



# Australian Defence Force Retirees Association Inc.

No. A0108026R

We represent the interests of Defence Force Retirees regarding their Superannuation

www: <https://www.adfra.org/>

Email: [admin@adfra.org](mailto:admin@adfra.org)

Jim Hislop OAM  
President

13 October 2024

The Hon Richard Marles MP  
Deputy Prime Minister and Minister for Defence

Per email to: [richard.marles.mp@aph.gov.au](mailto:richard.marles.mp@aph.gov.au)

The Hon Matt Keogh MP  
Minister for Veterans' Affairs and Defence Personnel

Per email to: [matt.keogh.mp@aph.gov.au](mailto:matt.keogh.mp@aph.gov.au)

Copy to:

Fiona McSpeerin  
First Assistant Secretary  
People Policy and Development  
Defence People Group

Per email to: [ministerial.correspondence@defence.gov.au](mailto:ministerial.correspondence@defence.gov.au)

Dear Deputy Prime Minister and Minister Keogh,

The article '*Understanding the Defence Force Retirement and Death Benefits Scheme*' in the August 2024 edition of Vet Affairs (attached) sheds light on how serving and subsequently retired members of the Australian Defence Force (ADF) were betrayed and deceived over the entitlements proffered, under the *Defence Force Retirement and Death Benefits (DFRDB)* scheme, as an inducement to commit to decades of service.

Retired Veterans subject to the provisions of the DFRDB scheme are patently sick and tired of the inane responses, such as the recent correspondence from the First Assistant Secretary, People Policy and Development Defence People Group (also attached) to requests for an open, honest and objective consideration of the concerns that retired ADF members first raised decades ago.

The following highlighted statements are common examples of the endeavours by the Department of Defence to divert attention from the fact that the DFRDB legislation significantly diminishes the value of members' retirement benefits over their lifetimes.

***Upon retirement members will generally be eligible for an indexed pension plus an optional "Commutation Benefit" of up to 5 times their annual pension amount.***

The words **plus** an optional "Commutation Benefit" make the DFRDB scheme out to be more generous than it actually is. Commutation is **not an additional benefit**.

It is merely an advance lump sum payment of up to 5 times a member's initial benefit entitlement to help members resettle in civilian life after decades of service.

Given that the consequence of commuting is a permanent reduction in the ongoing rate of pay, with the reduction calculated on the basis of long out of date expectation of life factors, in most cases commutation **diminishes** the benefit.

***An important consideration is that if a member chooses to commute part of their pension, this will result in a permanent reduction in their annual pension based on their life expectancy. The pension entitlement will not increase if the member outlives the life expectancy used to determine the reduction in their pension.***

In *Submission No. 913* to the McMahon Cabinet, see [Cabinet Decision No. 1147](#), Treasury explained that the Joint Parliamentary *Jess Committee* recommendation on commutation:

*“... provides for a maximum lump sum payment of four times the amount of the annual pension on retirement. The annual reduction in the residual is the amount obtained by dividing that lump sum by the number of years of expectation of life of the member taken from the Australian life tables. In effect therefore what the Committee is proposing is an advance loan on future expected pension income, repayable by reduction in pension over the number of years of his expectation of life without interest.”*

Treasury's interpretation was correct. The *Jess Committee* **proposed a loan** on future expected pension (retirement pay) income, **which was repayable**, by reduction in retirement pay **over the number of years of his expectation of life**, without interest. Where the annual reduction would equal the loan amount divided by the expectation of life factor.

**That is what most serving DFRDB members were led to believe by Defence when making career and financial commitments, including before exercising their right to commutation.**

However, once the DFRDB legislation, which stated otherwise, became law, Defence coined this explanation to justify the changed wording:

***Permanently reducing the pension recognises that members who elect to commute will obtain a long-term advantage from the immediate use of their lump sum, depending on what they choose to do with the amount.***

Defence consistently fails to acknowledge that:

1. The life expectancy factors incorporated into the legislation were based on 1960-1962 life tables which would inevitably be well and truly out of date by the time most members retired, ensuring that a majority of members who commuted would repay far more than they commuted.

2. The automatic indexation increases, incorporated in the legislation in 1977, would also be applied to the retirement pay reduction after commutation, making the repayment of commutation, even for many members who did not outlive their 1960-1962 life expectancy, disproportionate to the amount commuted.

***DFRDB is a structured scheme... all aspects need to be considered...amendments to one component would not necessarily increase the beneficial nature of the scheme overall.***

There are only two components of the DFRDB scheme that need to be considered. They are **retirement pay** and **Class C invalidity pay**. These are **defined benefits**, the annual rate of which is determined by members' final salary and the number of completed years of service.

The amendments we seek will ensure that the value of those defined benefits is not diminished over the course of the recipients' lifetime by:

1. **Changing the defined benefit adjustment index**, from 1976 to 2014, to Average Weekly Earnings (AWE);
2. **Applying the adjustment index to the actual**, rather than a notional, rate of those **defined benefits**; and
3. **Ceasing the reduction of the defined benefits** when members who commuted reach the life expectancy which determined those reductions.

The cost of these amendments is the measure of the extent to which the value of members' defined benefits will have been diminished, under the current legislation, by the time the last recipient is deceased.

***The DFRDB scheme has been reviewed on several occasions in recent years. Most recently by the Commonwealth Ombudsman (in 2019) and the Senate Foreign Affairs, Defence and Trade Reference Committee (in 2021).***

The investigation conducted in 2019 by the Commonwealth Ombudsman (who is also the Defence Ombudsman) was funded by Defence.

The Terms of Reference, determined by the Defence Ombudsman and Defence, focused on what DFRDB members were told about commutation and the effect of their decision to commute.

DFRDB members who chose to commute had already committed to joining the ADF and serving the necessary time to earn their benefits.

The investigation did not consider how well these members understood the **entire** DFRDB scheme when they made those crucial career choices.

The investigation did not consider if, before those members made their career decisions, they understand that the legislation linked the adjustment of their entitlements to the Consumer Price Index (CPI) rather than Average Weekly Earnings (AWE) and applied those

adjustments to only a part of their entitlements, ensuring that those entitlements would be substantially eroded over the course of their lifetimes.

The key findings of the investigation were:

1. Members were misled about the commutation provision; but
2. Based on hypothetical financial modelling commissioned by the Ombudsman, the members who commuted did not suffer any financial detriment.

The Senate Foreign Affairs, Defence and Trade Reference Committee inquiry in 2021 followed along the lines of the Ombudsman's investigation. The Committee's extraordinary recommendation, more than 40 years after the event, was that Defence should better inform its personnel about their entitlements.

***Members who believe they suffered a financial detriment are encouraged to lodge a claim under the Scheme for Compensation for Detriment Caused by Defective Administration (the CDDA Scheme).***

A 'special' CDDA application process, established by Defence in the wake of the Ombudsman's investigation, 'shoehorned' applicants into a 'no win' situation which was established by paragraph 6.10 of the Ombudsman's [06 | 2019 Report](#) which said:

*"... in the absence of evidence to the contrary, our report stands as a finding in relation to two of the core elements of a CDDA claim – that there **was** defective administration by Defence, and that the defective administration **did not** cause financial detriment."*

Of all the 'tailored' CDDA applications lodged, none succeeded.

One application, which fell outside the 'tailored' application process, was based on detriment suffered as a result of career decisions made after having been misled about the commutation and indexation provisions of DFRDB Scheme, was also denied.

When the member requested a review of the decision, the same decision maker handed down the same decision, **262 days later**.

Was that in anticipation that this member might die or lose his marbles in the interim? Or, that he would simply give up out of exasperation?

This member can, of course, request a further review by the (Defence) Ombudsman. But ...

**How can he get fair and impartial treatment under a CDDA scheme where Defence is the perpetrator of the Defective Administration, the investigator, the judge, jury and executioner, and the point of appeal?**

***The Commonwealth Ombudsman did not recommend any changes to indexation methodology.***

That is because the Ombudsman's investigation did not address the impact of the indexation methodology.

One need not be an actuary to understand that the implications - for the Commonwealth - of AWE-linked rather than CPI-linked DFRDB benefit adjustments for decades, and of the betrayal of members on that issue, are far more profound than the effect of commuting.

***The Australian Government considers the DFRDB scheme to be operating in the manner intended. As such, there are no plans to make further changes or conduct further reviews of the scheme at this time.***

One would expect that if the Government intended to deviate from the *Jess Committee's* recommendations, that the responsible Minister would say something about it when he moved that the relevant Bill be read a second time.

Where in his [Second Reading speech](#), when he moved that *Defence Force Retirement and Death Benefits Bill 1973* be read a second time, did the Minister express an intent to substantially reduce the retirement pay of members who would live beyond a life expectancy that for the majority of recipients would be significantly out of date by the time they retired?

And, where in his [Second Reading speech](#), when he moved that *Defence Force (Retirement and Death Benefits Amendments) Bill 1977* be read a second time, did the Minister express an intent to substantially erode recipient members' benefits, over their lifetimes, by:

1. Linking the automatic adjustment of those benefits to an Index (the CPI) which was well known for its failure to maintain parity with community standards and the cost of living?
2. And excluding a part of the benefits from the application of those indexation increases?

Defence was responsible for the provisions in the legislation and the content of the Ministers' Second Reading speeches.

In his [Second Reading speech](#), during the debate of *Defence Force Retirement and Death Benefits Bill 1973*, a former member of the *Jess Committee* said:

*"The Jess Committee, as the Minister well knows, set out to devise a simple scheme which servicemen could understand, and I believe it succeeded. But when translated into the present legislation its recommendations are on the way to becoming incomprehensible."*

It is not unreasonable to conclude that the Bill and the Ministers' Second Reading speech were worded in a way which ensured that the Parliament, and those who would be impacted, had no understanding of the legislation's true effect.

The Opposition spokesman's [Second Reading speech](#) summarized the House's grasp of the *Defence Force (Retirement and Death Benefits Amendments) Bill 1977*, when he said:

*“This Bill provides an initiative on the part of the Minister for Defence (Mr Killen), which is welcomed. Its proposal is to index in accordance with the consumer price index and a simple formula outlined by the Minister in this House last week, the payments under the DFRB and DFRDB pension system. The Opposition endorses [the] proposals and I see little point in debating the subject further and unnecessarily taking up the time of this House and its officers.”* [Empasis added]

His speech also expressed his level of concern for service personnel.

Deputy Prime Minister and Minister Keogh, presumably, your ministerial responsibilities extend to ensuring the wellbeing of the men and women who devoted decades of their lives to service in the ADF.

When you are ready to consider ensuring that they and their families receive the full entitlements they were promised in return for that service, we would be pleased to meet with you at a time and place of your choice.

Yours faithfully,



**J. G. Hislop** OAM

President

Attachments:

1. 'Understanding the Defence Force Retirement and Death Benefits Scheme', Vetaffairs Vol 40 No 3 - August 2024
2. Letter from Fiona McSpeerin (Defence People Group) - 17 September 2024

# Understanding the Defence Force Retirement and Death Benefits Scheme

The Defence Force Retirement and Death Benefits (DFRDB) Scheme is a defined benefit superannuation scheme that was available to members of the ADF between 1972 and 1991. Subject to scheme rules, upon retirement members will generally be eligible for an indexed pension plus an optional "Commutation Benefit" of up to 5 times their annual pension amount, and an additional lump sum of their "Productivity Benefit".

Commutation is a lump sum pre-payment of part of a member's future retirement benefit. By taking this option, a member can elect to commute (that is, exchange) a portion of their future retirement pension for a lump sum. The purpose of commutation is to allow members the flexibility to receive a lump sum if required, depending on their financial situation at the time of discharge, and to assist the member in resettling into civilian life.

The decision to access commutation is voluntary. An important consideration is that if a member chooses to commute part of their pension, this will result in a permanent reduction in their annual pension based on their life expectancy. The pension entitlement will not increase if the member outlives the life expectancy used to determine the reduction in their pension. Permanently reducing the pension recognises that members who elect to commute will obtain a long-term advantage from the immediate use of their lump sum, depending on what they choose to do with the amount.

## Reviews

As a result of advocacy by veterans and veteran groups, the DFRDB scheme has been reviewed on several occasions in recent years. Most recently the Commonwealth Ombudsman (in 2019) and the Senate Foreign Affairs, Defence and Trade Reference Committee (in 2021) both considered the scheme.

The Commonwealth Ombudsman recognised the beneficial nature of the scheme, and that benefits are being paid correctly. However, it also concluded that the Department of Defence had historically provided DFRDB members misleading information regarding commutation, which led some members to believe incorrectly that their pension would increase once they reached their life expectancy factor age.

In addition to the commutation concerns, some veteran groups have proposed changing the life expectancy tables or reviewing indexation arrangements for the DFRDB. There have been a number of changes to the indexation methodology for this scheme following the recommendations of the *Review into Military Superannuation Arrangements*.

Since 2014, DFRDB pensioners over the age of 55 receive twice-yearly adjustments using the higher of the Consumer Price Index (CPI) or the Pensioner Beneficiary Living Cost Index (PBLCI), which provides a similar basis to how indexation is treated for the Age Pension. In some circumstances, the indexation adjustment may not be applied to the full pension amount. Those interested in learning more can find an example of how this calculation is applied in *A summary of the Defence Force Retirement and Death Benefits Scheme* (page 14 of this book) which can be found at [www.csc.gov.au](http://www.csc.gov.au).

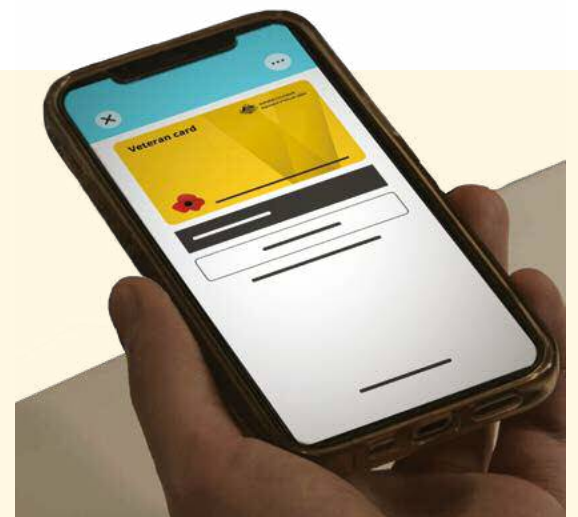
With regards to changes in life expectancy factors, it would not be feasible to adjust one component in isolation without considering the rest of the scheme. Changes to the life expectancy tables could leave most members worse off, as the other key element of the scheme, the commutation factor, would also need to be updated and this would likely affect the pension amount an individual receives.

Further, the Commonwealth Ombudsman made note of the life expectancy tables in its investigation into the administration of the DFRDB scheme. The Ombudsman concluded that as the scheme's drafters did not include a provision to update the tables from time to time, it would suggest the tables were meant to be used as a static commutation factor. This is consistent with the static commutation factors used in the civilian Commonwealth Superannuation Scheme. If you would like to find out more about the recent reviews into the DFRDB, the Senate Committee and Ombudsman reports can be found on their respective websites.

## Compensation

Members of the DFRDB scheme who believe they have suffered a financial detriment due to being provided misleading information are encouraged to lodge a claim under the Scheme for Compensation for Detriment caused by Defective Administration (CDDA). Defence has tailored the claims process to help focus on the issues critical to the determination of the claim and provides members access to a case manager to assist with the process.

You can lodge a claim by completing the DFRDB CDDA Application Form, available from the Defence website (at [www.defence.gov.au/about/governance/legal-services](http://www.defence.gov.au/about/governance/legal-services)) and submitting it to [dl.deldc@defence.gov.au](mailto:dl.deldc@defence.gov.au). Appendix F of the Ombudsman's report sets out the criteria that should be considered prior to lodging a claim for CDDA. Applicants are encouraged to consider these criteria before making any claim.



## More ways to securely store your Veteran Card

DVA Veteran Card holders with a smart phone or other smart device now have the option to securely store and access their Veteran Gold and White Cards in the myGov app.

For some, digital cards provide greater convenience and flexibility. This is great news for veterans and families who prefer to use their phone or other smart device to access their health and concessional benefits.

With in-built protections against fraud and theft, including holograms and QR codes, the myGov app is a safe and secure way to store most government-issued cards and documents.

DVA clients will need to have a DVA-issued White or Gold Veteran Card, a current MyService account, and the myGov app downloaded on their smart phone or device to access their digital Veteran Card in their myGov wallet.

Once you have a MyService account and the myGov app, adding your digital card to your wallet is easy.

For more information, an instructional video and a list of Frequently Asked Questions on how to add your digital Veteran Card to your myGov wallet, visit the DVA website.



## Australian Government

### Defence

MC24-002315

Mr Jim Hislop OAM  
admin@adfra.org.au

Dear Mr Hislop,

Thank you for your email of 28 August 2024 to the Minister for Veterans' Affairs and Minister for Defence Personnel, the Hon Matt Keogh, regarding the Defence Force Retirement and Death Benefits (DFRDB) scheme. Your correspondence has been referred to me for response.

Members of the DFRDB scheme who believe they have suffered a financial detriment through the provision of erroneous information, may consider making a claim under the Scheme for Compensation for Detriment caused by Defective Administration (CDDA). Defence has tailored the claims process to help focus on the issues critical to the determination of the claim and provides members access to a case manager to assist with the process. A claim can be lodged by completing the DFRDB CDDA Application Form found at [www.defence.gov.au/legal/Directorates/dsfc.asp](http://www.defence.gov.au/legal/Directorates/dsfc.asp) and submitting it to [dl.deldc@defence.gov.au](mailto:dl.deldc@defence.gov.au).

Please note the Commonwealth Ombudsman's report sets out criteria (Appendix F of the report) which should be considered prior to lodging a claim for CDDA. The report can be found at [www.ombudsman.gov.au/complaints/defence-force-complaints/defence-force-retirement-and-death-benefits-dfrdb](http://www.ombudsman.gov.au/complaints/defence-force-complaints/defence-force-retirement-and-death-benefits-dfrdb).

I acknowledge the concerns raised by Australian Defence Force Retirees Association Inc. (ADFRA). The Australian Government considers the DFRDB scheme to be operating in the manner intended. As such, there are no plans to make further changes or conduct further reviews of the scheme at this time.

Thank you for taking the time to write. I trust this information is of assistance.

Yours sincerely,

A handwritten signature in black ink that reads 'Fiona McSpeerin'.

**Fiona McSpeerin**  
First Assistant Secretary  
People Policy and Development  
Defence People Group

17 September 2024