

INJUSTICES IN THE COMMONWEALTH GOVERNMENT LEGISLATION WHICH CONTROLS THE SUPERANNUATION ENTITLEMENTS OF MEMBERS OF THE DEFENCE FORCE WHO HAVE SERVED OUR COUNTRY

Introduction

An essential factor in the Commonwealth of Australia accepting military service from its citizens is the understanding that the nature of that service is unique.

Australian citizens do not lightly commit to serve in our country's Defence Force. Amongst other things, it involves accepting military discipline, curtailment of freedom, regular moves and long periods away from family and friends. Regular consequences of military service are injury, permanent incapacity and death.

Ex Defence Force personnel have every right to expect that their country recognizes that it has an obligation to adequately provide not only for their welfare but also for their dependents.

Defence Force Retirement and Death Benefits Act

The Defence Force Retirement and Death Benefits Act - 1973 (*the DFRDB Act*) is the legislation which controls the superannuation entitlements of more than 60,000 ex Australian Defence Force personnel who have served our country and it has been a long held belief that this Act contains clauses which fail to honour our Government's obligation to them.

Section 24

Section 24 of the *DFRDB Act* affords Members the opportunity to take as a lump sum payment (commute) a portion of their superannuation, to assist with their re-settlement into civilian life. The maximum amount of the lump sum is determined by the number of completed years of service. Members who take up this option receive a reduced fortnightly pension where the amount of the reduction is determined by a life expectancy factor (in years), based on gender and age at the time of retirement.

The 2013 DFRDB Handbook includes a footnotes which states: "Commutation of a benefit results in a permanent reduction in your retirement benefit based on your life expectancy. Your retirement benefit will not be set to the pre-commutation rate, even if you attain or exceed your life expectancy." However, Section 24 of the *DFRDB Act* is silent on the matter and makes no such stipulation.

Since DFRDB came into existence in 1973, this non-legislative footnote attempts to justify, after 40 years, the interpretation of Section 24 that has been enforced over this period. Figure 1 clearly demonstrates the very punitive effect of this interpretation on all DFRDB Members who survive beyond their life expectancy.

Sub-section 98B (5)

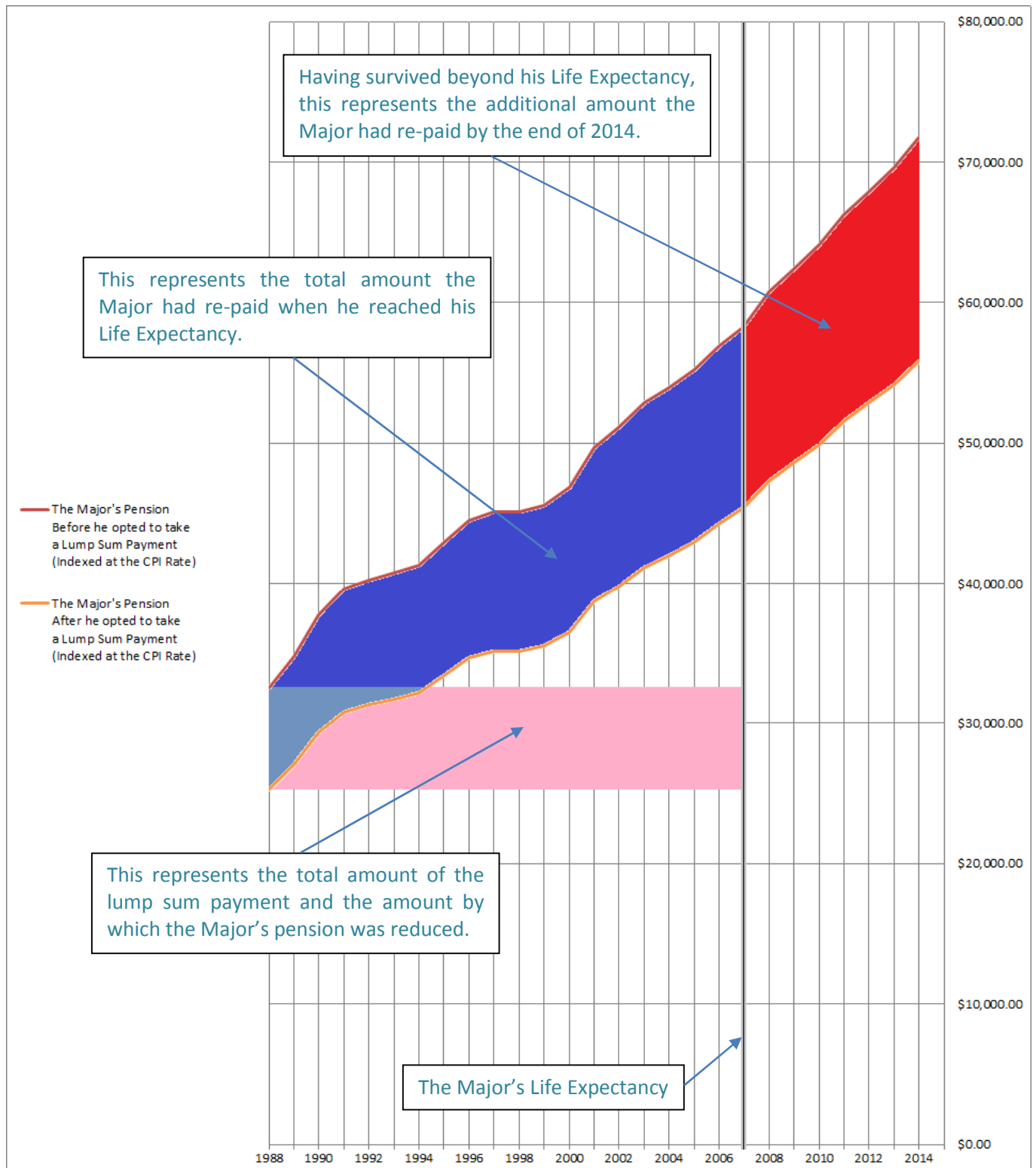
Sub-section 98B (5) of the *DFRDB Act* is an insidious clause which defines a mechanism designed to arbitrarily reduce the rate of indexation of certain Members' pensions and the entitlements of the dependent Spouses and Offspring of all deceased Members. Figure 2 clearly demonstrates the unjust impact of Section 98B (5).

The *DFRDB Act* must be amended to eliminate these injustices.

MEMBERS OF THE DEFENCE FORCE WHO HAVE SERVED OUR COUNTRY AND TAKEN PART OF THEIR PENSION ENTITLEMENT AS A LUMP SUM HAVE TO REPAY THAT AMOUNT UNTIL THE DAY THEY DIE

Figure 1. This describes the case of a Major who retired from the Army at the age of 55, after having served for 39 years. The Major exercised his entitlement to take as a lump sum (commute), 4.25 years of his pension entitlement to assist with his resettlement into civilian life. His Life Expectancy Factor was deemed to be 19.18 (i.e. 74 years of age). This is the factor by which the reduction in his fortnightly pension payments was determined.

However, the Major's obligation to re-pay the lump sum does not end when he reaches his Life Expectancy. He must continue to repay the lump sum amount until the day he dies.



MEMBERS OF THE DEFENCE FORCE WHO HAVE SERVED OUR COUNTRY AND THE DEPENDENT SPOUSES OF ALL THOSE WHO HAVE DIED ARE DENIED A FAIR PENSION BY OUR GOVERNMENT

Figure 2. This describes the case of a Major who retired from the Army at the age of 55, after having served for 39 years. The Major chose to not to commute any part of his pension entitlement. His Life Expectancy Factor was deemed to be 19.18 (i.e. 74 years of age) and this factor is used by the Government to arbitrarily reduce the indexation rate of his pension. The graph below indicates:

1. How far the Major's pension has fallen behind the CPI as at the end of 2014.
2. How far his Spouse's pension would have fallen behind the CPI, if the Major died when he reached his Life Expectancy.

