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**SUBMISSION TO THE REVIEW COMMITTEE OF SUPERANNUATION
INDEXATION ARRANGEMENTS IN AUSTRALIAN GOVERNMENT CIVILIAN AND
MILITARY SUPERANNUATION SCHEMES**

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Introduction

The Defence Forces Retirement Benefits Act (DFRB) was legislated for in 1948. The Defence Force Retirement and Death Benefits Act (DFRDB) superseded it in 1973. In turn the Military Superannuation Benefits Scheme (MSBS) superseded it.

The total assets of DFRB and members' contributions were absorbed into Consolidated Revenue where they, and continuing contributions, were used for government purposes without any benefit to the contributors. The contributors received no funds from investments that were previously part of the DFRB Scheme. A Joint Parliamentary Committee that was commonly known as the Jess Committee, after its Chairman, Mr John Jess MHR, recommended this scheme to the Government. It is widely known that the 'Jess Review' of 1972 set out to provide detailed guidelines as to how pay and superannuation would be indexed. The Government of the day, having confiscated the DFRB funds and assets, chose not to accept Jess's findings.

It has been stated by Mr Warren Snowdon's office that this decision was made as a result of an inquiry made by a Professor Pollard, this Inquiry having been initiated by Sir William McMahon. A report of that inquiry does not exist in either the Parliamentary Library or National Library. The Parliamentary Library researcher, Mr Leslie Nielson, who compiled the paper "Military Super-Myths and Reality", has informed me that he is convinced, now, that the report never existed; only a later one commissioned by Gough Whitlam which solely related to the Public Service. This report related only to the Commonwealth Superannuation Scheme (CSS).

The Defence Forces Retirement and Death Benefits Fund (DFRDB) was superseded in 1991, with contributions and contributors from DFRB/DFRDB being transferred to MSBS, for those who opted to transfer to that scheme. There were still 5548 (June 2007) serving ADF personnel in DFRDB.

The unique nature of military service. ¹

It is most important that your inquiry should avoid you imposing civilian norms to Military superannuation. The Terms of Reference (TOR) of the Review into Military Superannuation Arrangements emphasized the

¹ <http://www.defence.gov.au/militarysuperreview/> Terms of Reference

uniqueness of the Military as distinct to the general public, including the Australian Public Service, though the author of the report of that Review paid scant attention to that aspect of the TOR. Certainly the Public Service part of your inquiry must be treated differently to the Military.

The paragraphs below are a direct extract of those Terms of Reference:

“1. The Terms of Reference, among other matters, require the Review Team to have regard to the unique nature of military service. In view of this requirement, the following paragraphs outline the characteristics of military service which, when taken collectively, distinguish it sharply from employment in broader society.

2. The main characteristics of military service are:

- Liability for combat operations;
- A military discipline code;
- A regimented way of life;
- Long and irregular working hours;
- Statutory retiring ages well below the community norms
- high standards of physical fitness;
- frequent relocations and separation from family.

3. The principal distinguishing feature of military service is the liability for combat operations. This liability is both compulsory and continuous and includes the very real possibility of being exposed to the risk of physical or mental invalidity or death. No other form of employment has a similar liability. Other special features flow from this liability.

4. ADF personnel are subject to both the civil legal code and a separate Defence Force disciplinary code. The disciplinary code supports the command structures necessary for effective conduct of combat operations and training. The Defence Force disciplinary code imposes restrictions on personal conduct; it demands different standards from those generally acceptable within the community; and it impinges on the individual's family life and leisure time.

5. The discipline code also impacts on the ADF collectively. For example, ADF members are precluded from engaging in industrial action. The creation of the Defence Force Remuneration Tribunal to determine pay and allowances for the ADF is recognition of the ADF's unusual industrial situation.

6. Another industrial aspect of ADF service is the liability to work long and irregular hours. Operational tasks, assistance to the civil community and training activities cannot be tied to set hours. The requirement to work extra hours is unpredictable and often arises at short notice. More importantly, ADF members are obliged to work whatever hours are demanded to complete an assigned task. No overtime is payable but some allowances, particularly Service Allowance, recognise the disability and provide some compensation.

7. Allied to the long working hours is separation from families. The periods of separation can be considerable, particularly for members in operational units. Separation causes stress to both members and families.

8. Another major cause of stress is the necessity to post members at irregular intervals to meet ADF manning requirements. Not only do postings involve geographical relocations, sometimes to relatively unattractive places, but also employment in positions demanding acquisition and utilisation of new or different skills. The limited capacity to laterally recruit exacerbates the posting frequency and employment in unfamiliar environments. Family life in particular can be adversely affected. Spouse employment opportunities and the quality and continuity of children's education can be adversely affected.

9. Operational tasks and training for combat are demanding activities. Technology in many cases reduces physical effort but ADF service requires that members maintain a high standard of physical and mental fitness. The consequence of failure to satisfy the ADF standard is severe. A member is discharged from military service where any medical condition precludes effective ADF employment.

10. The demands of ADF service also lead to statutory retiring ages which are considerably lower than the community norm. Most ADF personnel can serve to age 55. However, most ADF members resign prior to attaining statutory retirement age as vocational options are perceived to diminish with age. This suits current ADF personnel management practices.

11. Of the major characteristics of military service the liability for combat and the military discipline code are, of course, peculiar to the Defence Force. Other characteristics of military service are derived from or related to these characteristics. Some of these characteristics do also occur in other occupations but only individually. It is the cumulative impact of all the features which constitutes the special nature of the ADF and which distinguishes it from other occupations.

12. The special nature of military service makes it necessary for the ADF to design conditions of service that will continue to attract and retain personnel despite the hazards and hardships of military life.

The need to compensate members of the ADF for the unique nature of military service through their superannuation, invalidity and death benefits as with their other conditions of service.

13. The unique nature of military service poses challenges for the ADF when recruiting and retaining personnel beyond those encountered by other employers in the economy. The ADF has structured its conditions of service accordingly and those conditions, including the retirement, invalidity and death benefits, are generous relative to normal workforce standards.

14. It is important to maintain that relative distinction so that people considering joining the ADF and those already serving can recognise the adequacy of their conditions, given the additional hardships and risks inherent in ADF service. A diminution in the relative value of these benefits could have adverse effects on the ADF's ability to recruit and retain the personnel it needs to fulfil its functions. This could affect the viability of the

ADF workforce as a whole which would have significant implications for the Government's ability to maintain its national security policies. "

There are two major matters of concern, to me, relating to Military superannuation:

- The indexation of all Defence Superannuation by MTWAE or CPI, whichever the greater; and
- Justice in the matter of reversion to a member's original pension value on repayment of his / her commutation;

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In 1972 the Jess Review, recommendation 6, "*That retired 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 means to achieve this would be to maintain relativity of benefits to current pay for the rank held on retirement*". Furthermore Jess recommended:

The Committee has concluded that the most appropriate method of maintaining the real value of retired pay is to ensure that it maintains relativity with average weekly earnings."

The Whitlam Government chose to ignore that recommendation, even though it was a joint Committee one including politicians of both sides, amongst who was Mr Lance Barnard, soon to be the Deputy Prime Minister. There was no dissenting report from the committee.

When a pension is indexed in line with movements in the CPI, it continually causes standards of living to fall behind other community groups; something which the former Prime Minister has continually said "would not occur" The falling behind is cumulative. Over the last ten years, Parliamentary Superannuation pensions have risen by 44%, the age pension by 38% and CPI (i.e. ex Commonwealth employees) 23 %.

The following is based on 2007 figures. I am aware that age pensions are indeed indexed in line with a wage-based index (MTAWE) or the CPI, which ever is the greater. With only rare exceptions, the wage-based index has been much greater than the CPI. So, age pensions increase faster than Defence pensions, which were paid for at 5.5% of gross salary.

The average weekly Military Retirement pay is less than the Henderson Poverty Line:

Henderson Poverty Line for a couple: \$420.69

Age Pension for a couple: \$456.80

Average Defence Superannuation for a couple; \$393.81

Those Defence superannuants who retire at a later or compulsory retiring age, and who cannot find employment, live on this sub standard amount until they are able to obtain relief by means of the Service or Age Pensions at age 60 or 65, respectively.

There are many legitimate reasons that many older ex-servicemen cannot obtain employment.

When I retired, superannuation was available immediately to those who had at least 20 years service and had reached the prescribed age for rank. There were a number of reasons for this;

The services were held to be a 'young mans game', and space had to be made for young people to have a realistic career path without having to wait for older and less fit men to retire; and

To allow servicemen the ability to take resettlement opportunities that would not be available to them at an older age, with the help of their superannuation being available to them.

I retired in 1986 and took up the position of CEO with Sydney Legacy. The pay being offered, Legacy being a 'charity,' did not pay nearly as much as I could have obtained in a number of private firms that I had been approached by. However, by taking into account my personal financial position and the availability of my DFRDB retirement pay, I was able to make a considered decision to take the Legacy job, which was a very satisfying one. That option was taken away from us when the Government changed superannuation legislation to allow only politicians to receive Superannuation early; as early, possibly, as their late 20s or early 30s. It is hard to see what special circumstances politicians have over people who have served their nation in warlike activities and, indeed, wars.

Five Senate reports, since 2001², and the Report of the Review into Military Superannuation Arrangements, recommended a wage based indexation approach for Commonwealth defence superannuation retirement pay but the Government has steadfastly refused to heed those recommendations.

The recommendation of the Committee of Review into Military Superannuation Arrangements was weak, in line with that committee's poor quality report, which appears to have been written on pre-conceived ideas, and possibly an unwritten Terms of Reference to give the Government the answers it wanted.

Cost of the Proposed Change.

² May 1972. Joint Select Committee on Defence Forces Retirement Benefits Legislation (Jess Report).

February 2001. Select Committee on Superannuation Financial Services - Reference: Benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes. February 2001

April 2001 Senate Select Committee on Superannuation and Financial Services. A 'Reasonable and **Secure**' Retirement.

July 2002. Senate Select Committee on Superannuation
Reference: Superannuation and standards of living in retirement JULY 2002

December 2002. Select Committee on Superannuation. Superannuation and standards of living in retirement.

July 2007. Report of the Review into Military Superannuation Arrangements

March 2008. Standing Committee on Community Affairs - A decent quality of life. Inquiry into the cost of living pressures on older Australians. .

The cost of changing to a wages based indexation provided by the Coalition were absurd, and the Minister for Veterans 'Affairs, Mr Bruce Billson, refused to provide detail of the Coalition's estimates to either the Opposition or the ex-service community for checking. I would suggest that the Coalition calculated the cost, by dubious methods, and didn't calculate 'Clawback', whereby the amount saved from another vote is taken into account.

Every time a Defence superannuant, who receives a part Service Pension or Age Pension, receives an indexation increase his/her part pension receives an equivalent reduction from that part Service Pension. Thus an increase by MTAWWE will be revenue neutral for many superannuants.

Many Defence superannuants who are drawing a part service pension would not have been if they had been in receipt of the form of indexation that has been recommended over the years.

A question is; how can it be said that politicians 'need' six and seven percent indexation per year, and we need so little in comparison. Perhaps it should be explained why a politician's widow is worth 20% more in reversionary benefits than an ex serviceman's widow. I would request you not to avoid these questions as did the previous Government.

Does the Government believe that its former employees do not deserve a share in improving community living standards? The Coalition, in 1997, certainly thought other beneficiaries should, and changed the indexation of their pensions from CPI, to CPI or MTAWWE, whichever the higher.

Superannuation is something we have paid for via our Defence salaries, and that was compulsory, but we have been, over many years, shabbily treated in an unjust and non-equitable manner by all major parties when in Government.

By choosing to use CPI as an indexation medium, defence superannuants have been left behind and will continue to do so and they, in turn, will continue to suffer a lesser quality of life than that they have paid for. It is a disgraceful repayment for the loyal service they have given the community and Government. The "anti" Defence entitlements attitude by Governments of both major parties toward ex-servicemen is unforgivable.

Since December 1989 to December 2006 the cumulative percentage increase in CPI has been 57% whilst over the same period MTAWWE has been 85.7%

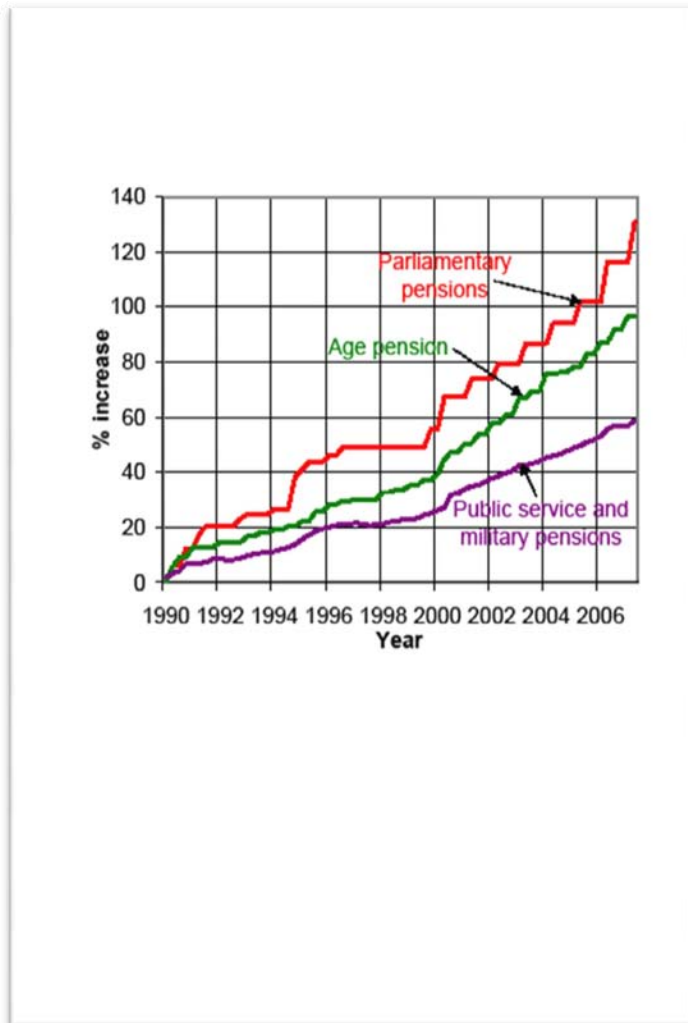
Comparison of Annual Change of MTAWWE and CPI

	2002 - 3	2003 - 4	2004 - 5	2005-6	2006 - 7
MTAWWE annual change (1)	4.7%	4.4%	3.7%	5.4%	3.6%
CPI annual change (2)	3.1%	2.4%	2.4%	3.2%	2,1%

Source:

(1) <http://wopared.parl.net/library/pubs/mesi/mesi22.htm>

(2) <http://www.abs.gov.au/>



One does not have to be a Rhodes Scholar to realise the serious compounding losses of being indexed only against the CPI over the life of a superannuant in retirement.

This submission is not an attack on the Parliamentary Superannuation Scheme (pre 2004), but partly an examination of the benefits that politicians have voted themselves, compared to those given their own employees, including former members of the Commonwealth Public Service. This examination begs some questions that need answering. We only want that form of indexation that Age Pensioners and others receive. We only want equitable treatment.

It is not enough to praise servicemen at photo opportunities departing for/returning from theatres of active service, or on Anzac Day or other campaign commemorative occasions. They have to be looked once they have separated from the ADF.

Justice in the matter of reversion to a member's original pension value on repayment of his / her commutation;

There is no provision, for reversion to the full value of retired pay once the Commutation Lump Sum, in the case of DFRB/DFRDB superannuants, has been repaid. The commutation is an advance against future earnings.

In the interests of equity, the DFRB/DFRDB Acts needs to be amended to provide for benefits to revert to the full level, once the advance has been repaid, in accordance with the life table used to calculate the reduced retirement pay.

The practice of a member continuing to receive reduced retirement pay for the rest of his/her life is akin to a bank continuing to deduct mortgage payments from one's account after the mortgage is discharged. It is morally wrong.

Medical advances and lifestyle changes have resulted in life expectancies being considerably higher than calculated at the time of an individual's commutation application and has resulted in this (probably) unintended consequence of using an outdated life expectancy table. Mr Podger, in the previous inquiry report felt this was unimportant.

The table below shows the variation in life expectancy between 1960 and 2002-3 and illustrates the point in using non current life taqbles being very much detrimental to the contributor .

Year	Male	Female
1960	68	64
2003	78	83

(Source: Australian Bureau of Statistics)

The application of the life expectancy tables, not having been updated in relation to DFRB/DFRDB, have led to an anomaly in relation to Commutation, in that a superannuant will pay back far more than the advance, because of the greater life expectancy than that on which the commutation payment was based.

Example 1.

A DFRB superannuant who retired in 1978, whose life expectancy was 70 years using the life tables applied to his/her application The commutation was to be repaid by that age. He is now 77 years of age, and has continued being paid the reduced rate of his fortnightly benefits. This constitutes an unfair loss to the member of

\$ 59.82 per fortnight, or \$1559.73 per annum.

The member's loss since he repaid his commutation, in the form of reduced retirement pay, is now \$11,913.11

Example 2.

A superannuant with 31 Years service, retiring in 1986, received the following written advice from Comsuper :

Retirement Pay \$20924.56 per annum; or \$802.56 per fortnight.

Reduced Retirement Pay after commutation \$17464.79 per annum: or \$669.88 per fortnight

This member will continue to lose \$133.64 per fortnight, or \$ 3474.64 per annum after he has repaid the commutation.

Should current life tables be applied to those DFRDB superannuants still serving, they would be unlikely to fall into this 'trap'.

Legislative Trail.

There is no mention of this whole of life provision in the DFRB Act (1948). Neither does there appear to be any mention of it in the superseding DFRDB Act.

I have been unable to track down any regulation relating to this matter, nor has Comsuper been able to produce one. Thus it appears that whether to restore the members' entitlement, or not, is really an administrative decision that should be made in favour of the contributor.

Members had little opportunity to know of the alleged provision at the time of discharge. Not being told of this matter at Resettlement Seminars, combined with no mention of the reduction in retirement pay in printed material distributed by DFRB Authority/Comsuper, how could they know? All knew that they would receive a reduced fortnightly payment. The DFRDB leaflet plainly highlights the reduced fortnightly payment, but there is no mention of the important provision, the subject of this paper.

The provision has now been published in Comsuper Fact Sheet DB04 dated July 2007. This action has been taken only since there has been much criticism that the provision has not been published in any DFRDB leaflet since 1972, the date of introduction of the scheme.

Comsuper Knowledge of the Whole of Life Provision.

In my inquiries to Comsuper, I have discovered that Comsuper staff have no detailed knowledge of this whole of life provision, or copies of publications prior to 2004 eg, The DFRDB Handbook. They cannot locate previous copies, but consider that previous versions would take the same stance as that in the 2004 edition. Comsuper has provided a copy of the publication DFRDB 'Transfer to the New Scheme of Existing Contributors' In it is clearly stated that commutation will result in a reduced payment of retirement pay, of which we have all been aware, but no mention of it being a whole of life reduction.

A copy of the DFRDB publication 'DFRDB Retirement Benefits dated January 1985' has been forwarded to me by a DFRDB superannuant. Again, there is no mention that the reduction in retirement pay is for life.

Most of the Comsuper information on this matter has been based on 'knowing' that was always there i.e., it was only an opinion that Comsuper could not confirm.

Information Provided to those Considering Retirement.

Colonel (Retd) (name deleted) has allowed me to quote from the written reply given him by Comsuper when he was deciding on his possible retirement date. In this document calculations are given re his retirement pay before and after commutation. There is no mention that the reduction is a lifetime reduction.

Of interest is that a former Senior NCO (SNCO) responsible for discharge states: "I was DEFINITELY not advised either at seminar or in writing at any time.

I was a presenter on resettlement seminars on financial matters including DFRDB from 1985 to 1992. I can assure you even I was not aware of the life long reduction of pension due to commutation.
Kind regards, John Vincent”

Conclusion.

It appears that there is little in this argument that cannot be challenged. The few writings on this matter are administrative ones and have no legal status. I consider that this matter is an important matter to fight when you consider:

- Defence Superannuants are still paying some income tax on their superannuation whereas private sector Superannuants who were subject to the exact same conditions up to 1988 are not;
- Defence Superannuants who earn some additional income pay higher taxation on that income than their private sector counterparts, because of our exclusion from the full benefits of ‘Simpler Superannuation; and
- We are penalized by the lowest form of indexation of any public sector group in Australia, on our retirement pay. The cumulative effect of these factors is considerable

Thus, I feel that Comsuper has failed in it’s ‘duty of care’ in that there has been no method in notifying prospective retirees of the lifetime reduction of their retirement should they commute, These matters are also important to the widows/widowers of contributors

JA Graham LTCOL (Retd)

Friday, July 04, 2008