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10 January 2008, no. 16, 2007–08, ISSN 1834-9854

Military superannuation—myths and reality

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Executive summary

- Military superannuation arrangements have been subject to extensive changes. Yet another change may occur in the wake of a recently completed review of military superannuation arrangements.
- Both serving and retired members of the Australian Defence Force have legitimate grievances in relation to superannuation matters. However, often lobbying efforts in pursuit of these grievances have been based on a poor or inaccurate understanding of past events and current conditions.
- This paper presents background information on past events and current arrangements for any discussions following the recent release of the report of the review of military superannuation.

Contents

Glossary

ABS	Australian Bureau of Statists
ADF	Australian Defence Force
Age Pension	Pension paid by Department of Social Security
Age Pension age	Age at which a person may qualify to receive the Age Pension (65 Male up to 65 Female, depending on date of birth)
AWOTE	Average Weekly Ordinary Time Earnings as calculated by the ABS
CPI	Consumer Price Index as calculated by the ABS
CSS	Commonwealth Superannuation Scheme (now closed to new members)
DFRB	Defence Force Retirement Benefit Scheme
DFRDB	Defence Force Retirement and Death Benefits Scheme
Indexation	The increase in the annual rate at which a pension is paid
Indexation method	Method used to index a pension. Pensions can be increased annually or semi annually by increases in CPI, AWOTE or MTAWE—or a combination of these measures
Jess Review	Review of military superannuation arrangements conducted between 1970 and 1972 chaired by J. D. Jess CBE, MP
MSBS	Military Superannuation and Benefits Scheme (current military superannuation scheme)
MTAWE	Male Total Average Weekly Earnings
Retirement Pay	Pension paid to retired members of the DFRDB and DFRB
1922 Scheme	Commonwealth civilian superannuation scheme that preceded the CSS

Introduction

On 27 February 2007 the then Minister Assisting the Minister for Defence, the Hon Bruce Bilson MP, announced a wide-ranging Review of Military Superannuation Arrangements.[1] Under the Terms of Reference, the Review examined current superannuation arrangements and evaluated whether the design of the Defence Force Retirement and Death Benefit Superannuation Scheme (DFRDB) and Military Superannuation and Benefits Scheme (MSBS) suit current Australian Defence Force (ADF) members and reflect contemporary superannuation policy.[2] The Review has completed its work and its report submitted to the previous government. This report was released to the public on 24 December 2007.[3]

It is very likely that the retired defence force community will be critical of some of its findings and recommendations. In part, this dissatisfaction stems from perceptions of past government actions in relation to military superannuation arrangements. The purpose of this paper is to briefly outline and provide comment on some of the more common points of contention in relation to both past actions and some current issues.

Those who have retired from the ADF fall into one of two groups: those who are receiving a pension[4] from their scheme and have then undertaken other employment and those who receive a pension and who have retired from the workforce. This paper discusses the concerns of this latter group.

Current provision of benefits

Currently military superannuation benefits are provided under three separate schemes:

- between 1948 and 1972 the only military superannuation scheme was the DFRB. It was effectively closed to new members on 30 September 1972[5]

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1 The Hon. Bruce Bilson MP, Minister Assisting the Minister for Defence, Review of Military Superannuation, *media release*, 27 February 2007.

2. The MSBS is the scheme that new ADF entrants join.

3. Podger, A. (Chair), Knox, Dr D, Roberts, Air Commodore L, *Report of the Review into Military Superannuation Arrangements*, Canberra, 24 December 2007.

4 Recipients of benefits from DFRDB generally are adamant that they do not receive a pension; the argument is that they receive ‘retirement pay’. The term ‘pension’ is used in this paper for convenience to describe the benefit paid from the DFRDB, the DFRB and MSBS.

5. As at 30 June 2007 there were 4580 DFRB pensioners. Source: *DFRDB Authority Annual Report to Parliament 2006–07*, p. 40.

- between 1972 and 1991 both the Defence Force Retirement and Death Benefits Scheme (DFRDB) and the DFRB provided military superannuation benefits.[6] The DFRDB was closed to new members on 30 September 1991,[7] and
- from 1991 the Military Superannuation and Benefits Scheme (MSBS), DFRDB and DFRB have provided these benefits.[8]

All three schemes are now providing superannuation benefits to retired ADF members, though the number of DFRB recipients is rapidly declining. The arrangements made during the changeover period for each of these schemes are one source of the above mentioned dissatisfaction to ADF retirees.

Some Issues

'Whitlam stole my super'

Many DFRB beneficiaries are concerned that the arrangements for closing of this scheme in 1972 and the commencement of the DFRDB scheme saw the government of the day transfer their retirement savings into the Commonwealth's Consolidated Revenue Fund (CRF).

A particular feature of all three military superannuation schemes is that active members (i.e. before leaving the ADF) contributed about 5.5 per cent of their after-tax salary to their particular scheme. Active DFRB members' contributions went into a separate DFRB Fund and were invested. The accrued benefits were paid partly from the DFRB Fund, but mostly from the CRF.

The Jess Review

Commencing work in 1970, the Joint Select Committee on Defence Forces Retirement Benefits Legislation reviewed the operation of the *Defence Force Retirement Benefits Act 1948* (the Jess Review), under the chairmanship of Mr J. D. Jess, CBE, MP (Liberal member for the seat of La Trobe 1960–1972). The main reasons for this review were the perceptions

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6. Contributing members of the DFRB were compulsorily transferred to the DFRDB effectively on 1 October 1972. Retired DFRB members continued to receive pension payments from that scheme.

7. As at 30 June there were 52 604 DFRDB pensioners and 5548 DFRDB contributing members. Source: DFRDB *Authority Annual Report to Parliament 2006–07,* pp. 38 and 40.

8. As at 30 June 2007 there were 6409 pensioners, 65 615 preserved benefit members and 47 721 contributing MSBS members: Source: *Military Super Board Annual Report to Parliament 2006–07* pp. 88, 90.

that the DFRB was too complicated, poorly understood by servicepersons and inflexible in its provision of benefits.[9]

Amongst other things this review recommended in 1972 that a new military superannuation scheme be established and that the assets of the DFRB Fund be transferred to the CRF.[10]

The Whitlam government's response to the Jess Review

The newly installed Whitlam government accepted the need for a new military superannuation scheme and agreed that the assets of the DFRB Fund be transferred to the CRF.[11] These assets were transferred between 1973 and 1975.[12] Contributing members of the DFRB scheme (i.e. active members of the ADF) were transferred to the new DFRDB scheme.[13] All contributions made by DFRDB members went (and continue to go) into the CRF.[14]

Is this 'stealing'?

Some retired members of the ADF consider that the transfer of the DFRB Fund assets to the CRF amounts to the theft of their superannuation savings.[15] This view may be based on the notion that the DFRB's member's benefits were wholly paid from the assets of the DFRB Fund.

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9. Mr D. J. Hamer, DSC, MP (member of the Jess Review), 'Second reading speech: Defence Force Retirement and Death Benefits Bill 1973, Defence Forces Retirement Benefits Bill 1973, Superannuation Bill (No. 2) 1973, Defence (Parliamentary Candidates) Bill 1973', House of Representatives, *Debates*, 30 May 1973, p. 2882 and following and J. D. Jess CBE, MP, Chairman–Joint Committee on Defence Force Retirement Benefits Legislation 1970–1972), *Report of the Joint Select Committee on Defence Forces Retirement Benefit Legislation*, Parliamentary Paper no. 74, 18 May 1972, p. 18.

10. J. D. Jess CBE, MP, op. cit., pp. 1, 2, 15, 18.

11. The Hon. Lance Barnard MP, then Minister for Defence, Navy, Army Air and Supply, 'Second Reading Speech, Defence Force Retirement and Death Benefits Bill 1973, Defence Forces Retirement Benefits Bill 1973, Superannuation Bill (No. 2) 1973, Defence (Parliamentary Candidates) Bill 1973', House of Representatives, *Debates*, 25 May 1973, p. 2709.

12. L. K. Burgess et al, *First Report to the Treasurer on the Administration of Part III Defence Forces Retirement Benefit Act 1948–1973–1 October 1972 to 30 June 1973*, 30 November 1973 and subsequent two reports of the same name (covering different time periods) in 1974 and 1975.

13. Comsuper, *The DFRDB Book*, 2007, p. 1.

14. Ibid., p. 3.

15. This view has been expressed to several Members and Senators in past years. For example, see Lieutenant Colonel RAE (Retd) John Pritchard, submission to the Senate Standing Committee on Economics inquiry into the Tax Laws Amendment (Simplified Superannuation) Bill 2007, 24 January 2007, p. 1.

Typically, only 20 per cent of a DFRB member's benefits were paid from the DFRB Fund.[16] The former DFRB and DFRDB member's full benefits are paid, but not from the same source as in 1972 and preceding years (i.e. not partly from the DFRB Fund). Rather, retired DFRDB and DFRB members receive their own contributions, and any investment earnings they may have otherwise accumulated, back as part of the benefits they receive directly from the CRF.

In its report, the Jess Review strongly recommended that the new DFRDB scheme be a contributory one (i.e. a scheme where members make a contribution from their salary).[17] But due to the generally shorter period of service in the ADF (i.e. then generally only 20 years) the new schemes members' contributions would not have sufficient time in which to accumulate sufficient earnings to pay the full benefits received.

Further, given the Commonwealth government's control of and access to taxation revenue, it was not necessary, or in some ways desirable, for the government to accumulate resources to pay these benefits as they accrued (i.e. pre-fund these benefits). Thus the government was to assume the sole responsibility for paying the benefits of the then new scheme when they became payable upon a service person's retirement. The government's assumption of sole responsibility for the payment of the benefits was in line with the normal practice in the United States, Canada and the United Kingdom at the time.[18] As such, the Commonwealth's assumption of sole responsibility for the payment of benefits was simply standard operating practice for military superannuation schemes of the time.[19]

The Whitlam government and pension indexation

A significant issue for those receiving military superannuation pensions is the indexation of those pensions.[20] Indexation is the annual or semi annual increase in the pension paid. Currently, all military superannuation pensions are indexed to changes in the Consumer Price Index (CPI) as calculated by the Australian Bureau of Statistics.

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16. J D Jess, CBE, MP, op. cit. p. 18.

17. J. D. Jess, CBE, MP, op. cit., 1, 15. Briefly, the reasons for this recommendation were that services members wanted to make a contribution to ensure a say in running the scheme and to counter any possible inclusion of the provision of benefits as part of the service-person's pay. It enabled the funding of the benefits to be undertaken on a 'pay as you go' basis', enabling the Commonwealth to achieve ongoing savings and the then social and taxation arrangements were geared contributory schemes.

18. J. D. Jess CBE, MP, op. cit., pp. 13–15, 19–20.

19 This was basically in line with the superannuation arrangements the Government also had in place for its civilian employees.

20. Regular Defence Force Welfare Association, *Submission to Military Superannuation Review*, April 2007, p. 5–6.

The Jess Review recommended that military superannuation pensions ‘be expressed as a percentage of final pay and be adjusted annually so that relativity with average weekly earnings is maintained’.[21]

The Whitlam government’s response to the indexation issue

Speaking about the indexation of pensions paid by the DFRDB, the Minister sponsoring the new legislation noted that the question of the indexation of all Commonwealth superannuation pensions was then being examined.[22] During this period the Whitlam government was reviewing the Commonwealth’s superannuation arrangements and was developing the policy that led up to the introduction of the Commonwealth Superannuation Scheme (CSS) which was, for the period between 1976 and 1990, the main civilian superannuation scheme for Commonwealth public servants.[23]

On 5 March 1974, the then Treasurer, the Hon. Frank Crean, MP, announced that in view of the complexity of the matter, the Government had decided to seek the benefit of outside actuarial advice on his proposals for a new superannuation scheme for Australian Government employees.[24] The subsequent report on the Treasurer’s proposals was compiled by Mr G. L. Melville and Professor A. H. Pollard and commented specifically on the post-retirement indexing of Commonwealth superannuation pensions.[25] This reference to an independent expert followed the policy of the previous McMahon government.[26] Professor Pollard was commissioned by the previous government to review the methods for indexing all Commonwealth superannuation pensions, including military pensions.[27]

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21. J. D. Jess MP, CBE, op. cit., Recommendation 6, p. 1.
22. The Hon. Lance Barnard, MP, op. cit., p. 2709.
23. Superannuation Board, *Report on the Treasury Committee on Superannuation – Summary of Recommendations,* Canberra, 8 May 1973 and Treasury: *the Treasurer’s Proposals for A New Superannuation Scheme For Australian Government Employees,* Canberra, March 1974.
24. Treasury, op. cit., p. 1.
25. Letter, from the Hon. Frank Crean, MP, Treasurer, to Mr G. L. Melville and Professor A. H. Pollard, 28 March 1974, Appendix A, Melville G. L. and Pollard A. H., *Report On The Treasurer’s Proposals for A New Superannuation Scheme For Australian Government Employees,* June 1974, Parliamentary Paper no. 103, 1974.
26. The Rt. Hon. William McMahon, CP, MP, Prime Minister, ‘Defence Forces Retirement Benefits’, House of Representatives, *Debates,* 26 October 1972, p. 3281.
27. Mr D. J. Hamer, DSC, MP, op. cit., p. 2884. It is not clear whether Professor Pollard independently reported in response to his commission from the McMahon government.

This report recommended that, under the proposed provisions of the CSS, it would be appropriate to index the government financed pension 'to be increased automatically and annually by the percentage increase in the Consumer Price Index'.[28]

This recommendation was made against the background of the then current Commonwealth superannuation scheme (the 1922 scheme). The 1922 scheme main features were that it:

- did not pay a lump sum benefit
- paid an un-indexed pension financed by the contributions (and associated investment earnings) of the employee, and
- paid an irregularly indexed pension financed by the government.[29]

To maintain the overall value of both pensions the government financed pension was indexed by 1.4 times the relevant increase in the CPI, though not at annual intervals.[30]

Melville and Pollard argued that since the proposed superannuation scheme (the CSS) was generally to pay a lump sum in addition to an indexed pension there was no need to index this pension by 1.4 times the CPI increases. That is, the standard benefits paid by the CSS would not include an un-indexed pension. Accordingly, only CPI indexation was necessary in respect of the government financed pension paid by the CSS.[31] This view was subsequently accepted by the government and incorporated into the features of the CSS.

Indexing the DFRDB pension

The enabling legislation for the DFRDB scheme, the *Defence Force Retirement and Death Benefits Act 1973* (DFRDB Act), as first passed by the Parliament, did not contain Part XA, which provides for the indexation of DFRDB pensions in line with changes to the CPI.[32]

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28. Melville and Pollard, ibid., p. 16.
29. Before the implementation of the CSS, Commonwealth civilian superannuation pension paid by the 1922 scheme were indexed at irregular intervals by separate acts of Parliament (e.g. the *Superannuation Act 1973*).
30. An example of indexing the pension by 1.4 times the CPI follows. Say the CPI for a year was 4 per cent. 1.4 times 4 per cent is 5.6 per cent.
31. A CSS member may choose to receive an un-indexed pension based on their member contributions and associated interest. But comparatively few choose to take their benefits in this form.
32. Sections 98A to 98F, *Defence Force Retirement and Death Benefits Act 1973*.

These sections were added to the DFRDB Act by the *Defence Forces (Retirement and Death Benefits Amendments) Act 1977*. The reason why these particular arrangements were inserted into the DFRDB Act was set out in the second reading speech, as follows:

> In essence, therefore, the pension updating arrangements encompassed by this Bill achieve the earlier stated aim of consistency with those currently applying to the comparable classes of pensioners under the Commonwealth Public Service superannuation schemes.[33]

The CSS commenced operation in 1976 and its standard pension is indexed to changes in the CPI. Thus the government of the day (the Fraser government) sought consistency in the manner in which all Commonwealth retirement income streams (i.e. pensions or retirement pay) were indexed.[34]

Retired ADF members were permanently disadvantaged

As noted above, the indexation of military superannuation pensions has been, and is currently, an important issue for retired members of the ADF.[35] It has been alleged that by indexing the DFRDB (and by implication the MSBS) pension to the CPI, military superannuation pensioners have suffered a permanent disadvantage as increases in wages have exceeded increases in the CPI. The following graph illustrates the comparative rates of change in the CPI and Male Total Average Weekly Earnings (MTAWE).[36]

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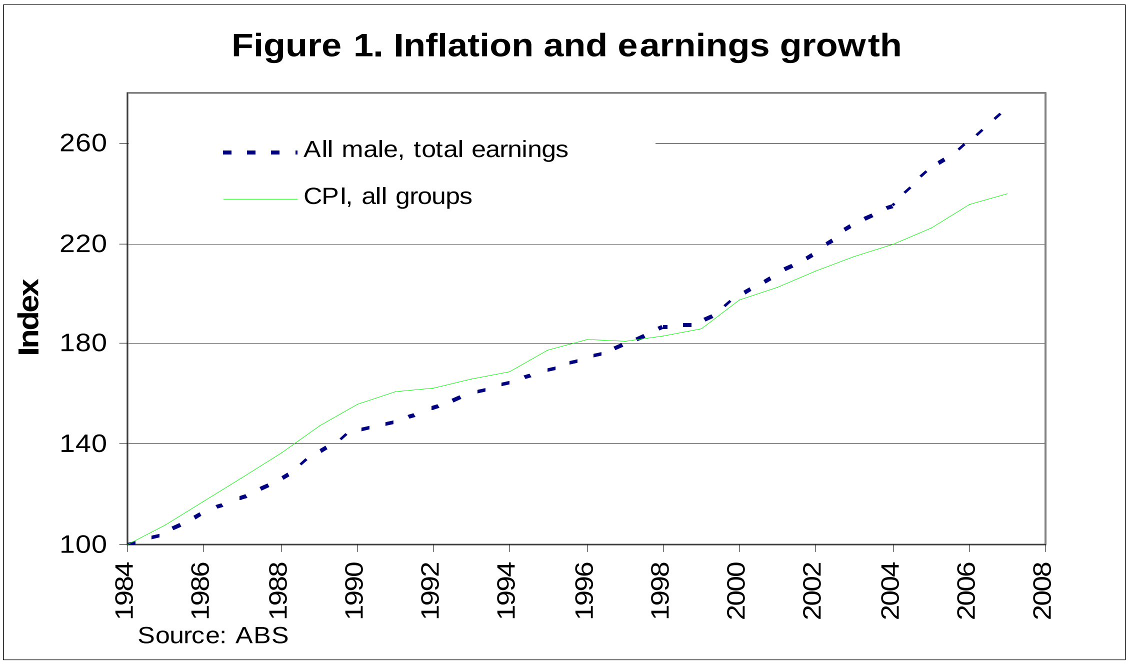
33. Mr McLeay. MP, Minister for Construction and Minister Assisting the Minister for Defence, 'Second Reading Speech Defence Force (Retirement and Death Benefits Amendments) Bill 1977', House of Representatives, *Debates*, 17 February 1977, pp. 196–197.

34. DFRDB pension increases were authorised by separate annual Acts between 1 October 1972 and mid 1977. Interestingly, the indexation basis was 1.4 times the increases in the lesser of a) increases in the CPI, or b) increases in male average weekly earnings. However, in adopting this basis the government was simply indexing these pensions in broadly the same way as pensions paid by the 1922 scheme were indexed. See subsection 4(2) *Defence Forces Retirement Benefits (Pension Increases) Act 1973*, section 3 *Defence Forces Retirement and Death Benefits (Pension Increases Act 1974* and sections 6 & 7 *Defence Forces retirement and Death Benefits (Pension Increases) Act 1976* for increases between 1973–74 and 1975–76.

35. Regular Defence Force Welfare Association, *Submission to Military Superannuation Review*, April 2007, p. 4–6.

36. MTAWE has been chosen as the measure of average wages in this section due to its use as one of the basis for indexing the social security Age Pension (see later discussion).



While it is true that MTAWE increases are currently increasing at a faster rate than CPI increases, the above graph demonstrates that there have been times in the past when the CPI has grown at a greater rate than MTAWE. In particular, between 1985–1986 and 1989–1990 the CPI was increasing at a greater rate than earnings rates, mainly due to increasing interest rates and the then wages accords. This again happened briefly in 2000–2001, due to a spike in the CPI induced by the introduction of the goods and services tax. All other things being equal, this would have led to military superannuation pensions increasing at a faster rate than average wages during these periods.

In short, whether a disadvantage has been suffered by retired ADF members through the indexation of their pension to the CPI depends entirely on when the person began to receive these payments.

'Hawke stole my super'

On several occasions retired members of the ADF have noted that, at one point, the full CPI indexation of the DFRDB and DFRB pensions was not paid.[37]

The *Superannuation and Other Benefits Legislation Amendment Act 1986* amended the legislation governing the operation of both the DFRDB and DFRB from the payday of 23 October, 1986 to discount the 1986 pension increase by 2 per cent from 9.2 per cent to

37. Comments made to individual members an Senators.

7.2 per cent.[38] This policy continued till 20 October, 1989 (that is, the full CPI increases were not passed on to DFRDB pensioners). There was no later increase in the DFRDB pension to make up for this period of discounting.

These actions were undertaken as a budget measure in response to the unusually high rates of inflation of the period combined with a shortfall in government revenue. The rates of increase in CSS pensions were also discounted in the same way during this period.[39]

Indexing military superannuation pensions to the CPI leads to a decline in retirees standard of living

Retired ADF community representatives argue that indexing military superannuation pensions to increases in the CPI leads to a steady decline in the standard of living of retirees. They argue that the standard of living of the general community is best measured by increases in the average level of wages, not prices.[40]

The problems with the CPI versus an earnings based index as an indexation method can best be summed up by the comments in the Senate Select Committee on Superannuation and Financial Services' report *A 'Reasonable and Secure' Retirement?: The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes* relating to the Australian Bureau of Statistic's evidence to the Committee. The report states:

> 3.27 At the public hearing, the Australian Bureau of Statistics (ABS) explained the rationale for the compilation of the CPI and what it aims to achieve. The ABS reported that the CPI, as a measure of inflation, is gauged on the basis of price rises on a designated basket of goods; and that the composition of the basket is designed to represent all but not any one particular household. The price on each item is adjusted on an annual basis and the composition of the basket re-weighted on a five yearly basis. The ABS also stated that a number of major reviews of the index have been conducted, such as in 1992 and 1997.
>
> 3.28 ABS representatives emphasised that the adequacy of the index depends on the particular purpose intended. They judged that the index was perfectly adequate to gauge the rise in costs of particular items in the basket of goods over a period of assessment. However, 'to the extent that that fixed basket of goods and services becomes less and less representative of an overall living standard, then the CPI will not pick it.' This is because: 'The CPI is not a measure of the cost of living. It is a measure of inflation and there are differences between the two things'.

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38. Defence Force Retirement and Death Benefits Authority, *Annual Report 1986–87*, Parliamentary Paper no. 391, 1987, p. ix.

39. The Hon. P. J. Keating MP, Treasurer, 'Second reading speech Appropriation Bill No. 1. 1986–87', House of Representatives, *Debates*, 19 August 1986, p. 260.

40. Regular Defence Force Welfare Association, op. cit., p. 5.

> 3.29 The ABS concluded that if the purpose was to maintain a relative standard of living with other groups in the community then 'an earnings measure of some sort' would be a more appropriate vehicle for indexation'. Finally, the ABS told the Committee that in weighting the CPI it had to make an 'on balance' decision about its primary purpose which, in the end, is a policy issue.[41]

In short, CPI is a measure of inflation, not the cost of living. To the extent that increases in inflation do not represent increases in the cost of living the indexation of any pension by the CPI may produce a fall in the recipients standard of living. That said, if a government wanted to ensure that a pension was indexed only to compensate for increases in costs no better alternative has bee put forward than indexing these payments to the CPI.

Other Commonwealth government pensions are indexed to increases in wages

A common point made in support of indexing military superannuation pensions to increases in wages, as well as the CPI, has been that other commonwealth superannuation pensions are indexed to increases in wages; specifically, parliamentary pensions, judges pensions and pensions paid to retired Reserve Bank of Australia officers.

Former parliamentarians, who entered parliament before the 2004 election, may be paid a pension upon their exit from parliament.[42] These pensions are increased in line with increases in the annual allowance for serving senators and members.

Upon retirement after 10 years service a Commonwealth judge's pension is 60 per cent of the appropriate current judicial salary (less any adjustment for the superannuation contributions surcharge). When the judicial salary is increased, so is a retired Federal judge's pension.[43]

A Federal judge's basic salary is determined by the Remuneration Tribunal. The basic salary of parliamentarians is linked by regulation[44] to a reference salary in a Principal Executive Officer classification determined by the Remuneration Tribunal.[45]

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41. Senate Select Committee on Superannuation and Financial Services, *A 'Reasonable and Secure' Retirement? The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes*, April 2001, pp. 28–29.
42. Former parliamentarians must meet the minimum eligibility requirements set out in the *Parliamentary Contributory Superannuation Act 1948* in order to receive such a pension.
43. Former federal judges have to meet the requirements of the *Judges Pension Act 1968* in order to receive such a pension.
44. See Remuneration and Allowances Regulations 2005 (Select Legislative Instrument 2005 No. 308).
45. For example see Remuneration Tribunal, Determination 2005/19; Principal Executive Office–Classification Structure and Terms and Conditions, 20 June 2007.

Under the provision of the Legislative Instruments Act 2003 a Tribunal determination, or part of it, can be disallowed by the Parliament.

The question is whether the Remuneration Tribunal determines salaries in direct relationship to movements in wages. In its 2005–06 *Annual Report*, the Tribunal outlined some of the factors that it takes into account:

> In determining annual adjustments, the Tribunal takes account of a range of factors. Statistical indicators, such as movements in the labour price index; increases incorporated in Australian Public Service and public sector certified agreements; and increases in agreements generally, provide some guidance.
>
> Movements in senior management remuneration are also relevant, given the nature of many of the offices in the Tribunal's jurisdiction. The Tribunal is not, however, overly influenced by executive remuneration surveys…[46]

Thus, movements in parliamentary base salary and federal judge's salary are not automatically linked to increases in general wages. However, movements in public sector salaries as well as other matters appear to be very influential in the Tribunal's decisions. Finally a Tribunal's determination is subject to parliamentary approval.

Since September 2002 pensions paid by the Reserve Bank of Australia Officers Superannuation Scheme have been indexed to changes in MTAWE. Prior to this date these pensions were indexed to changes in the CPI.

Tax treatment of military super pensions

DFRDB and DFRB

From 1 July 2007, a pension paid from a funded or taxed superannuation source is tax free if the recipient is over 60 years of age. A funded superannuation source is one that has been subject to the 15 per cent superannuation fund income tax (that is, 15 per cent on contributions and 15 per cent on earnings).[47]

A pension paid by the DFRB and DFRDB schemes is paid from CRF, which is not subject to tax, and thus, the pension is paid from an unfunded or untaxed source. That is, the source

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46. Remuneration Tribunal, *Annual Report 2005–06*, p. 1.

47. The Annual Reports of the Defence Forces Retirement Benefits Board for 1970–71 and 1971–72 do not indicate that either contributions to, or the investment earnings of, the DFRB Fund was subject to tax. See annual accounts of the DFRB Fund in Burgess L. K., Caffin S. W., Davey R. Britten C. J. W., Wollard R. P., Pickering H. A. H. (with Perriman R. J. in 1972), *Defence Forces Retirement Benefits Board Twenty Third Annual Report for year 1970–71*, Parliamentary Paper no. 63, 1972 and *Twenty Fourth Annual Report for the year 1971–72*, Parliamentary Paper no. 273, 1972.

from which these particular pensions are paid is not subject to the 15 per cent superannuation fund income tax. These pensions are fully taxable in the hands of the recipient. This difference in tax treatment has been a source of discontent amongst retired ADF members.[48]

If a pension from an unfunded source is paid to a person over 60 years of age that person is entitled to a tax offset of ten per cent of the gross amount of that pension. The following table shows the maximum amount of pension that can be received tax free after reaching 60 years of age, taking into account the above mentioned 10 per cent tax offset and the low income tax offset in the 2007–08 year.

Table 1 Maximum tax free unfunded pension; 2007–08

Annual Pension	$30 628
Tax Paid	$3 788
10% Tax Offset	$3 063
Low Income Tax Offset	$725
Tax Actually Paid	$0
Net Annual Income	$30 628

Source: Parliamentary Library

The figure of $30 628 per annum is well above the average pension now paid from the DFRDB.[49] Thus the majority of pensions from the DFRDB (and most likely the DFRB) are, in the absence of other income, effectively tax free (not including any Medicare Levy payable).

MSBS

The tax treatment of an MSBS pension is more complicated, and depends on the source of the particular pension paid. This will be different in every case and the following are general comments only. A portion of such pensions is paid from a taxed or funded source and is tax free in its own right if paid after the recipient passes 60 years of age. The amount of pension paid from the untaxed or unfunded source is likely to be well below the $30 628 figure. In the absence of other income, the majority of MSBS superannuation pensions are likely to be tax free when received by those over 60 years of age in the absence of other income.

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48. Regular Defence Force Welfare Association, op. cit., pp. 8–9.

49. The average annual military superannuation pensions paid in 2006–07 were: DFRDB: $20 478 (The DFRDB Authority *Annual Report 2006–07*, p. 44), MSBS $18 000 (The MSBS Board *Annual Report 2006–07*, p. 149).

Military pensions are not indexed in the same way as the age pension

A major source of disaffection in the current debate about the indexation of Commonwealth pensions is the method used to index the social security age pension.[50]

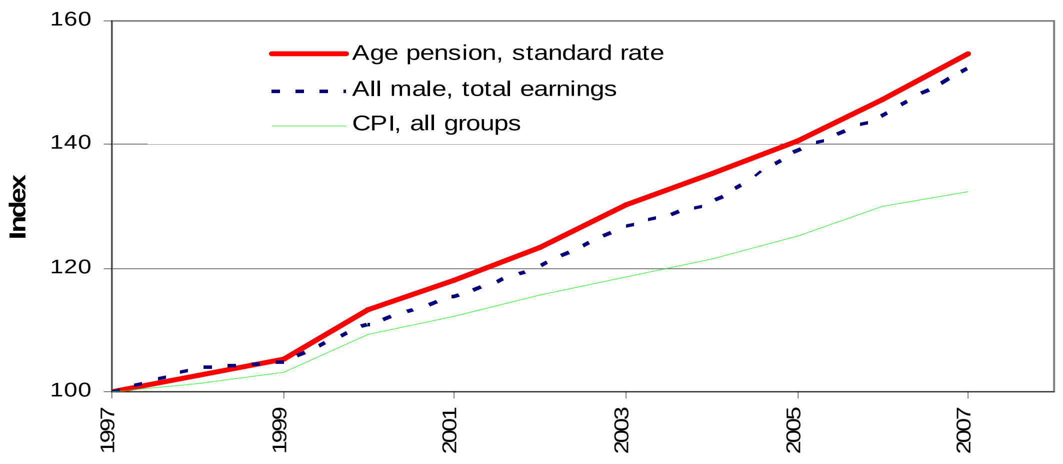
Section 1191 of the *Social Security Act 1991* provides that the Age Pension increases in line with increases in the CPI. However, section 1195 of the same Act provides that the Age Pension is also increased so that it is not less than 25 percent of Male Total Average Weekly Earnings (MTAWE). The effect of these provisions is that the Age Pension increases in line with semi-annual increases in the CPI or MTAWE, whichever is the greater.

These formal provisions commenced in September 1997. However, it had been a matter of informal government policy that the basic Age Pension rate not fall below 25 per cent of Average Weekly Earning. However, there has been a formal link between general increases in wages and the rate of Age Pension payments since 1975.[51] In effect, the formal provisions enacted what had previously been an general government policy.

Relative movement of CPI, MTAWE and the Age Pension rate

The following graph shows the relative movement of the various indexes and rates involved in this debate. The figures are indexed at 100 in the September 1997 quarter, as the Age Pension was legislatively indexed to increases in MTAWE from this point onwards.

Figure 2. Inflation, earnings and pension growth



Source: ABS and FACSIA

50. Regular Defence Force Welfare Association, op. cit., pp. 5–6.
51. Policy of indexing the Age Pension to increases in average earnings first implemented in 1975, see *Social Services Act No. 3 1975* (no 110 of 1975).

As can be seen, the value of the Social Security Age Pension and MTAWE has increased at a faster rate than the CPI. This reflects the faster rate of increase in real wages, compared to inflation, over this period.

Military pensions topped up by the Age Pension

One of the unstated assumptions in the above arguments is that a retired military pensioner's retirement income is only derived from their government pension. This is not generally the case. For example, a retired ADF member, who is over Age Pension age (65 male, 60, increasing to 65 female depending on date of birth) can claim a part Age Pension, while receiving the full military superannuation pension.

All military superannuation pensions are assessed, for social security purposes, only under the income test. Currently, a couple can receive an annual non-social security income (such as a military superannuation pension) of up to $64 792 per annum and still be eligible for at least one dollar of a social security age pension per annum.[52] This limit is increased in line with increases in the Age Pension and is well above the average annual military superannuation pensions paid by the Commonwealth.[53]

Thus, not all of a retired ADF member's retirement income is potentially indexed to the CPI. A significant proportion of most retired ADF member's income after reaching Age Pension age may be indexed to the greater of increases in CPI or MTAWE through the recept of age pension payments.

Level and security of military retirement income

Generally, the level of benefits received by retired ADF members is far above what could be reasonably expected in non-government employment at a similar salary level. If the value of early access to these benefits is also taken into account, as well as the security of payment of these benefits (i.e. payment of military superannuation pensions is guaranteed by the government[54]), the comparative value of these benefits is generally far above that available in the private sector at the same income level with the same amount of contributions.

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52. Australian Government, *A guide to Australian Government payments*, 20 September–31 December 2007, p. 20.

53. Again, the average annual military superannuation pensions paid in 2006–07 are: DFRDB: $20 478 (The DFRDB Authority *Annual Report 2006–07*, p. 44), MSBS $18 000 (The MSBS Board *Annual Report 2006–07*, p. 149).

54. It should not be assumed that a government guarantee is not an absolute guarantee. Legislation authorising the payment of such pensions may be changed (though this is very unlikely). Further, during the 1930's depression the government of the day was not in a position to pay Commonwealth obligations for a short period of time.

While CPI indexation of military superannuation pensions may be viewed by some as reducing their living standards comparative to the rest of the community, it should not be forgotten that ADF retirees' income generally starts from a much higher level than the general run of retirees. This point reduces the comparative disadvantage that may be felt by retired ADF members.

A related point is that the payment of the social security Age Pension is subject to a means test. Generally the level of a person's Age Pension is determined by the amount of other assessable income the person receives for social security purposes or the amount of assessable assets they have. The rate at which an Age Pensioner is paid is the lower of the rates calculated under either the income or the assets tests.

A military superannuation pension is payable irrespective of the level of other assets a recipient has or income they receive. Put another way, in comparison to the Age Pension, a military superannuation pension is a very stable and predictable form of retirement income.

When considering the advantages and disadvantages of receiving a military superannuation pension it is worth noting the level of implied or notional contributions made by the government to fund the accrued level of military superannuation benefits.

The notional employer contribution rate is the contribution rate that would be required to fund the benefits accruing to serving members over the next three years on the basis that superannuation benefits are accrued uniformly over a member's period of service. No account is taken of the serviceperson's possible advancement in rank over that period or any increase in contributions (for MSBS members). They are notional contribution rates as the government does not actually contribute this amount of money to a serving ADF member's superannuation scheme.

The following table shows the notional employer contribution rates for each scheme as calculated as at 30 June 2002 and as at 30 June 2005. These rates can be thought of as the percentage of a service-person's salary that their employer (the government) contributes to their superannuation benefits.

Table 2: Notional employer contribution rate to Commonwealth military defined benefit superannuation schemes as a percentage of superannuation salary

Reported as at	MSBS	DFRDB
30 June 2002	23.2	33.9
30 June 2005	24.7	33.5

Source: Australian Government Actuary [55]

55. Australian Government Actuary, *Military Superannuation and Benefits Scheme and Defence Forces Retirement and Death Benefits Scheme—A report on long term costs carried out by the Australian Government Actuary using data to 30 June 2005,* 2006, p. iv.

These notional employer contribution rates are higher than the notional contribution rates for the Commonwealth's civilian defined benefit superannuation schemes (the CSS c.f. DFRDB (28.2 per cent) or the Public Sector Superannuation Scheme c.f. MSBS (15.6 per cent) and the actual contribution rate under the post 2004 election Parliamentary superannuation scheme (15.4 per cent)).[56] This is not to suggest that these higher rates are unjustified. Further, these contribution rates are far in excess of the current 9 per cent of ordinary time earnings that private sector employers are obliged to contribute to their employee's superannuation accounts under the Superannuation Guarantee regime.[57]

Conclusion

No-one can question that serving in the Australian Defence Force is a unique and very important occupation making a significant and lasting contribution to overall national security and welfare defined in its broadest sense. And no-one should make light of the stress and dangers of this occupation. Indeed, service personnel are subject to considerable danger, injury and death whether or not they are serving in an area of combat operations. Further, in past years a service person was encouraged to retire from the military once they had completed at least 20 years of service and had reached a particular rank (the actual age at which this occurred depended on the rank reached). This age was a comparatively young one by civilian standards.[58] Military service is a special occupation and deserves special recognition.

In the same way, no-one should make light of the often legitimate grievances that retired service personnel have about their superannuation arrangements. However, neither should the presentation of those grievances be based on poorly understood events in the past or a less than adequate understanding of the advantages of current arrangements. The object of this paper has been to provide better information on these matters.

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56. CSS and PSS notional rates from Australian Government, Department of Finance and Administration, *PSS and CSS Long Term Cost Report 2005*, Canberra June 2006, p.3. For the post 2004 election Parliamentary Superannuation Scheme see subsection 8(2) *Parliamentary Superannuation Act 2004*.

57. As at 30 June 2006 the likely average balance of a civilian employee's superannuation fund at retirement was estimated to be about $165 000. Source: Institute of Actuaries of Australia; *Tax Free Superannuation Benefit—A Future Revenue Problem?,* a paper by the Institute's Superannuation Tax Reform Task Force, Sydney, 2006, p. 2. This figure is at the higher end of such estimates. The lump sum value of military superannuation benefits, especially for the pensions paid, is far above this figure.

58. This is not the case currently as the author understands that experienced military personal are being encouraged to continue in the service beyond the notional retirement age for rank reached after completing at least 20 years of service.

Any future scheme should take account of the unique nature of military service; not just as a matter of natural justus, but also for the benefit of the ADF – to attract and retain suitable personal.