

# REGULAR DEFENCE FORCE WELFARE ASSOCIATION INC NATIONAL OFFICE

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*Patron:* His Excellency Major General Michael Jeffery AC CVO MC (Retd)

Governor-General of the Commonwealth of Australia

Ref: 54.01

28 June 2007

The Secretary  
Senate Standing Committee on Finance and Public Administration  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Stephen,

I should, perhaps introduce myself as the new National President of the Regular Defence Force Welfare Association (RDFWA), following the death of Commodore Harry Adams in April.

## **Submission**

### ***Inquiry into the provisions of the Superannuation Legislation Amendment Bill 2007***

RDFWA welcomes this opportunity to make a submission to the Committee on two provisions of the Bill.

Most of the Bill deals with PSS and CSS Act measures which are not directly within the purview of this Association, although we draw the Committee's attention to the fact that those measures reflect policy changes announced in the 2007 Budget and are already appearing here in legislative form.

#### **Reversionary spouse benefits under the DFRDB Act**

Our primary concern relates to a policy change which was announced in the 2006 Budget – reversionary spouse benefits under the DFRDB Act as applied to post retirement marriages - and is only now being addressed in this legislation!

Schedule 6 of the Bill changes the marital relationship test applicable to DFRDB scheme pensioners who are over 60 when they marry or remarry. It will reduce the subsequent qualifying period of the relationship, before their spouse/partner can receive a reversionary pension, from the previous 5 years to a *pro rata* period of no more than 3 years to receive the full pension. In so doing, it will bring military pensioners into line with a provision enjoyed by public service pensioners since 1 July 2003.

RDFWA welcomes this long overdue measure but is most concerned about the delays in implementing it.

Leaving aside the obvious point that what was made available to public service pensioners and their spouses four years ago is only starting to be legislated for military pensioners now, the Committee may care to inquire of the Department of Finance and Administration and ComSuper why:

- a. a measure announced in the 2006 Budget has taken until now to appear in legislative form;
- b. the measure was not made retrospective to either 1 July 2003 or, at least, to the date of its announcement in the 2006 Budget; and
- c. the commencement provisions in Section 2 of the Bill rely on proclamation, with a “Macklin Clause” allowing up to six months to draft the regulations. Given that the new regulations should mirror the regulations for the existing public service scheme, a competent legislative drafter should be able to produce them for the Executive Council in less than a day. The regulations should, therefore, be ready if Schedule 6 came into force 28 days after Royal Assent.

It was only a few days ago that RDFWA learned definitively that the commencement of the measure will not be retrospective to the date of announcement (May 2006).

Committee members may care to consider the practical effect of the delays on any affected defence widows, who are the principal beneficiaries of this measure. Most would be looking for a small pension, typically of the order of \$10,000 to \$20,000 pa. Many knew of the May 2006 announcement and that the legislation to implement it had been expected to be introduced in 2006. They would probably have had to consider their future accommodation position at that time and a lifetime pension, no matter how small, would probably be a significant factor.

Thus, upon the death of their spouse after May 2006, the surviving spouse might then have needed to make a decision whether to assume that the pension would be provided in due course, in which case they might be justified in taking out a bridging loan in the expectation of eventually receiving the back-dated arrears or, perhaps, selling their family home in the expectation that the legislation would not be retrospective.

RDFWA has received correspondence from the Minister for Veteran’s Affairs in which Mr Billson suggests that there is some possibility of Act of Grace payments for cases arising between the 2006 Budget announcement and the commencement of Schedule 6. Given that those spouses caught in this position will have lost an entitlement to a pension for life, the Committee may care to inquire of the Minister just what amounts are envisaged.

The Association can advise the Committee that, because she inquired soon after the May 2006 announcement, we are aware of one surviving spouse who has lost her entitlement to a pension because of the delays thus far, and there will probably be several more before this measure is implemented. The Committee will appreciate that it is simply not possible for RDFWA to determine how many may be affected in total.

RDFWA also points out to the Committee that, should an election be called before this legislation receives Royal Assent, then even with the best will in the world it could be another year before this long overdue measure is implemented.

**Recommendation:** RDFWA recommends that the Committee considers:

- a. whether it is possible to backdate the commencement of this measure, without delaying the passage of the Bill, to either:
  - (1) 1 July 2003, to bring this aspect of military pensions back into line with public service pensions, or
  - (2) to the date of the May 2006 Budget announcement, noting that it was a *Budget* announcement, so funding has already been provided to do this;

or, if that is not possible

- b. amending the commencement of Schedule 6 in Part 2 of the Bill to “A day or days to be fixed by Proclamation.

However, if any of the provision(s) do not commence within the period of 28 days beginning on the day on which this Act receives Royal Assent, they commence on the first day after the end of that period.”

**Restoration of a pension than was previously cancelled on re-marriage.**

Schedule 4 of the Bill provides for the restoration, from 1 January 2008, of a DFRB or DFRDB pension that was previously cancelled on re-marriage, prior to 1977.

The Committee may care to inquire of ComSuper how it proposes to alert such beneficiaries of their possible entitlements, noting that the Bill indicates that it is the responsibility of the beneficiary to make application to ComSuper and also noting that potential beneficiaries would, in many cases, have had no contact with ComSuper for over 30 years.

**Publication of this Submission and Appearance Before the Committee**

RDFWA has no objections to the publication of this submission by the Committee and I and/or its National Secretary, Richard Griffiths, would be happy to appear before the Committee.

David Jamison  
National President