB Act.

- a. **Defence Force Retirement and Death Benefits (Pension Increases) Act 1974**; applied a 16.2% increase in Male Total Average Weekly Earnings (MTAWE) to 71.43% (five-sevenths) of DFRDB recipient retirement pay and invalid pay and dependent spouse and children's pensions, effective from 1 July 1974.
- b. **Defence Force Retirement and Death Benefits (Pension Increases) Act 1976**; applied a 17.6% increase in the Consumer Price Index (CPI) to the full amount of DFRDB recipient retirement pay and invalid pay and dependent spouse and children's pensions, effective from 1 July 1974.
- c. **Defence Force (Retirement and Death Benefits Amendments) Act 1977**; incorporated automatic annual increases to DFRDB benefits based on the CPI and an indexation formula which excluded from indexation increases members' contributions, effective from 1 July 1976.
- d. **Defence Legislation Amendment Act 1984**, increased the amount which could be commuted but increased the proportion of benefits excluded from the application of indexation increases.
- e. **Superannuation and Other Benefits Legislation Amendment Act 1989**; discounted CPI increases by applying a 1.831502% reduction of all DFRDB benefits, effective from 10 October 1986.
- f. **Superannuation and Other Benefits Legislation Amendment Act 1986**; reversed the discount of CPI increases by applying a 1.865672% increase of all DFRDB benefits, effective from 20 October 1989.
- g. **Defence Force Retirement and Death Benefits (Fair Indexation) Act 2014**; introduced a fairer pension indexation methodology, for recipient members aged 55 and over, based on the better of the CPI, Pensioner and Beneficiary Living Cost Index (PBLCI) and a hypothetical pension at 27.7% of MTAWE.

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11. Spouse and Children's Benefit Provisions in the DFRDB Act

The relevant spouse and children's benefit provisions in the DFRDB Act are defined in:

- a. Section [39](#) Spouse's pension on death of recipient member;
- b. Section [42](#) Eligible children other than orphans; and
- c. Section [43](#) Eligible orphans.

The essence of Section [39](#) is that; the spouse of a deceased recipient member is entitled to a pension of five-eighths of the rate at which retirement pay or invalidity pay would have been payable to the member if the member had not commuted a portion of the member's retirement pay or invalidity pay, as the case may be.

The essence of Section [42](#) is that; an eligible child of a deceased recipient member is entitled to a pension at a rate equal to one-sixth of five-eighths of the rate at which retirement pay or invalidity pay would have been payable to the member if the member had not commuted a portion of his retirement pay or invalidity pay.

The essence of Section [43](#) is that; an eligible child of a deceased recipient member is entitled to a pension at a rate equal to one-eighth of five-eighths of the rate at which retirement pay or invalidity pay would have been payable to the member if the member had not so commuted a portion of his retirement pay or invalidity pay.

12. Pension Increase Provisions in the DFRDB Act

The pension increase provisions in the DFRDB Act are defined in Section [98B](#) Increase in certain pensions.

The essence of Section [98B](#) is that pension benefits are indexed each January and July:

- a. For recipients aged under 55, increases are based on positive movements in the Consumer Price Index (CPI).
- b. For recipients aged 55 or older, increases are based on the more favourable of positive movements in the CPI; and the Pensioner and Beneficiary Living Cost Index (PBLCI); 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 (MTAWE).

The appropriate rate of indexation increase is applied:

- a. In the case of a [recipient member](#) of retirement pay or invalidity pay:
 - (i) To the full amount of the member's retirement pay or invalidity pay, if the member commuted a portion of retirement pay equal to 4 times the amount per annum of the retirement pay to which the member was entitled.
 - (ii) To a **notional** rate of retirement pay or invalidity pay, which the member would have received if the member commuted a portion of retirement pay equal to 4 times the amount per annum of the retirement pay to which the member was entitled.

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- b. In the case of a [spouse](#) or eligible [child](#) of a [recipient member](#) of retirement pay or invalidity pay; at the appropriate proportional rate to a **notional** rate of retirement pay or invalidity pay, which the member would have received, if the member commuted a portion of retirement pay equal to 4 times the amount per annum of the retirement pay to which the member was entitled.

Neither [Section 3 Interpretations](#) nor any other part of the DFRDB Act defines the meaning of **notional** rate of retirement pay or **notional** invalidity pay, or its purpose. However, Section [24](#) defines the reduction of retirement pay or invalidity pay, after commutation, to be proportional to the amount commuted and inversely proportional to the recipient's expectation of life factor under; [Schedule 3 - Commutation of retirement pay and Class C invalidity pay](#).

13. The purpose of **Notional** Retirement and Invalidity Pay

When The Hon Mr McLea MP, Minister for Construction and Minister Assisting the Minister for Defence, moved that **Defence Force (Retirement and Death Benefits Amendments) Bill 1977** be read a second time, in his [Second Reading Speech, House of Representatives Hansard, Thursday, 17 February 1977](#), he stated, inter alia:

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...

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.

*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.*

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.

The Minister's speech did not define **notional residual pension**, but search of the Australian National Archives for evidence of Minister McLea's stated aim of consistency yielded; [Cabinet Minute - Canberra, 8 December 1976 – Amended Decision No. 1991](#), which gave approval to

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recommendations put to Cabinet, by The Hon D J Killen MP, Minister for Defence, in Submission No. 862 and Addendum.

The purpose of Submission 862 was:

- a. Compliance with the terms of [Cabinet Decision No. 635](#) of 8 May 1976, concerning possible changes to the DFRDB scheme as proposed in the Officials' Committee Report on Prospective Budget Outlays for Defence Force Retirement and Death Benefits; and
- b. To seek approval to make other changes to Defence Force pension arrangements.

Three options were advanced by the Officials' Committee:

- a. The incorporation of an appropriate discounting factor in the commutation provisions;
- b. The introduction of penalties for early retirement similar to those applied in the new Commonwealth Public Service (CPS) Superannuation scheme; and
- c. The calculation of retirement pensions, on the basis of retiring rank or average rank over the three years before retirement.

In respect of; incorporating a discounting factor in the commutation provisions and the introduction of penalties for early retirement, the Minister proposed that further review was necessary. That proposition was reflected in [Amended Decision No. 1991](#), in:

Paragraph 1

The Cabinet noted the matter of a review for DFRDB pensioners who commute part of their pension would be determined by the Treasurer and the Minister for Defence; the Prime Minister to be consulted in the event of disagreement.

Paragraph 2

The Cabinet noted that a review of the existing penalty for early retirement is being arranged by the Defence (Service Conditions) Committee.

Regarding the calculation of retirement pensions by retiring rank or average rank over the three years before retirement, Minister Killen recommended no further action be taken.

These paragraphs in Submission No. 862 relate to **DFRB** pension increases:

Paragraph 12

The updating arrangements I am recommending for DFRB pensions (i.e. the "old" pension scheme) incorporate the general concepts and follow closely the lines of those already adopted by Government in relation to the old CPS Superannuation scheme (i.e. pre 1 July 1976).

Paragraph 13

They provide for the amount of the annual increase to be determined by multiplying the total pension payable by the percentage that represents the

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percentage increase in the Consumer Price Index (CPI) during the twelve months period ending 31 March of each year.

The following paragraphs in Submission No. 862 go to the heart of **DFRDB** pension increases and explain the meaning of **notional** rate of retirement pay:

Paragraph 14

*Regarding DFRDB pensions the new principle embodied in the revised Superannuation scheme adjustment provisions is that **only the portion of the pension payable from the Consolidated Revenue Fund is to be adjusted by the CPI factor** referred to above. This principle applies to both age retirement and invalidity pensions.*

Paragraph 15

In other words, where a retired member exercises an option to take additional pension attributable or notionally attributable to his own contributions in lieu of a lump sum, that additional pension is not updated.

Paragraph 16

In the DFRDB context, there are difficulties in evolving an adjustment mechanism that produces completely comparable results because:

- a. There is no identifiable apportionment of pension between the member's own contributions and the Consolidated Revenue payment; and*
- b. The DFRDB invalidity pension provisions do not include a lump sum option of the type incorporated in the (Commonwealth) Superannuation scheme or provided by the DFRDB commutation provisions.*

Paragraph 17

Notwithstanding that, I consider it appropriate to apply the same general principle to the DFRDB pension adjustments and I recommend:

- a. That DFRDB age retirement pensions be adjusted by applying the relevant CPI factor to the total residual pension after commutation, or to the notional residual pension, as though the pensioner had commuted in full; and*
- b. That the DFRDB invalidity pensions be adjusted by the same CPI factor.*

Paragraph 18

In practical terms the percentage of age retirement pensions to be adjusted would range from about 88% where a pensioner retired at age 38 years, to 74% for retirement at age 60. Widow's and children's pensions payable under both schemes will be adjusted on a similar basis to that adopted in the past.

The adjustment percentages referred to in paragraph 18 of Submission No. 862 can be expressed by the formula:

$$1 - \frac{4}{\text{Life Expectancy}} \% \quad * \text{ from } \underline{\text{Schedule 3 in the DFRDB Act}}$$

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The effect of this *partial indexation formula* is illustrated in [Figure 1](#) in [Annex B – Partial Indexation of DFRDB Benefits](#).

The recommendations in Submission 862 were approved by Cabinet and incorporated in *Defence Force (Retirement and Death Benefits Amendments) Bill 1977*, which amended the DFRDB Act.

14. Inconsistencies in Submission No. 862

Submission No. 862 contains the following inconsistencies:

- a. **Members' contributions have no relevance to benefits.** When it created the unfunded DFRDB scheme, the Government broke the nexus between contributions and benefits. Contributions to the DFRDB scheme are transferred directly to the Consolidated Revenue Fund, where they cease to exist as member assets and become untraceable. Contributions do not fund the benefits and have *no* relevance to benefits other than they purchase the right to the benefits.
- b. **Members' commutation entitlements do not equate to their contributions.** The Minister's implied assumption that members' commutation entitlements equate to their contributions is fundamentally flawed. A comparison of commutation entitlements and contributions due in 50 individual personal records, illustrated in [Figure 1](#) of [Annex C – Contributions versus Commutation](#), shows; there is no fixed relationship between contributions and benefits, and that on average, commutation entitlements exceed contributions by a ratio of more than 3.6:1.
- c. **The benefits of males and females are indexed differently.** Both male and female members of the Australian Defence Force receive the same remuneration, but their life expectancy differs, as does the proportion of their retirement pay which is not indexed. This difference is illustrated in [Figure 1](#) in [Annex B – Partial Indexation of DFRDB Benefits](#).
- d. **Partial indexation discriminates against older retirees.** The proportion of retirement pay which is *not* indexed is inversely proportional to the expectancy of life factor in [Schedule 3 in the DFRDB Act](#) where the expectancy of life factor decreases with age. Therefore, the greater the age of the recipient, the greater the proportion of the benefit which is not indexed, as illustrated by [Figures 3 Annex B – Partial Indexation of DFRDB Benefits](#).
- e. **Increasing the commutation entitlement reduces the proportion indexed.** Defence Legislation Amendment Act 1984, brought in following the enactment of Income Tax Assessment Act (No. 3) 1984, which introduced new taxation arrangements for lump-sum payments on retirement, progressively increased the number of years which could be commuted from 4 to 5 over a period of 20 years from 1 July 1983 to July 2003, after which, the *partial indexation formula* became:

$$1 - \frac{5}{\text{Life Expectancy}^*} \% \quad * \text{ from } \a href="#">\text{Schedule 3 in the DFRDB Act}$$

Defence Force Retirement and Death Benefits Scheme

THE DENIAL OF BENEFITS

The effect of this formula is illustrated in [Figure 2](#) in [Annex B](#) – Partial Indexation of DFRDB Benefits.

[Figure 2](#) shows that the proportion of retirement pay which is indexed is further reduced and serves to demonstrate how the result of legislation, designed to overcome disadvantage resulting from one legislative change, results in a far more detrimental long term effect.

- e. **DFRDB differs from other Commonwealth Superannuation schemes.** Member contributions in other Commonwealth Superannuation schemes are invested and earn income on behalf of the schemes' members, as in:
- (i) The Commonwealth Superannuation Scheme which, as at 30 June 2017, delivered to the members of the scheme, a one-year return rate of 8.6% for the previous year; and
 - (ii) The Public Sector Superannuation Scheme which, as at 30 June 2017, delivered a one-year return rate of 9.4% for the previous year.

But the DFRDB scheme is unfunded, where member contributions are not invested and earn no return to compensate for non-indexation.

- f. **There is no option to take additional pension.** The entitlement to retirement pay is defined in Section [23](#) of the DFRDB Act. It is based on a member's total period of effective service and a percentage of the member's annual rate of pay applicable immediately before retirement. There is no provision where a retired member can exercise an option "*to take additional pension attributable or notionally attributable to his own contributions in lieu of a lump sum*" as stated in paragraph 15 of Submission No. 862.
- g. **A commutation discounting factor has been incorporated.** Minister Killen advised Cabinet that; with regard to the incorporation of a discounting factor in the DFRDB commutation provisions, further review was necessary, and this was duly noted by Cabinet.

However, by "*applying the relevant CPI factor to the total residual pension after commutation, or to the notional residual pension, as though the pensioner had commuted in full*", as stated in paragraph 17 of Submission No. 862, the Minister did indeed incorporate a discounting factor. Not just for the members who elected to commute, but also for members who elected **not** to commute, and the eligible widows, children and orphans of every member entitled to commutation.

15. Information conveyed to Australian Defence Force Members

None of these information brochures (Exhibits 1 to 4) makes any reference to a **notional** rate of retirement pay or invalidity pay or discloses the fact that indexation increases are not applied to the full amount of benefits.

Defence Force Retirement and Death Benefits Scheme

THE DENIAL OF BENEFITS

16. The Consumer Price Index versus Average Weekly Earnings

A comparison of the Consumer Price Index with the Average Weekly Earning Index, in Figure X of the [Jess Report](#), shows respective movements of 74 to 109 and 105 to 229, from 1954 to 1970. A considerable lag in the CPI. No doubt, this was the reason for the Jess Committee's rejection of the CPI as a suitable index for adjusting DFRDB benefits.

[Figure 2](#) in [Annex D](#) - Consumer Price Index versus Average Weekly Earnings illustrates the movement of the CPI and Male Total Average Weekly Earnings (MTAWE) from 1976 to 2013. It shows that the CPI broadly maintained relativity with MTAWE until 1991, after which, it again began to lag significantly.

17. The Result of the Pension Increases Provisions

[Annex E](#)- Result of the Pension Increases Provisions, illustrates a comparison of the effect of the Pension Increases provisions on individual members who retired in different years and at different ages. It shows a loss of relativity to the Fair Indexation baseline, due to Unfair Indexation per the CPI and the partial application of indexation increases, ranging from:

- a. 11.2% to 50.7% in the Members' retirement pay; and
- b. 8.9% to 50.7% in their Spouses' pension entitlements.

By the time they reach their life expectancy, the majority of the DFRDB recipient population will have, on average, lost more than 36% relativity to the Fair Indexation baseline.

DFRDB (Fair Indexation) Act 2014 arrested the further erosion of benefits for recipients aged 55 and over, but did not restore the rate of benefits to the **Fair Indexation** baseline. It merely locked in the rate of loss of relativity.

The *Partial Indexation* formula incorporated in Section [98B](#) of the DFRDB continues to erode the value of retirement pay, invalidity pay and spouse's pensions.

The result of the DFRDB Act is that Pension Increase policy provisions are inconsistent, discriminatory and inequitable; and is not consistent with Government policy on Superannuation indexation.

PART 3 – A BREACH OF EQUITY AND TRUST

18. The DFRDB Scheme is subject to Trust Law and Equity Conventions

This submission contends that the DFRDB scheme is an **Implied Trust** and is, therefore, subject to Trust Law and Equity Conventions.

Members' contributions, by way of deductions from their earnings, are enacted by Government decree. However, those contributions were made under an implied **Covenant of Trust and Good Faith**, in that, Members are entitled under the conventions of Equity to hold reasonable expectations that their contributions would be managed in their best interests.

Defence Force Retirement and Death Benefits Scheme

THE DENIAL OF BENEFITS

That the Government appropriated DFRDB members' contributions to be dispersed through the Consolidated Revenue Fund rather than investing those contributions attracts a clear fiduciary obligation and undertaking to provide defined benefits, including the preservation of relativity through a relativity index. Members hold a reasonable expectation that the whole purpose indexation is to achieve relativity.

For the Government to assert its power to exploit DFRDB members who lack bargaining power, to gain at their expense in a budgetary sense, constitutes unconscionable conduct.

19. The Preservation and Protection of Accrued Entitlements

Equity and Trust law requires the preservation and protection of accrued entitlements as trust property, and those entitlements include the preservation of purchasing power.

When the DFRDB scheme was initiated in 1972, an essential feature of the [Jess Report](#) recommendations was:

*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.***

However, the Government's conflict of interest and desire for budgetary gains did not displace the primacy of DFRDB member interests and their right to preservation of relativity. The Government's conflict of interest is evident in:

- a. **Defence Force Retirement and Death Benefits (Pension Increases) Act 1974**; when the Government applied the indexation increase to just five-sevenths of DFRDB benefits;
- b. **Defence Force (Retirement and Death Benefits Amendments) Act 1977**; when it incorporated an indexation formula which excludes from indexation, 9% to 32% of DFRDB benefits, depending on gender, age on retirement and time of retirement;
- c. **Defence Legislation Amendment Act 1984**; when it increased the maximum proportion of DFRDB benefits excluded from indexation from 32% to 40%;
- d. **Superannuation and Other Benefits Legislation Amendment Act 1989**; when it effectively discounted CPI increases by 2%;
- e. **Defence Force Retirement and Death Benefits (Fair Indexation) Act 2014**; when;
 - (i) it failed to apply its fairer pension indexation to the DFRDB benefits of members under the age of 55; and
 - (ii) it failed to compensate members for the losses resulting from the previous unfair and inequitable indexation, acknowledged by the Minister when he introduced the legislation in the Parliament.

Defence Force Retirement and Death Benefits Scheme THE DENIAL OF BENEFITS

CONCLUSION

20. Administrative Deficiency

This submission maintains that the implementation of Government policy regarding the DFRDB Scheme encompassed actions which were administratively deficient, resulting in outcomes which are unreasonable and discriminatory, by:

- a. Exploiting the vulnerability and diminished power of its retired Service personnel;
- b. Failing to provide single-minded loyalty to beneficiaries of the DFRDB scheme;
- c. Failing to safeguard and preserve the entitlements of DFRDB superannuants, through a conflict of interest between its financial objectives for budgetary gain and fiduciary obligations to superannuants; and
- d. Not providing full disclosure of details relevant to the commutation and pension increase provisions of the DFRDB scheme;
- e. Enforcing the commutation exchange of retirement pay reduction for lump sum prepayments of defined benefits made disproportionate by the increase in Members' life expectancy; and
- f. Eroding the purchasing power of DFRDB recipient members' benefits.

These actions are contrary to the principles of fairness and equity and constitute unconscionable conduct.

21. Commutation was a Condition of Service

The entitlement to an advance payment of accrued benefits in exchange for a proportional reduction of retirement pay recognises that Service life has unique Service exigencies and hardships not experienced by public servants or any other group in the community.

The right to commutation was seen by Defence Force personnel as a condition of Service, provided to offset the cost of resettlement after discharge from Defence employment. They understood **proportional** reduction of retirement pay to mean **equivalent** reduction of retirement pay.

22. Relativity through Indexation was a Policy Objective

Relativity through indexation was central to the [Jess Report](#) recommendations, which gave rise to the DFRDB Act, and was a central plank to the Government's wage fixing policy in 1977 when automatic indexation increases were incorporated in the DFRDB Act.

The debate was not about whether to adjust nominal values to reflect real values over time, but about which method of indexation to apply to best achieve the objective.

Defence Force Retirement and Death Benefits Scheme
THE DENIAL OF BENEFITS

23. ADF Members are not Public Servants in Uniform

The determination by Minister Killen, in 1976, was designed to treat Members of the Australian Defence Force (ADF) no differently than public servants. But it did not achieve that.

The notion that those who serve Australia's Defence Force are considered to be nothing more than public servants in uniform is repugnant to ADF personnel and the spirit of loyalty and sacrifice inherent to their service and spirit de corps. It denies the exigencies and special nature of military service, acknowledged in the original Jess Committee recommendations, and erodes ADF morale – the bedrock of military capability.



H. F. Ellerbock

24 March 2019

Warrant Officer Class 1 (retired)

The Denial of Benefits under the DFRDB Scheme
ANNEX A – RESULT OF THE COMMUTATION PROVISIONS

1. Example of Impact on an Individual Recipient Member

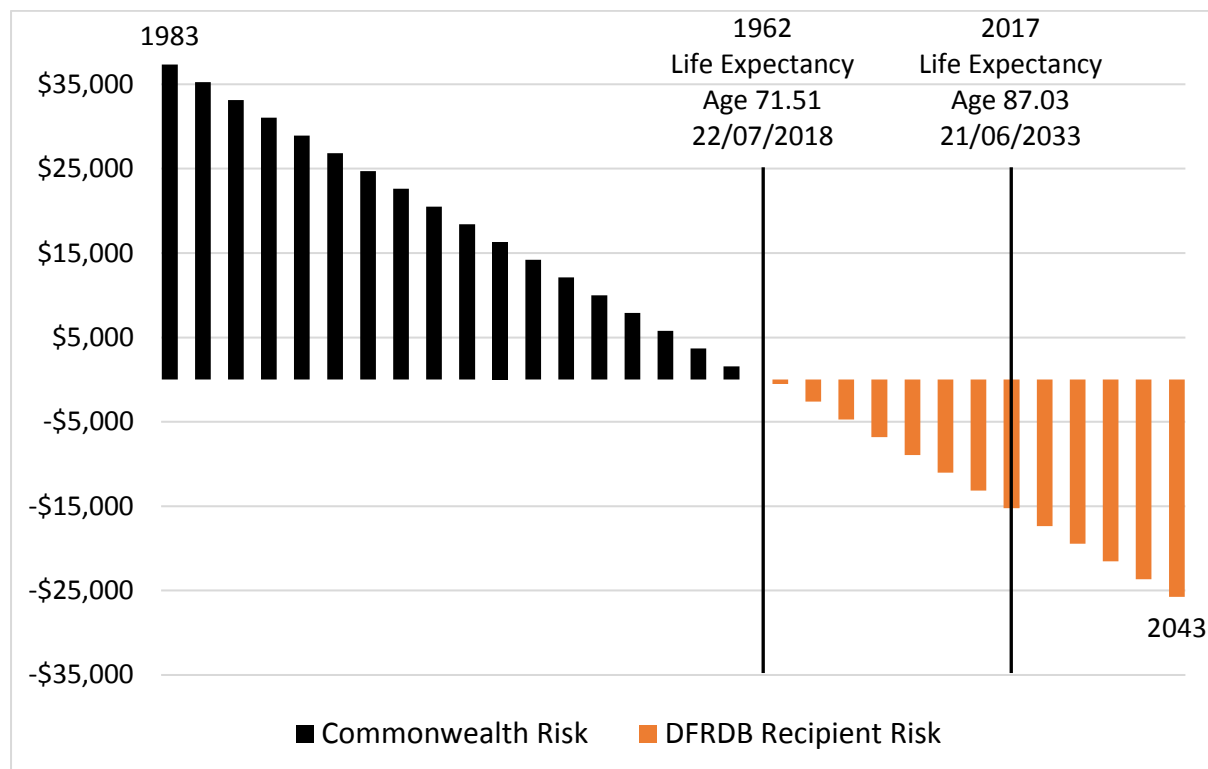
The impact of the Commutation Provisions in the DFRDB Act is illustrated for a Recipient Member who was aged 36 on retirement and elected to receive a commutation lump sum of \$37,240.

His age on reaching his life expectancy, based on [Schedule 3 - Commutation of retirement pay and Class C invalidity pay](#), was 71.51.

The rate of retirement pay reduction is the commutation lump sum divided by the expectancy of life factor, i.e., $\$37,240 \div 35.51 = \$1,048.72$ per annum.

FIGURE 1 – DFRDB COMMUTATION - THE DISTRIBUTION OF RISK

Age on Retirement: 36 Amount Commuted: \$37,240



This recipient is now 72.78 years of age and according to the latest Life Tables published by the Australian Bureau of Statistics, [3302.0.55.001 - Life Tables, States, Territories, and Australia, 2015-2017](#) his life expectancy is now 14.25 years, that is, 87.03 years of age.

TABLE 1 – DISTRIBUTION OF RISK

If the Recipient lives to:	Total Reductions exceed Commutation by:
10 years before Life Expectancy	\$5,155
Life Expectancy	\$15,649
10 years after Life Expectancy	\$26,135

The Denial of Benefits under the DFRDB Scheme
ANNEX A – RESULT OF THE COMMUTATION PROVISIONS

Table 1 shows that due to the Recipient Member’s increase in life expectancy the distribution of risk associated with Commutation has shifted entirely to his detriment.

2. A Sample of the Total Recipient Member Population

The Commonwealth Superannuation Corporation would not provide a profile of the DFRDB Recipient population so, to illustrate the impact of the Commutation provisions in Section 24 of the DFRDB Act, the individual records of Recipient Members were analysed.

The sample comprises 461 Recipient Members, which represents approximately 0.9% of the total DFRDB Recipient Member population

FIGURE 2 –INCREASE IN DFRDB RECIPIENT LIFE EXPECTANCY
 Based on the Sample DFRDB Recipient Population

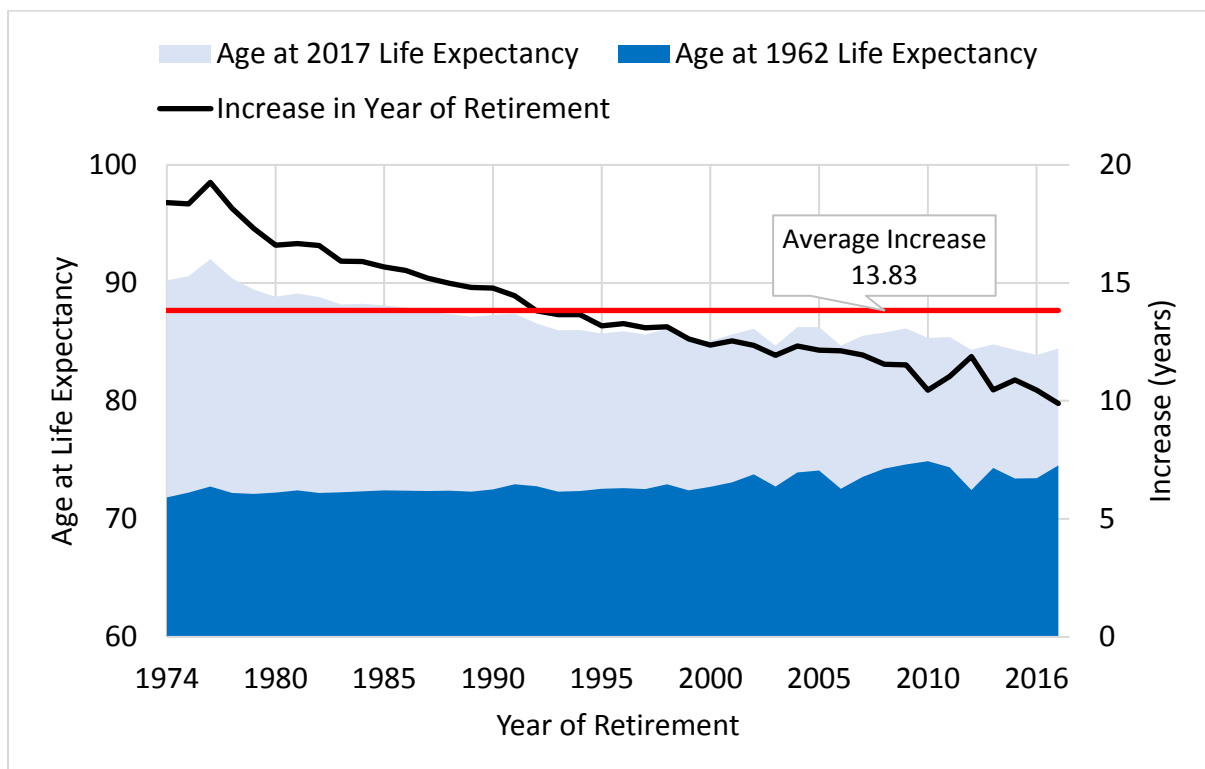


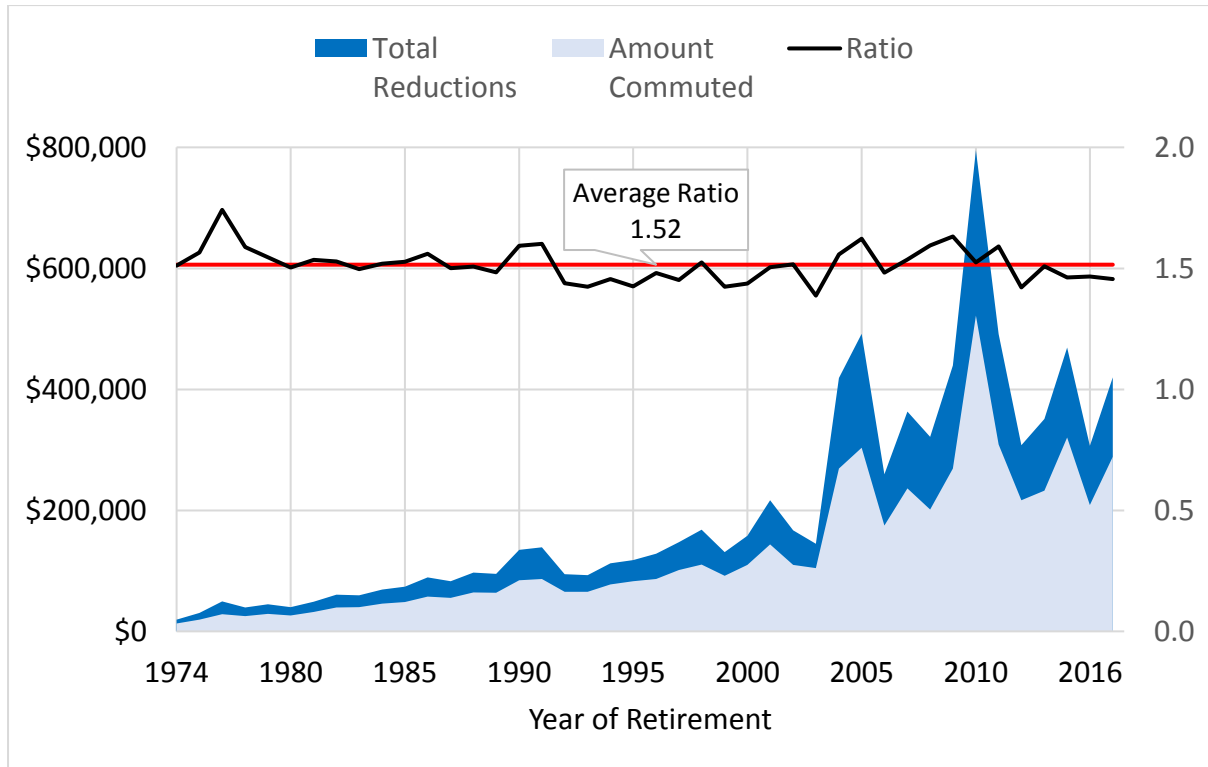
Figure 2 illustrates that the life expectancy of DFRDB Recipient Members has, on average, increased by 13.83 years over the 1962 life expectancy factors on which the retirement pay reductions after commutation were based. The average increases in the year of retirement is greatest for the earlier years of retirement.

3. The Impact on a Sample of the Total Recipient Member Population

The impact of the Commutation provisions in Section 24 of the DFRDB Act is illustrated by projecting forward, to their 2017 life expectancy, the retirement pay reduction after commutation of the sample cohort. The amounts commuted and total retirement pay reductions are then averaged by recipient member and year of retirement.

The Denial of Benefits under the DFRDB Scheme
ANNEX A – RESULT OF THE COMMUTATION PROVISIONS

FIGURE 3 – THE COMMUTATION - RETIREMENT PAY REDUCTION EXCHANGE
Based on the Sample DFRDB Recipient Population



Figures 3 illustrate that retirement pay reduction after commutation will, on average, exceed the amount commuted by more than 50%.

The Denial of Benefits under the DFRDB Scheme
ANNEX B – PARTIAL INDEXATION OF DFRDB BENEFITS

FIGURE 1. PROPORTION OF DFRDB BENEFITS ADJUSTED
Maximum Commutation Entitlement of 4 Years

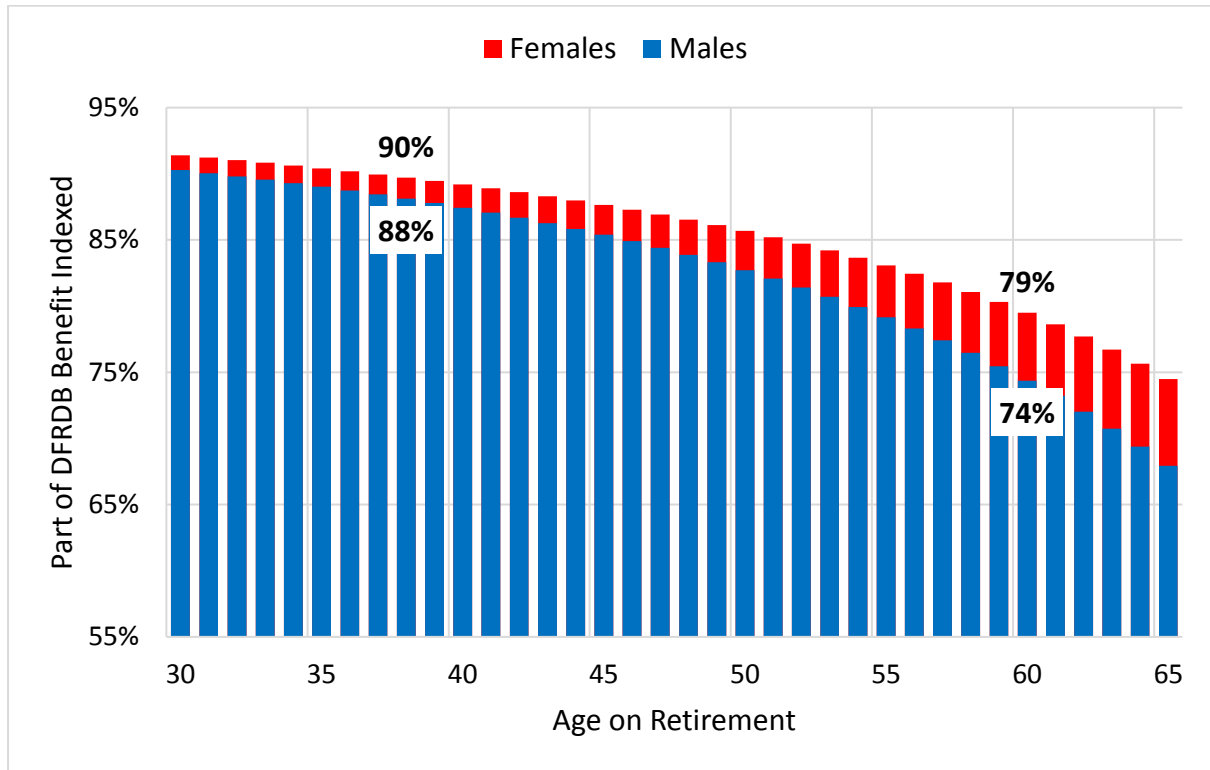
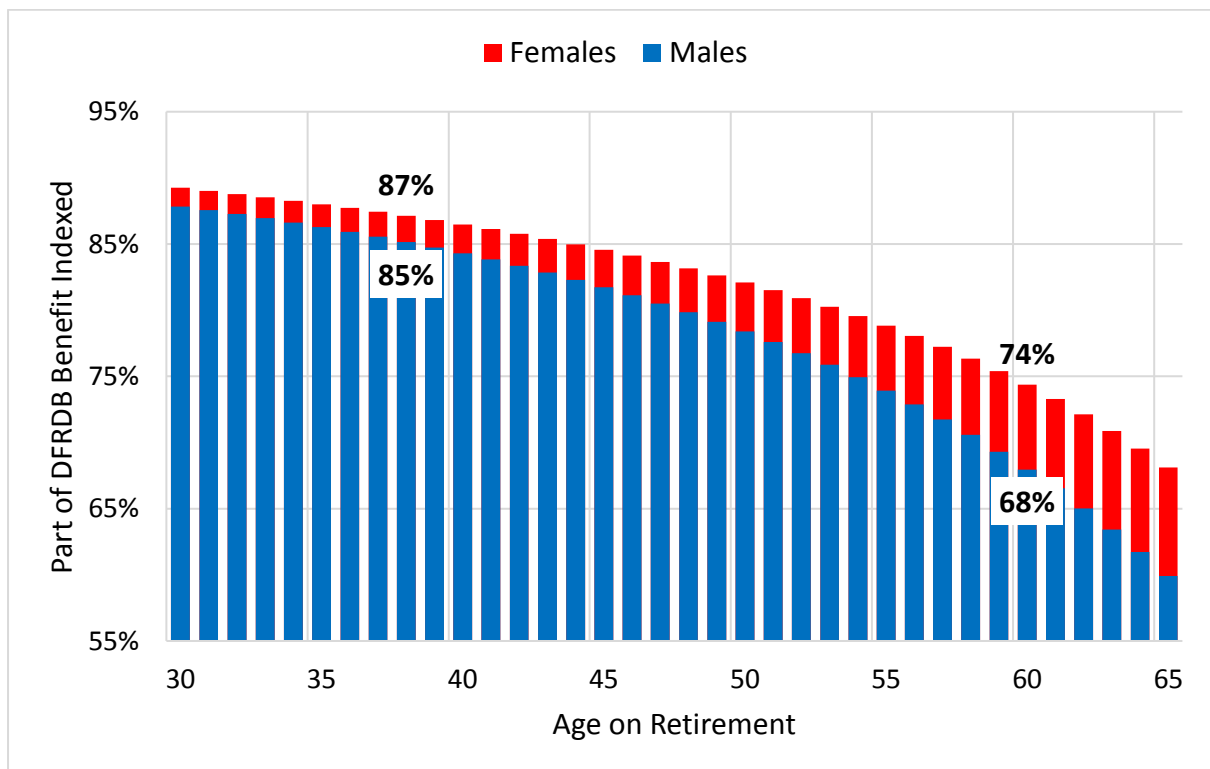


FIGURE 2. PROPORTION OF DFRDB BENEFITS ADJUSTED
Maximum Commutation Entitlement of 5 Years



The Denial of Benefits under the DFRDB Scheme
ANNEX B – PARTIAL INDEXATION OF DFRDB BENEFITS

FIGURE 3. PROPORTION OF DFRDB BENEFITS EXCLUDED FROM INDEXATION
Maximum Commutation Entitlement of 4 Years

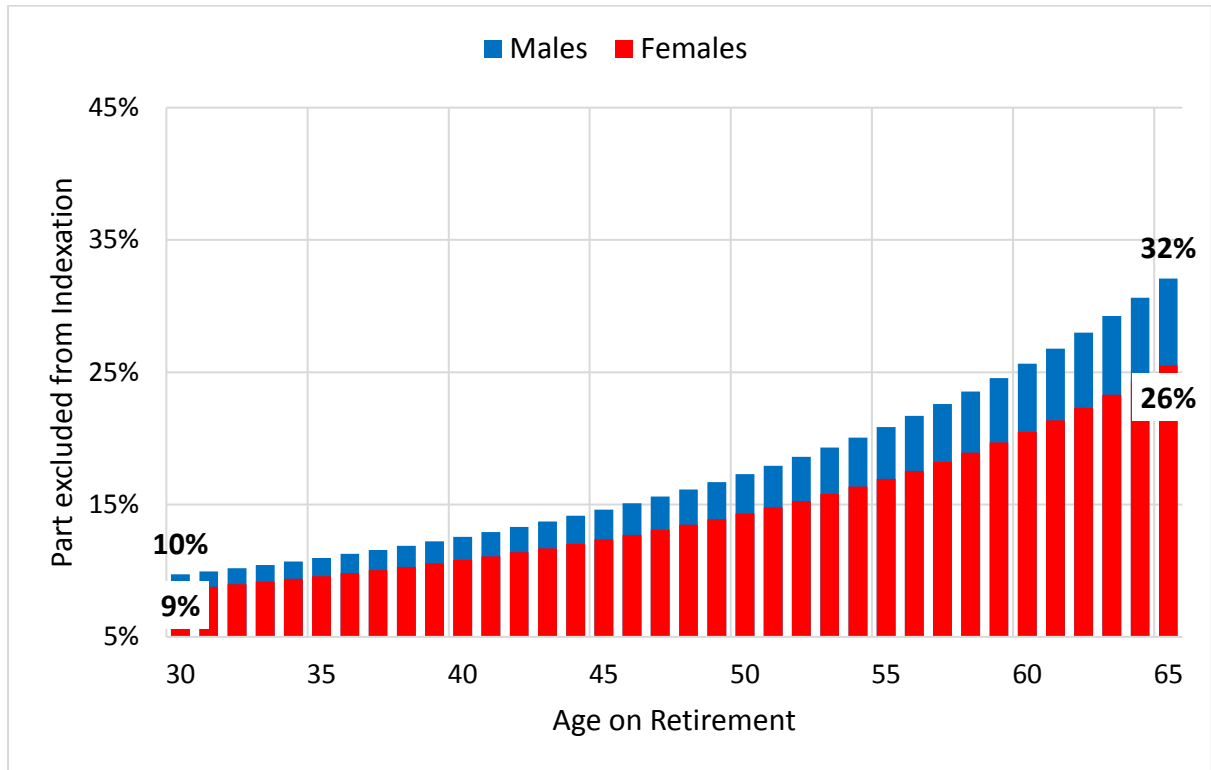
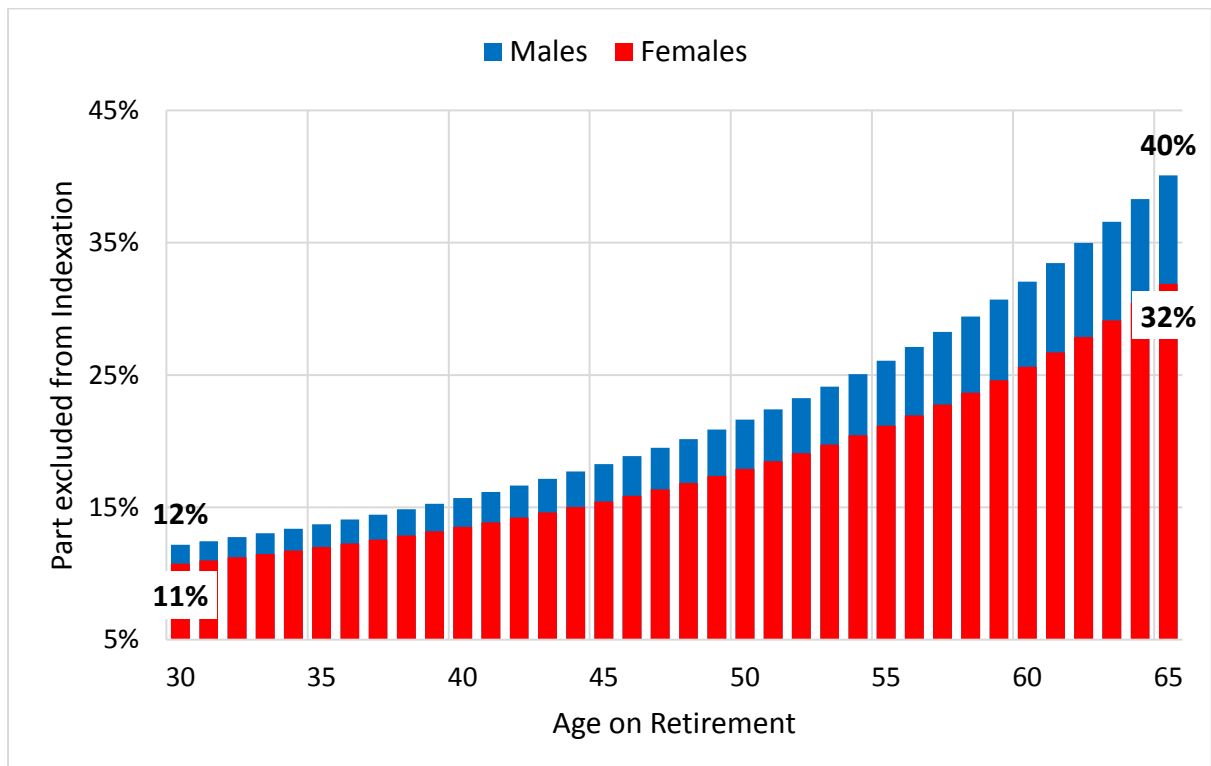


FIGURE 4. PROPORTION OF DFRDB BENEFITS EXCLUDED FROM INDEXATION
Maximum Commutation Entitlement of 5 Years

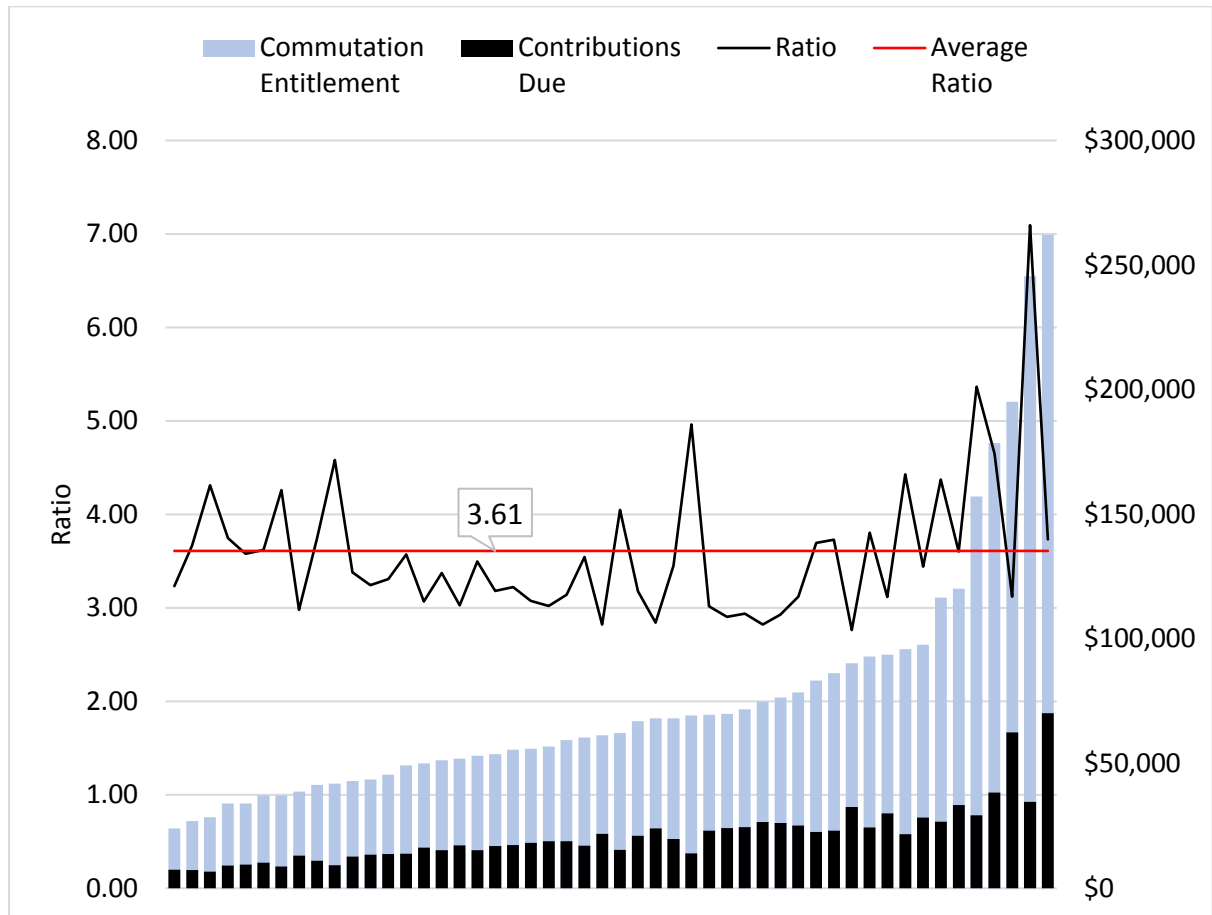


The Denial of Benefits under the DFRDB Scheme
ANNEX C –CONTRIBUTIONS VERSUS COMMUTATION

1. Contribution to Commutation Entitlement Comparison

The DFRDB files of 50 individual DFRDB Recipient Members were examined to establish the relationship of Members’ contributions to their commutation entitlements. The results are illustrated in Figure 1.

FIGURE 1 - CONTRIBUTIONS VERSUS AMOUNT COMMUTED



2. Contributions do not equate to Commutation Entitlements

Figure 1 shows that, on average, Members’ commutation entitlements exceeded their contributions by a ratio of 3.61:1.

The Denial of Benefits under the DFRDB Scheme
ANNEX D - CONSUMER PRICE INDEX VERSUS AVERAGE WEEKLY EARNINGS

FIGURE 1 – MOVEMENTS IN THE CPI AND MTAW

Source: Australian Bureau of Statistics and Commonwealth Superannuation Corporation

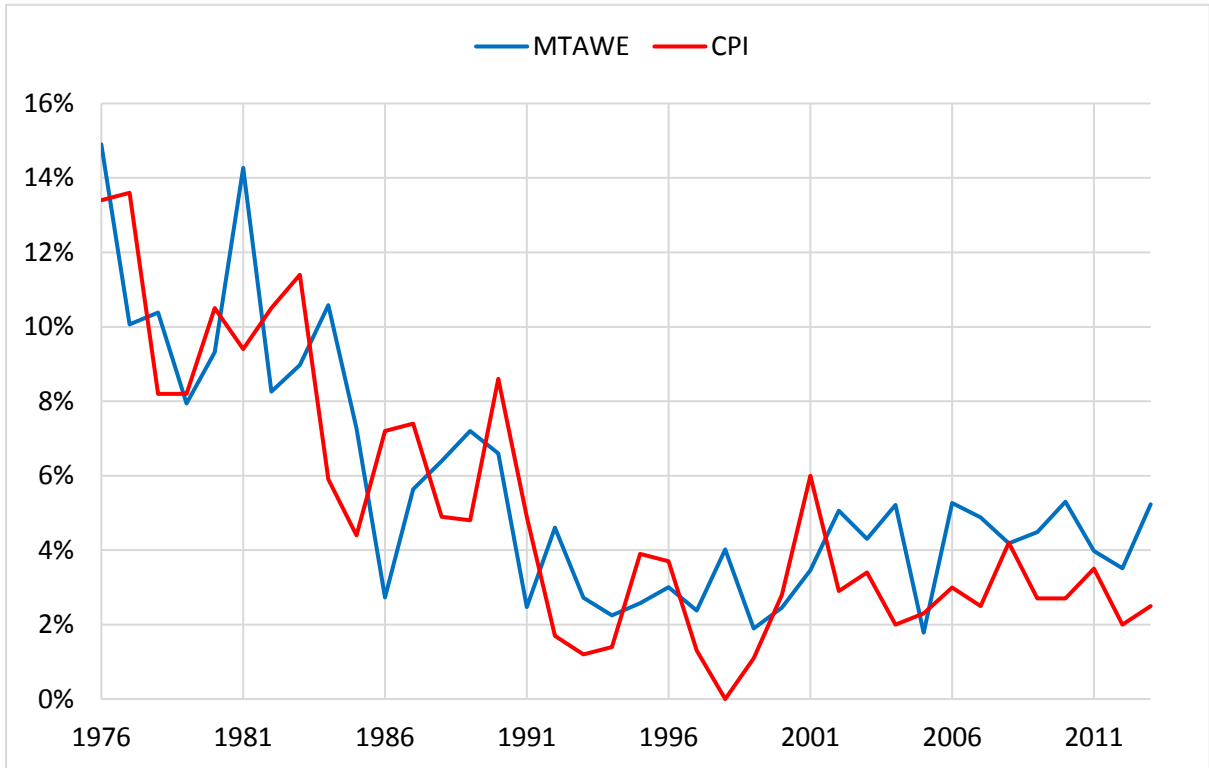
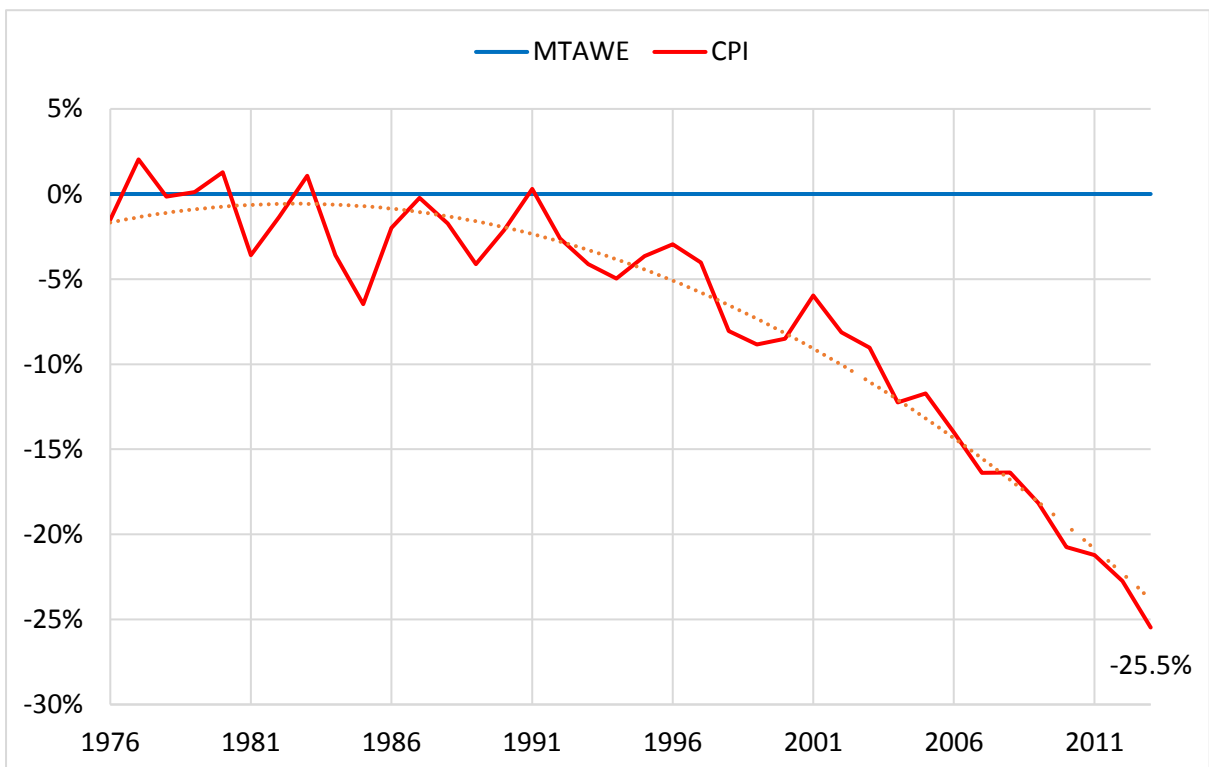


FIGURE 2 – MOVEMENT OF THE CPI RELATIVE TO MTAW

Source: Australian Bureau of Statistics and Commonwealth Superannuation Corporation



The Denial of Benefits under the DFRDB Scheme
ANNEX E – RESULT OF THE PENSION INCREASE PROVISIONS

1. The Impact on Individual Recipient Members

The impact of the Pension Increases provisions in Section 98B of the DFRDB Act is illustrated by projecting forward, to their 2017 life expectancy, the annual rate of retirement pay entitlement of a cross-section of Recipient Members using the following indexation methods:

- a. Until 30 June 2014, adjustments were based on:
 - (i) The *Fair Indexation* baseline, i.e., the better of positive movements of the Consumer Price Index (CPI) and Male Total Average Weekly Earnings (MTAWE);
 - (ii) Positive movements of the CPI applied to the full amount of retirement pay;
 - (iii) Positive movements of the CPI, applied to the notional amount of retirement pay, i.e., as though the Member commuted four years of retirement pay entitlement; and
 - (iv) Positive movements of the CPI, applied to retirement pay, as though the Member commuted to the maximum extent.
- b. From 1 July 2014, adjustments were based on the *Fair Indexation* formula, that is, better of the CPI, Pensioner and Beneficiary Living Cost Index (PBLCI) and a hypothetical pension at 27.7% of MTAWE.
- c. From 1 July 2019, adjustments are based on a linear indexation rate of 2.0% per annum.

2. Individual Examples

The effect of the Pension Increases provisions differs from individual to individual, in particular, the maintenance of relativity of benefits is sensitive to:

- a. The rate of increases in the CPI from July 1976 to July 2014, when the *Fair Indexation* formula was introduced for DFRDB recipients aged 55 and over; and
- b. The life expectancy of the member at the time of retirement and the Commutation Factor under Section [24](#), determined from the date of retirement.

Table 1 includes individual examples which encompass a range of those factors:

TABLE 1 – INDIVIDUAL EXAMPLES

	Member			
	A	B	C	D
Year of Retirement	1976	1993	2005	2015
Age on Retirement	45	35	54	54
Commutation Factor	4.00	4.50	5.00	5.00
1960-1962 Life Expectancy	27.38	23.96	19.94	19.94
2015-2017 Life Expectancy	5.40	8.92	18.07	26.37
Proportion of Retirement Pay Indexed	85.4%	82.5%	74.9%	74.9%
Proportion Indexed for Spouse's Pension	85.4%	83.3%	79.9%	79.9%

The Denial of Benefits under the DFRDB Scheme
ANNEX E – RESULT OF THE PENSION INCREASE PROVISIONS

FIGURE 1 –LOSS OF RELATIVITY DUE TO UNFAIR INDEXATION
 Retirement Pay and Spouse’s Pensions - when Members reach Life Expectancy

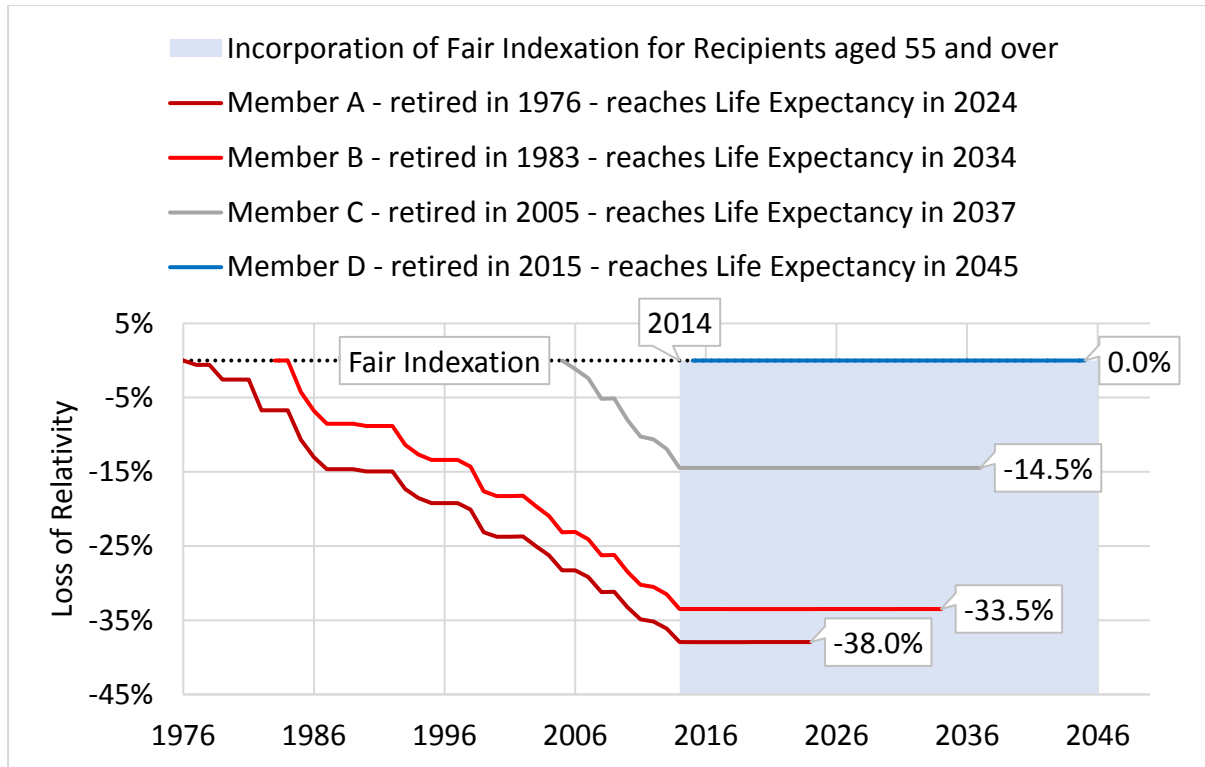
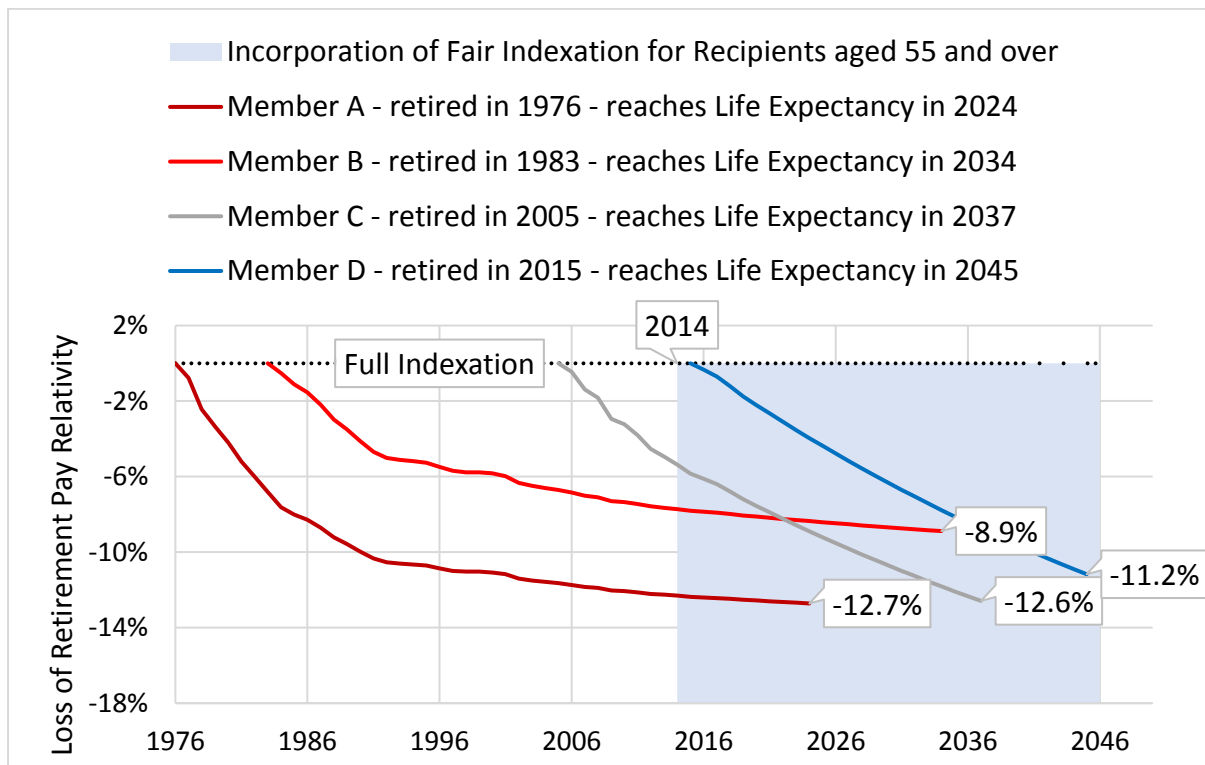


FIGURE 2 –LOSS OF RELATIVITY DUE TO PARTIAL INDEXATION
 Retirement Pay - when Members reach Life Expectancy



The Denial of Benefits under the DFRDB Scheme
ANNEX E – RESULT OF THE PENSION INCREASE PROVISIONS

FIGURE 3 –LOSS OF RELATIVITY DUE TO PARTIAL INDEXATION

Spouse's Pensions - when Members reach Life Expectancy

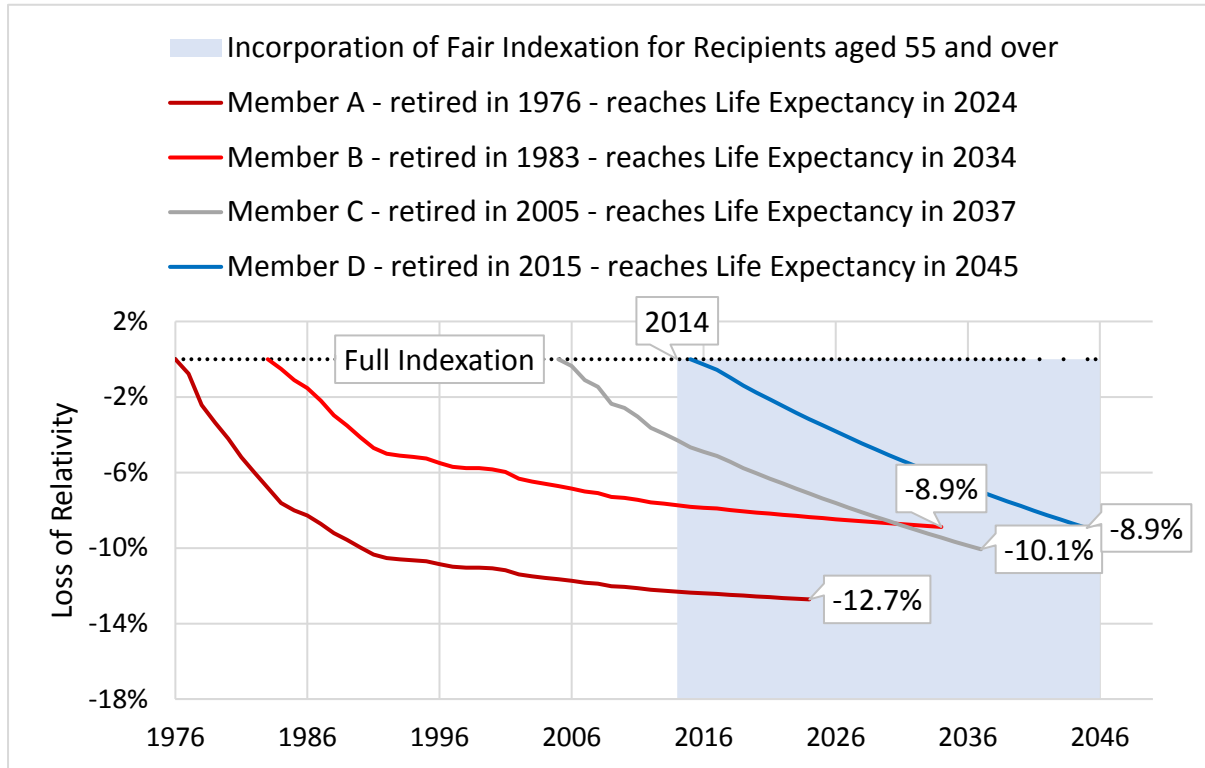
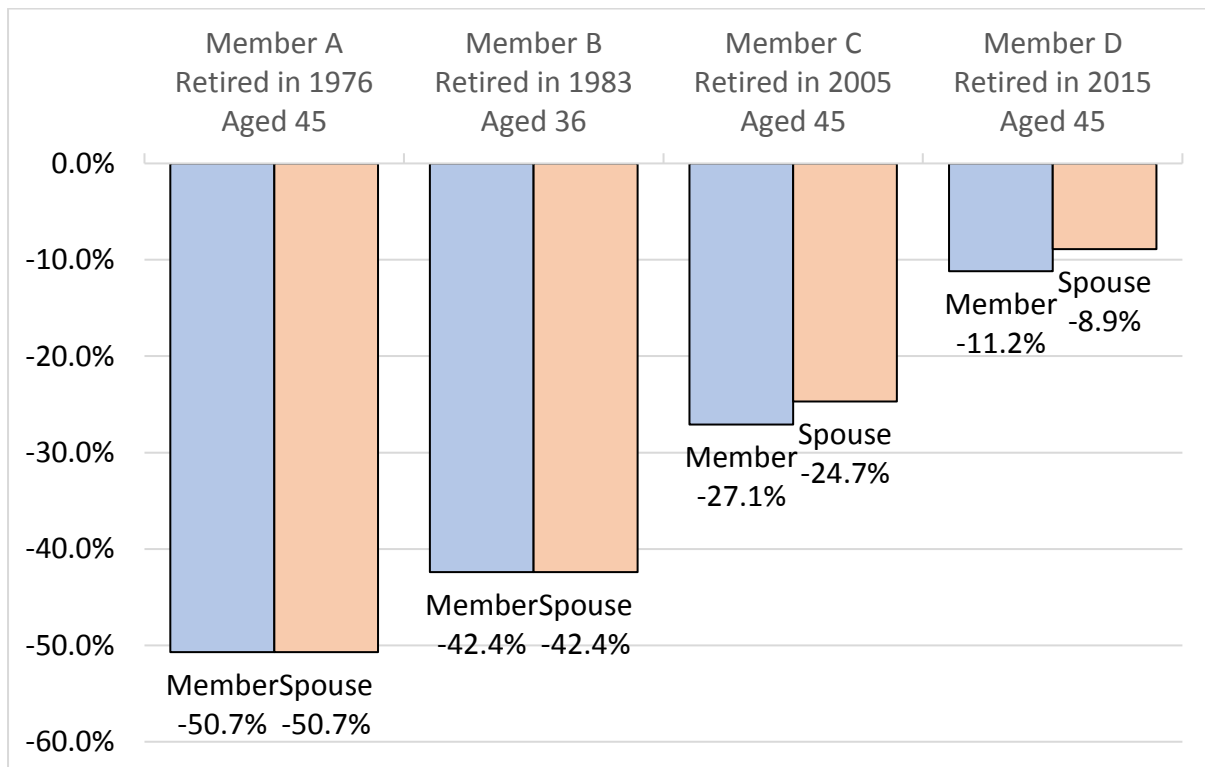


FIGURE 4 –LOSS OF RELATIVITY DUE TO UNFAIR AND PARTIAL INDEXATION

Retirement Pay and Spouse's Pensions - when Members reach Life Expectancy



The Denial of Benefits under the DFRDB Scheme
ANNEX E – RESULT OF THE PENSION INCREASE PROVISIONS

3. Summary of Individual Examples

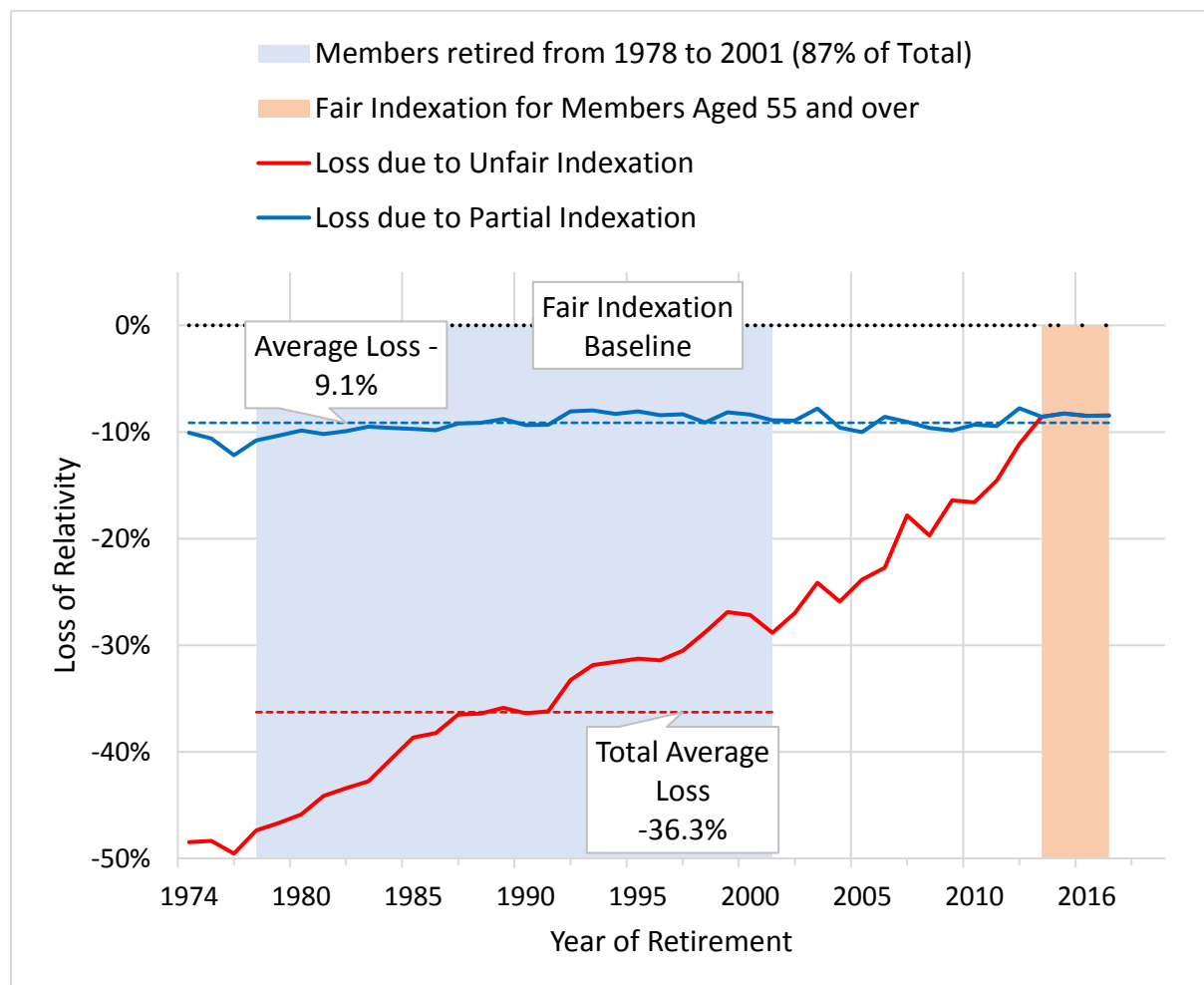
Figure 1 illustrates the inequitable effect of **Unfair Indexation**, i.e., the adjustment of benefits in line with the Consumer Price Index (CPI), from July 1976 to July 2014. The loss of retirement pay and spouses' pension relative to the Fair Indexation baseline ranges from 0% for the member who retired in 2015 to 38% for the member who retired in 1976.

Figures 2 and 3 illustrate the additional loss of relative due to the application of the indexation increases to only a part of the member's retirement pay, resulting in a loss of relative, when the members reach their life expectancy ranging from; 8.9% to 12.7%, but with a lesser effect on the spouses of the members who commuted later.

Figure 4 illustrates the combined effect of **Unfair Indexation** and **Partial Indexation**. It shows a loss of relative to the Fair Indexation baseline ranging from; 11.2% to 50.7% in the retirement pay and a 8.8% to 50.7% in their spouses' pension entitlements when they reach their life expectancy.

FIGURE 5 –LOSS OF RELATIVITY DUE TO UNFAIR AND PARTIAL INDEXATION

Based on the 461 Member Sample DFRDB Recipient Population at their Life expectancy



The Denial of Benefits under the DFRDB Scheme
ANNEX E – RESULT OF THE PENSION INCREASE PROVISIONS

Figure 5 illustrates that when they reach their life expectancy, all DFRDB Recipient Members will have lost, on average, 9.1% to the fair Indexation Baseline, due to **Partial Indexation**. Members who retired between 1978 and 2001 will have, on average, lost a total of 36.3% to the fair Indexation Baseline.

4. Conclusion

DFRDB (Fair Indexation) Act 2014 arrested the further erosion of benefits for recipients aged 55 and over but did not restore the rate of benefits to the Fair Indexation baseline. It merely locked in the rate of loss of relativity to the Fair Indexation baseline.

The **Partial Indexation** formula incorporated in Section [98B](#) of the DFRDB continues to erode retirement pay, invalidity pay and spouse's pensions.

The result of the DFRDB Act Pension Increase provisions is discriminatory and inequitable, and is not consistent with Government policy on Superannuation indexation.

THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS SCHEME

**Transfer to
the new scheme of
existing contributors
as at 1 October
1972**

A general outline of the provisions of the new D.F.R.D.B. Scheme including reference, where appropriate, to the transitional provisions for existing contributors.

Other brochures on the Scheme are:

- New Entrants
- Preservation of Rights
- Retirement Benefits
- Invalidity Benefits
- 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 4015
Canberra, A.C.T. 2600

OCTOBER 1972

1 The new Defence Force Retirement and Death Benefits Scheme

The new Scheme is based upon the recommendations of a Joint Select Committee which was appointed by the Parliament on 2 September 1970 to inquire into the Defence Forces Retirement Benefits (D.F.R.B.) Scheme in operation at that time. The basic recommendation of the Committee was that a new, less complex scheme based on the special needs of members of the Defence Force, should be introduced to replace the existing D.F.R.B. Scheme.

On 22 December 1972 the Government announced its acceptance of the recommendations of the Committee with some minor modifications and announced that the provisions of the new Scheme would be introduced with effect from 1 October 1972. The aim of the Scheme, as before, is to provide a form of comprehensive insurance for members of the Defence Force against the risks of invalidity and death during service and for benefits on retirement. The Scheme provides cover for the family, paying benefits to eligible dependants in the event of the death of a contributing member or a retired member in receipt of retirement or invalidity pay.

The new Scheme is administered by the Defence Force Retirement and Death Benefits Authority which is an independent statutory authority. The Authority consists of a Chairman and one representative from each of the three Armed Services and the Department of Defence, all of whom are appointed by the Governor-General. The costs of administration of the Scheme are met wholly from Consolidated Revenue.

2 Membership of the new Scheme

All members of the Defence Force serving on continuous full-time duty for a period of twelve months or more are eligible and required to contribute to the new Scheme. Retired members in receipt of retirement or invalidity pay or a pension under the D.F.R.B. Scheme who rejoin the Defence Force on full-time service are also required to contribute to the Scheme irrespective of the length of their additional period of service.

All existing contributors, that is, members who were contributing to the D.F.R.B. Fund on 30 September 1972, have been transferred to the new Scheme with effect from 1 October 1972. No option is available for members to remain contributors under the D.F.R.B. Scheme.

A member who had previously elected not to contribute to the D.F.R.B. Fund and who was still serving on full-time duty at 1 October 1972 may elect to become a

contributor under the new Scheme. If an election is made, the member will only be required to contribute with effect from 1 October 1972 but any prior service may be purchased under the normal conditions (see Item 4).

3 Contribution rates

All members of the new Scheme, regardless of age or rank, are required to contribute on a fortnightly basis during service with the Defence Force. Contributions are payable at the rate of 5.5% of the member's fortnightly rate of pay with effect from the first payday following 1 October 1972 (i.e. 5 October 1972).

The fortnightly rate of pay for contribution purposes is the member's annual rate of pay multiplied by 14 and divided by 365. The annual rate of pay for contribution purposes is the maximum rate of pay for the member's rank, (i.e. where increments are provided, the maximum of the salary range for that rank), plus Service Allowance, if payable. The only exceptions occur in the case of Chaplains and members undergoing training where certain intermediate points have been set because of the long salary ranges which apply.

A member whose annual rate of pay is reduced may elect to have the change in pay disregarded for the purpose of both contributions and benefits.

Under the new Scheme, on and from 1 October 1972, any period in excess of 21 consecutive days during which a member is on leave without pay, absent without leave, awaiting or undergoing trial on a charge of which he is later convicted, or undergoing field punishment, detention or imprisonment, is regarded as a period of non-effective service and the member does not contribute on any payday falling within such a period. Where any of these periods are continuous they are aggregated to determine whether or not the total period exceeds 21 days.

AGGREGATE PAY

For the purpose of transferring existing contributors from the D.F.R.B. Scheme to the new D.F.R.D.B. Scheme each member's total past contributions prior to 1 October 1972 will be compared with 5.5% of the member's aggregate pay for D.F.R.D.B. purposes over the same period. This will involve three steps:

- the total period of effective service as at 1 October 1972 will be ascertained;
- a calculation will be made of the total contributions paid to the D.F.R.B. Fund up to 1 October 1972; and
- a calculation will be made of the amount of aggregate pay over the period of effective service.

To ascertain the total period of effective service that will be credited to an existing contributor as at 1 October 1972, the following periods will be taken into account:

- the period of continuous contributory service up to 1 October 1972;
- for members who have contributed to the D.F.R.B. Fund continuously since its introduction in 1946, any preceding period of continuous service in the Permanent Forces after age 20 as well as any period before age 20 whilst a contributor to the Commonwealth Superannuation Scheme; and
- any periods which were purchased as past service before 1 October 1972.

Special provisions will apply to those members who are re-employed pensioners or who have paid transfer values to the D.F.R.B. Fund.

When the total period of effective service has been established for each contributor transferred to the new Scheme, the aggregate pay for each such contributor will be calculated. If the contributions paid to the D.F.R.B. Fund by an existing contributor exceed an amount of 5.5% of aggregate pay, a refund of the excess amount will be paid to the contributor. If the contributions paid to the D.F.R.B. Fund are less than 5.5% of aggregate pay, the shortfall generally will not have to be made up.

However, in the case of an existing contributor who is:

- a pre-1959 contributor, and
- was not contributing for full benefits under the previous Scheme at 30 September 1972 because of an election to freeze or an election not to contribute for additional pension entitlements in 1959, 1962 or 1963,

the contributor will be required to pay an additional contribution to the new Scheme of an amount not exceeding the difference between:

- 5.5% of aggregate pay during the period when the member was not contributing for full benefits; and
- the total amount of contributions actually paid during that period.

Also, where an existing contributor is a pre-1959 contributor, who had elected to defer payment of any contributions due under the D.F.R.B. Scheme, the contributor will be required to pay an additional contribution of an amount not exceeding the amount of the deferred contributions. In addition to this amount, the compound interest at the rate of 5% per annum which is owing on the total contributions deferred as at 1 October 1972, will have to be paid.

Before the aggregate pay calculations can be made, complete pay and service details since date of entry to

the Defence Force must be obtained for each contributor. It will take some considerable time to collect this basic data but when the data has been assembled and the calculations completed, each member involved will be informed of his or her position in the new Scheme as at 1 October 1972.

4. Purchase of past service

Under the new Scheme, a member may elect to purchase as effective service any period of service with the Defence Force not already taken into account (see item 3). To be available for purchase, such a period must have been full-time service and, except where continuous with service covered by the aggregate pay calculation, of at least one year's duration. Any period of service which would have been a period of non-effective service had the member been a contributor to the new Scheme during that period (see item 3) may not be purchased.

The cost of purchasing a period which is continuous with service covered by the aggregate pay calculation is 5.5% of the amount assessed as being the member's aggregate pay over the period to be purchased. The cost of purchasing a period which is not continuous with service covered by the aggregate pay calculation, will be assessed on the basis of 5.5% of a flat daily rate of pay to be determined in respect of each member involved. In most cases it will not be possible to calculate the cost of purchasing past service until the aggregate pay calculation referred to in item 3 has been completed. Each member will be advised of the cost of purchasing past service when advised of his or her position in the new Scheme. On receiving advice of the cost involved the member may elect to purchase all or part of the period(s) of that past service.

If any benefit (for example, a gratuity) was received by a member in respect of any period of past service being purchased, that benefit must be repaid. Members purchasing World War II service are not required to refund any war-earned gratuity.

5. Retirement pay

Retirement pay is payable to:

- officers and other ranks who leave the Defence Force after completing a total of 20 years effective service; and
- late entrant officers and other ranks who leave the Defence Force after completing 15 but less than 20 years effective service and who have attained the retiring age for their rank.

Effective service includes the period of service over which the aggregate pay calculation has been made plus any contributory service completed after 1 October 1972 and all periods of past service purchased by the member but does not include a period of non-effective service (see item 3).

The rate of retirement pay payable to an eligible member is a percentage of the member's annual rate of pay at the date of retirement, the percentage being determined by the member's total number of years of effective service. Annual rate of pay for retirement purposes is the same as annual rate of pay for contribution purposes (see item 3). Tables 1 and 11 set out the percentage of retirement pay applicable in relation to years of effective service.

TABLE 1

Retirement Pay — Officers and other ranks who have completed 20 or more years effective service.

Total number of years effective service completed	Retirement pay as a percentage of pay at date of retirement	Total number of years effective service completed	Retirement pay as a percentage of pay at date of retirement
20	35.00	30	51.25
21	36.50	31	53.25
22	38.00	32	55.50
23	39.50	33	57.75
24	41.00	34	60.25
25	42.50	35	62.75
26	44.00	36	65.25
27	45.75	37	67.75
28	47.50	38	70.50
29	49.25	39	73.50
		40	76.50

Where an officer:

- retires from the Defence Force at own request or is discharged on disciplinary grounds, and
- has completed 20 or more years effective service, but
- has not attained the notional retiring age designated for the rank held immediately before retirement,

the retirement pay entitlement shown in Table 1 is reduced by 3% of the amount of retirement pay for each year by which the officer's age last birthday on retirement is less than the notional retiring age. The notional retiring

ages applicable to Army officers, and equivalent ranks in Navy and Air, are, Major and below 42; Lt Colonel 45; Colonel and Brigadier 50; Major General 52; Lt General and General 55.

TABLE II

Retirement Pay — Late entrant officers and other ranks who have completed less than 20 years but more than 15 years effective service and have attained the retiring age for their rank.

Total number of years effective service completed	Retirement pay as a percentage of pay at date of retirement
15	30.00
16	31.00
17	32.00
18	33.00
19	34.00

DETRIMENT

In the case of certain officers, the retirement pay entitlement available under the new Scheme for their period of effective service, expressed as a percentage of pay, is less than the retirement pension applicable under the previous Scheme at 30 September 1972, expressed as a percentage of pay. If:

- this detriment situation persists up to the date the officer retires from the Defence Force, and
- on retirement, the officer has fulfilled the conditions for eligibility,

that officer may elect, within ninety days after retirement, to receive retirement pay based on the higher rate. In such cases the officer will be required to pay an additional contribution on retirement of an amount to be determined by the Authority.

COMMUTATION

Officers and other ranks who retire with an entitlement to retirement pay have the option to elect, within twelve months from the date of retirement, to commute a portion of their retirement pay (i.e. to receive a lump sum prepayment of a portion of future retirement pay). The maximum amount that a retired member may commute is four times the annual retirement pay received. Where a retired member commutes, the annual rate of retirement pay is reduced by an amount which is calculated by dividing the lump sum amount received, by the retired

member's life expectancy (see Table III) at the date the election is received by the Authority. For example, if a retired male member is 50 years of age on the date his election is received and his lump sum advance is \$20,000 (i.e. annual retirement pay of \$5,000 x 4), his annual retirement pay would be reduced by \$864.68 (i.e. \$20,000 divided by 23.13 which is the average life expectancy of a male aged 50).

Invalidity pay may not be commuted.

TABLE III

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

6. Invalidity benefits

Under the new Scheme, members retired on the grounds of invalidity or physical or mental incapacity to perform their duties are eligible for invalidity benefits. The benefit may be either invalidity pay or a lump sum payment. The type of benefit applicable depends on the invalidity classification of the member. The classification is based on the member's percentage of incapacity in relation to civil employment as determined by the Authority. Table IV sets out the benefit payable for each classification.

TABLE IV
Invalidity Benefits

Incapacity in relation to civil employment	Classification and Benefit
60-100%	Class A — Invalidity pay at the rate of 76.50% of pay at date of retirement.
30-59%	Class B — Invalidity pay at the rate of 38.25% of pay at date of retirement except where the member has completed 23 years or more effective service, in which case the invalidity benefit will be equal to the accrued retirement pay entitlement applicable in Table I.
0-29%	Class C — The invalidity benefit is a refund of contributions plus a lump sum of half the total contributions paid by the member or, if the member would have been eligible for retirement pay had he or she been retired on grounds other than invalidity, the invalidity benefit will be equal to the accrued retirement pay entitlement applicable in Table I or II.

The invalidity classification applicable to a retired member entitled to invalidity pay is not fixed and may be increased or decreased by the Authority if it is satisfied that the retired member's incapacity in relation to civil employment has changed.

7. Refund of contributions

Contributing members who retire or are discharged without an entitlement to retirement pay or invalidity benefits are entitled to a refund (without interest) of the total contributions paid during service including any additional contributions for the purchase of past service. As an alternative to accepting a refund of contributions, the member may elect for preservation of rights and, subject to certain conditions, become eligible for either a transfer value or deferred benefit.

8. Widows', widowers', and children's pensions
In the event of the death of a contributing or retired member in receipt of retirement or invalidity pay, pensions are payable to eligible dependants of the member. In normal circumstances, eligible dependants

under the new Scheme would be a widow, or a de facto wife or a dependent widower, and each child of the member who is under 16 years of age or under 25 years of age in the case of a full-time student.

The benefits payable to eligible dependants are:

- to a widow, de facto wife or widower of a contributing member, a pension calculated at the rate of five-eighths of the maximum retirement pay entitlement that would have been payable to the member (i.e. five-eighths of 76.50% of the member's annual pay for D.F.R.D.B. purposes at date of death);
- to a widow, de facto wife or widower of a retired member in receipt of retirement or invalidity pay, a pension calculated at the rate of five-eighths of the retirement or invalidity pay entitlement that was payable to the retired member;
- to each child (other than an orphan), a pension of \$312 per annum plus one-sixth of the pension payable to the widow, de facto wife or widower;
- to each orphan child, a pension of \$702 per annum plus one-eighth of the pension that would have been payable to the widow, de facto wife or widower.

9. Review of decisions by the Authority

A member discharged on invalidity grounds who is dissatisfied with the determination of the Authority in relation to his or her invalidity classification, may request that the case be reconsidered. A request for reconsideration should be made in writing to the Authority within 30 days from the date notification of the decision is first received. The request should state reasons for disagreement with the assessment and, where possible, include medical or other information in support. The Authority will reconsider the case and advise the person of its decision. Provision exists to enable a further appeal to be made to an *Invalidity Classification Review Tribunal*.

Similarly, a person dissatisfied with an administrative decision of the Authority may request the Authority to reconsider the case. The request should be made in writing within 30 days from the date notification of the decision is first received. The Authority will reconsider the case and advise the person of its decision. A further request can be made to have the matter submitted to an independent *Administrative Review Tribunal*.

TABLE IV
Invalidity Benefits

Incapacity in relation to civil employment	Classification and Benefit
60-100%	Class A — Invalidity pay at the rate of 76.50% of pay at date of retirement.
30-59%	Class B — Invalidity pay at the rate of 38.25% of pay at date of retirement except where the member has completed 23 years or more effective service, in which case the invalidity benefit will be equal to the accrued retirement pay entitlement applicable in Table I.
0-29%	Class C — The invalidity benefit is a refund of contributions plus a lump sum of half the total contributions paid by the member or, if the member would have been eligible for retirement pay had he or she been retired on grounds other than invalidity, the invalidity benefit will be equal to the accrued retirement pay entitlement applicable in Table I or II.

The invalidity classification applicable to a retired member entitled to invalidity pay is not fixed and may be increased or decreased by the Authority if it is satisfied that the retired member's incapacity in relation to civil employment has changed.

7. Refund of contributions

Contributing members who retire or are discharged without an entitlement to retirement pay or invalidity benefits are entitled to a refund (without interest) of the total contributions paid during service including any additional contributions for the purchase of past service. As an alternative to accepting a refund of contributions, the member may elect for preservation of rights and, subject to certain conditions, become eligible for either a transfer value or deferred benefit.

8. Widows', widowers', and children's pensions
In the event of the death of a contributing or retired member in receipt of retirement or invalidity pay, pensions are payable to eligible dependants of the member. In normal circumstances, eligible dependants

under the new Scheme would be a widow, or a de facto wife or a dependent widower, and each child of the member who is under 16 years of age or under 25 years of age in the case of a full-time student.

The benefits payable to eligible dependants are:

- to a widow, de facto wife or widower of a contributing member, a pension calculated at the rate of five-eighths of the maximum retirement pay entitlement that would have been payable to the member (i.e. five-eighths of 76.50% of the member's annual pay for D.F.R.D.B. purposes at date of death);
- to a widow, de facto wife or widower of a retired member in receipt of retirement or invalidity pay, a pension calculated at the rate of five-eighths of the retirement or invalidity pay entitlement that was payable to the retired member;
- to each child (other than an orphan), a pension of \$312 per annum plus one-sixth of the pension payable to the widow, de facto wife or widower;
- to each orphan child, a pension of \$702 per annum plus one-eighth of the pension that would have been payable to the widow, de facto wife or widower.

9. Review of decisions by the Authority

A member discharged on invalidity grounds who is dissatisfied with the determination of the Authority in relation to his or her invalidity classification, may request that the case be reconsidered. A request for reconsideration should be made in writing to the Authority within 30 days from the date notification of the decision is first received. The request should state reasons for disagreement with the assessment and, where possible, include medical or other information in support. The Authority will reconsider the case and advise the person of its decision. Provision exists to enable a further appeal to be made to an *Invalidity Classification Review Tribunal*.

Similarly, a person dissatisfied with an administrative decision of the Authority may request the Authority to reconsider the case. The request should be made in writing within 30 days from the date notification of the decision is first received. The Authority will reconsider the case and advise the person of its decision. A further request can be made to have the matter submitted to an independent *Administrative Review Tribunal*.

comes to the person's notice. The Authority will reconsider the case and advise the person of its decision. A further request can be made to have the matter submitted to an *Administrative Review Tribunal*.

9. Changes of Address

It is most important that any change of address be promptly notified to the Director, Department of Social Security, in the State of residence, or Director, Commonwealth Sub-Treasury, Darwin or Canberra, as applicable (see Item 10), to ensure that no delays in payments occur and that notices, group certificates, etc are forwarded to the correct address.

The Office of the D.F.R.D.B. Authority should also be notified of any change of address.

10. Addresses of The Authority's Paying Agents

Director,

Department of Social Security:

Australia House, 50 Carrington Street, Sydney, N.S.W. 2000.

Australian Government Centre, Cnr Spring and Latrobe Streets, Melbourne, Vic. 3000.

Australian Government Centre, 295 Anne Street, Brisbane, Qld. 4000.

A.M.P. Building, 1 King William Street, Adelaide, S.A. 5000.

Humphreys Building, 104 Murray Street, Perth, W.A. 6000.

Kirksway House, 2 Kirksway Place, Hobart, Tasmania 7000.

Director,

Commonwealth Sub-Treasury:

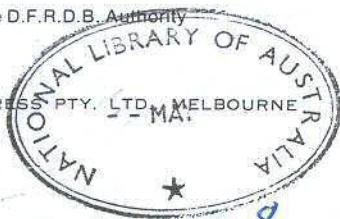
Mitchell Street, Darwin, N.T. 5790

Parkes Place, Canberra, A.C.T. 2600

Prepared by the Office of the D.F.R.D.B. Authority

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DFRDB 1973

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THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS

Retirement benefits

A general outline of the provisions of the D.F.R.D.B. Scheme relating to payment of retirement benefits for members retiring from the Defence Force on or after 1 October 1972.

Further information is available from the Office of:

The Defence Force Retirement and Death Benefits Authority
P.O. Box 4015
Canberra, A.C.T. 2600

OCTOBER 1973

1. Eligibility for Retirement Pay

Retirement pay is payable to:

- officers and other ranks who leave the Defence Force after completing a total of 20 years effective service;
- late entrant officers and other ranks who leave the Defence Force after completing 15 but less than 20 years effective service and who have attained the retiring age for the rank they held immediately before retirement; and
- officers or other ranks who, prior to rejoining the Defence Force, had been in receipt of retirement pay, invalidity pay, deferred benefit or a pension under the previous D.F.R.B. Scheme.

In general, effective service for retirement purposes is the total of all continuous full-time contributory service plus all periods of past service purchased by the member.

2. Assessment of Rate

The rate of retirement pay payable to an eligible member is a percentage of the member's annual rate of pay at the date of retirement, the percentage being determined by the member's total number of years of effective service. Special arrangements apply which may modify the period of effective service with which a member who had been in receipt of retirement pay, invalidity pay or a pension prior to rejoining the Defence Force, is credited for retirement pay purposes.

The annual rate of pay for retirement purposes is the maximum rate of pay for the member's rank (i.e. where increments are provided, the maximum of the salary range for that rank), plus Service Allowance, if payable. The only exceptions occur in the case of Chaplains and members undergoing training where certain intermediate points have been set because of the long salary ranges which apply.

Where a member has made an election to have a reduction in pay disregarded for the purpose of benefits under the Scheme and has paid

contributions based on the higher rate of pay, the annual rate of pay of the member for retirement purposes will be the higher rate.

Tables I and II set out the percentage of retirement pay applicable in relation to years of effective service.

TABLE I

Retirement pay: officers and other ranks who have completed 20 or more years effective service.

<i>Total number of years effective service completed</i>	<i>Retirement pay as a percentage of pay at date of retirement</i>
20	35.00
21	36.50
22	38.00
23	39.50
24	41.00
25	42.50
26	44.00
27	45.75
28	47.50
29	49.25
30	51.25
31	53.25
32	55.50
33	57.75
34	60.25
35	62.75
36	65.25
37	67.75
38	70.50
39	73.50
40	76.50

Where an officer:

- retires from the Defence Force at own request or is discharged on disciplinary grounds, and
- has completed 20 years or more effective service, but
- has not attained the notional retiring age

designated for the rank held immediately before retirement, the retirement pay entitlement shown in Table I is reduced by 3% of the amount of retirement pay for each year by which the officer's age last birthday 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 are as follows: Major and below 42; Lt. Colonel 45; Col. and Brigadier 50; Major General 52; Lt. General and General 55.

TABLE II

Retirement pay: late entrant officers and other ranks who have completed less than 20 years but more than 15 years effective service and have attained the retiring age for their rank.

<i>Total number of years effective service completed</i>	<i>Retirement pay as a percentage of pay at date of retirement</i>
15	30.00
16	31.00
17	32.00
18	33.00
19	34.00

Retirement pay is adjusted annually as are other pension benefits payable under the Scheme.

DETRIMENT

In the case of certain officers who were transferred from the previous D.F.R.B. Scheme to the Defence Force Retirement and Death Benefits Scheme with effect from 1 October 1972, the retirement pay available on discharge will be less than the retirement pension, expressed as a percentage of pay, which was applicable at 30 September 1972 under the previous D.F.R.B. Scheme. Accordingly, if an officer has fulfilled the conditions for eligibility and is in such a detrimental situation, that officer may elect, within ninety days after retirement, to receive retirement pay based on the higher rate. In these cases, the officer will be required to pay an

additional contribution on retirement of an amount to be determined by the Authority.

3. Method of Payment

Retirement pay is paid fortnightly by either:

- cheque, or
- direct credit to a cheque account at a bank (but not to a joint account or special purpose account).

All payments are made on behalf of the Defence Force Retirement and Death Benefits Authority by the Director, Department of Social Security in each State. In the Northern Territory and the A.C.T., payments are arranged through Commonwealth Sub-Treasuries, Darwin and Canberra, respectively. These Offices act as the Authority's paying agents (see Item 10). Special arrangements can be made for payments overseas.

4. Taxation Deductions

Deductions for income tax are made from fortnightly retirement pay. A group certificate is sent to each retired member in receipt of retirement pay at the end of each financial year.

5. Commutation

All retired members in receipt of retirement pay may elect, within twelve months from date of retirement, to commute a portion of their retirement pay, that is, receive a lump sum pre-payment of a portion of future retirement pay. The maximum amount that a retired member may commute is four times the annual retirement pay applicable at the date of retirement. Where a retired member commutes, the annual rate of retirement pay is reduced by an amount calculated by dividing the lump sum amount received by the retired member's life expectancy (see Table III) at the date the election is received by the Authority. For example, if a retired male member is 50 years of age on the date his election is received by the Authority and his lump sum advance is \$20,000 (i.e. annual retirement pay of \$5,000 x 4), his annual retirement pay would be

reduced by \$864.68 (i.e. \$20,000 divided by 23.13 which is the average life expectancy of a male aged 50).

TABLE III
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

Commutation does not reduce the pension which would otherwise be payable to a widow, widower, or children if such pensions become due (see Item 6).

6. Benefits Payable to Widows, Widowers and Children

On the death of a retired member in receipt of retirement pay pensions are payable to eligible dependants of the retired member. In normal circumstances, eligible dependants would be a widow, or a de facto wife, or a dependent widower, and each child of the retired member who is under 16 years of age or under 25 years of age in the case of a full-time student.

The benefits payable to eligible dependants are:

- to a widow, de facto wife or widower, a pension

calculated at the rate of five-eighths of the retirement pay entitlement that was payable to the retired member;

- to each child (other than an orphan), a pension of \$312 per annum plus one-sixth of the pension payable to the widow, de facto wife or widower;
- to each orphan child, a pension of \$702 per annum plus one-eighth of the pension that would have been payable to the widow, de facto wife or widower.

A brochure entitled *Widows', Widowers' and Children's Benefits*, which sets out the provisions in more detail, is available on request from the Authority.

If on the death of a retired member in receipt of retirement pay, a pension is not payable to an eligible dependant, a refund of contributions to the D.F.R.D.B. Scheme plus a lump sum equal to one-half of those contributions less any retirement pay received by the retired member, is payable to the retired member's personal representatives.

7. Completion of Life Certificates

Periodically surveys are undertaken of all persons in receipt of retirement pay, invalidity pay and pensions under the D.F.R.D.B. Scheme. When a survey is being conducted, a Life Certificate is despatched to each person involved. The questions on the certificate must be answered and documentary evidence supplied where indicated. The certificate should be completed and returned within 14 days of receipt to the Office of the Authority, otherwise payment of retirement pay may be affected.

8. Review of Decisions of The Authority

A person dissatisfied with an administrative decision of the Authority, may request the Authority to reconsider the case. The request should be made in writing to the Authority stating reasons for disagreement with the decision and should be made within 30 days from the date the decision first

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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 I
PERCENTAGE OF RETIREMENT PAY APPLICABLE TO YEARS OF SERVICE

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

TABLE II
COMMUTATION 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	36.99	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
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 I)	35%
Retirement Pay Per Annum	\$ 5,883.85
Retirement Pay Per Fortnight	\$ 225.68
Commutation (para 14)	\$23,535.40
Age 39 Factor (Table II)	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 14 ÷ 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 I)	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
Commutation (para 14)	\$34,747.08
Age 39 Factor (Table II)	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 14 ÷ 365	\$ 292.50

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



THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS SCHEME

Retirement 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 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 I 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.

DETIMENT (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.

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 post 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.

Note:

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

STUDENTS' 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.

DEATH OF WIDOW, WIDOWER, DE FACTO SPOUSE

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 your name 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. 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.

GENERAL ENQUIRIES

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

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

LEAFLETS

Other Leaflets on the DFRDB Scheme are:—

New Entrants
Preservation of Rights
Retirement Benefits
Invalidity Benefits.



**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

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 Nov. 1981. 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.

HOW TO APPLY FOR BENEFITS

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 when 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 source of income she may care to submit an Income Tax Instalment Declaration with the paying agent or the Authority. The form is available from Post Offices.

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 based on five-eighths of 76.5% of the member's annual pay at death for DFRDB purposes e.g. member's salary was \$14,000; 5/8ths of 76.5% of \$14,000 is \$6693.75 per annum or \$256.75 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 based on five-eighths of the member's pension at the date of death

e.g. member's pension was \$6000; 5/8ths of \$6000 is \$3750.00 per annum or \$143.84 per fortnight.

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 \$6693.75 plus \$312.00 is \$1427.63 per annum, or \$54.76 per fortnight

or

1/6th of \$3750.00 plus \$312.00 is \$937.00 per annum, or \$35.94 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 \$6693.75 plus \$702.00 is \$1538.72 per annum, or \$59.02 per fortnight

or

1/8th of \$3750.00 plus \$702.00 is \$1170.75 per annum, or \$44.91 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.