



DEFENCE FORCE WELFARE ASSOCIATION  
A member of the Alliance of Defence Service Organisations (ADSO)\*

## MONTHLY UPDATE #262 – 16 July 2011

UPDATE is a monthly news sheet produced by the Defence Force Welfare Association containing current items of interest to the Service and ex-Service community. It is widely distributed to Members of Parliament, media outlets, senior Service and Public Service Officers and DFWA members.

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### A SERVICEMAN AND WOMEN'S RIGHT TO PRIVACY – WHO CARES ?

A recent note from the National Archives of Australia explaining why they can release military records of members of the ADF has not been well received by the Defence Community. The following letter, recently received by the DFWA from a retired ADF member, says it all:

*I know you and the DFWA have been working on this issue for some time now. Following a quick scan of the attached document from the National Archives of Australia, it would appear to me that our Government and its bureaucrats ignore the rights of every service man and woman to have their personal affairs and records kept private. It is a disgrace.*

*Not only that but it also makes it easier for anyone with criminal intent, should they so desire, to steal the identity of the men and women who served this country with distinction.*

*This is just another example why I shall be using my best endeavours to make sure that my grandchildren and others do not volunteer for a career in our armed forces.*

Clearly, many people do care even if the Government does not. The explanation received from the NAA can be found in the latest edition of the Association's magazine *Camaraderie*.

### MEETING WITH DEPARTMENTAL OFFICIALS

On 28 June 2011 officials from the Association met with senior bureaucrats from the Department of Finance and Deregulation, the Department of Defence and the Australian Government Actuary to discuss costings for fair indexation.

We were somewhat surprised at the lack of knowledge shown by some at the meeting regarding the Australian Bureau of Statistics (ABS) views on the Consumer Price Index (CPI). We reiterated that the ABS has said that CPI is not a measure of the cost of living and wasn't that the fundamental reason for introducing fair indexation for Age pensions in 1998? We also reminded the meeting that that the purpose of the military superannuation scheme (DFRDB) was to provide a pension that maintained purchasing power – and that an employer promise has been broken.

Contrary to the assertion made a number of times at the meeting it remains our understanding that the ANAO has not validated the Department's compliance with current accounting standards for the reporting of government unfunded superannuation liabilities. We asked the Department that should our understanding be incorrect, we would be pleased to receive such evidence.

We also asked the reasons why DoFD does not show or account for other contingent assets / offsets in its estimates, such as the revised clawback of 30% and the approximate \$74B and \$22B in funds under management within the Future Fund and ARIA respectively, all of which in practice would appear to reduce the total of the Commonwealth unfunded liability.

Finally much was said during the meeting about Mr Peter Thornton's financial analysis being "just plain wrong". Whilst Thornton is an independent researcher and commentator on such matters for the benefit of all retirees, we think his detailed and analytical rebuttal to the Government's figures is compelling. To date there has not been any formal DoFD response to the analysis, which would imply that there is indeed considerable validity in what Thornton has said.

The bottom line is that the discredited scare tactics about costs being thrown about by Government Ministers and officials are essentially irrelevant to the argument. Fair indexation for military superannuants will cost *in annual cash terms* less than \$20m a year. We ask readers not to be scared by the “billions and billions” rubbish that these same officials seem to delight in tossing up. It managed to scare off the Greens (or provided them with a convenient out) and also Senator Xenophon in the Senate on 16 June: we trust others won’t fall for the same trap!

## REVIEW OF MILITARY COMPENSATION ARRANGEMENTS

The Association, as part of the Alliance of Defence Service Organisations (ADSO)\*, has submitted its response to the Review. Before the Review Committee began its work, DFWA and other members of ADSO made submissions setting forth their views on matters of concern in the content and application of the Military Rehabilitation and Compensation Act (MRCA). We are pleased to note that many of the concerns we put forward are now no more. Others, it must be said, persist and the Review has seen fit either to reject them or to ignore them.

Some matters raised in our response include:

- The Committee rejected the concept of “Reasonable Expectation” as an element in calculating incapacity payments, largely on the grounds that it would be impossible to make any judgement on what those expectations would be in any particular case. We suspect that the Committee’s view might have been influenced by its encounter with the question of allowances in the nature of pay and the severe difficulty this entails when applied to incapacity payments. ADSO disagrees with the Committee’s position on this matter. We contend that not only can reasonable expectations be postulated in general in a vocation such as service in the ADF – where requirements for career advancement through the junior ranks of both Officers and Other Ranks is, for most, a structured process, and is comparatively predictable for those who comply with the requirements – but that it is amenable to calculation in an individual case without undue difficulty.
- There is much in the report to improve the position of members of the Reserve forces under MRCA. This is unreservedly welcomed by us.
- We reject unequivocally the Committee’s position on offsetting incapacity payments for Commonwealth - funded superannuation retirement benefits. The report contains much factual recording of past and present positions upholding offsetting, but very little analysis of the reasons for these positions, and rejects the almost universal opposition of ESOs without explanation
- We are disappointed that the Committee chose not to consider inclusion of the dependants of members of the ADF who accompany the member overseas on posting for Service reasons, in the military compensation arrangements
- The report but does not examine the situation of claimants seeking review at the AAT. It is normal practice for the Commission to use the legal resources of DVA in preparing a case, and to be represented at the AAT by legal professionals who might be either Departmental lawyers or legal practitioners hired for the purpose. The ADF member or former member who seeks review at the AAT is at a disadvantage either because he/she not able to secure legal aid at all, or is in receipt of legal aid at a rate that cannot match that paid by DVA for the sometimes formidable legal teams assembled by them.

The full ADSO response can be found on the Association’s website.

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\* ADSO consists of the Defence Force Welfare Association (DFWA), the Naval Association of Australia (NAA), the RAAF Association (RAAFA), The Royal Australian Regiment Corporation (RAROC) and the Australian Special Air Service Association (ASASA).