

## Senate Committee Enquiry, Defence Force Retirements and Death Benefits Scheme

This submission is made by:

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Service: 25 January 1954 to 23 March 1980

### Introduction:

For the purposes of this submission reference to the Commonwealth Superannuation Corporation (CSC) will include the actions of the DFRDB Authority as if they were the same entity.

This submission will not attempt to argue legal matters, as that will be done by others, but will concentrate on the matters of expectation, using the available information at the time, and simple logic and clear thinking.

### Discussion:

In regard to Commutation, the DFRDB Act has only one (1) timeline defined, and that is Life Expectancy. This time line is included in the formula provided for the recovery of commutation by the Commonwealth and that formula has three elements: Principal (Commuted Amount) a Divisor (Life Expectancy) and a Result (Pension Reduction).

In lower grade mathematics when a Divisor is multiplied by a Result and it equals the Principal the formula ceases to have function until the Principal is recharged or replaced.

However, the CSC in its wisdom has decided that the result of this equation is Infinity. In addition, CSC has without any authority that can be identified in the Act chosen to upwardly index the pension reduction.

Whilst I acknowledge that CSC has the right to interpret the Act, I do not think that CSC has the right to, one hand, mis-interpret the Act, as in the pension reduction beyond Life Expectancy and, on the other make interpretations that have no reference in the Act. Indexation of the pension reduction has been explained with the following logic. As the pension reduction is directly related to the indexed pension it should also be indexed. Using this CSC logic, the commutation sum is equally related to the pension but remains fixed.

Prior to my retirement, the only, I repeat only information made available to me was the Defence Publication which stated without any qualification, words to the effect that "Commutation is your ability to BORROW four (4) years value of your pension and pay it back over the period of your Life Expectancy". However, CSC has stated that their interpretation was that the pension reduction was a life impost and that interpretation was made early in the life of the Act, circa 1973. Both CSC and the Veterans Affairs Minister have explained their interpretation of the Act with this statement; **"Commutation is not a loan therefore; it cannot be repaid"** To say that I took insult at this nonsensical diatribe barely describes my reaction.

However, the CSC interpretation was kept hidden from DFRDB recipients for some 30 years whilst Defence continued publishing their contradictory commutation advice for some 20 years.

If CSC passed their responsibility to Defence for advising how Commutation worked, it stands to reason that they have the responsibility to ensure that the information was in accordance with their stated but, unpublished interpretation. Whether that interpretation was/is illegal is up to others. However, the information provided to me in this financial transaction was either correct in every

sense or, was totally in-correct, as it is now claimed by CSC. Regardless, I entered a financial transaction totally mis-informed one way or the other. One wonders why CSC is not subject to the usual auspices of APRA, ACCC etc and was specifically excluded from the Banking and Financial Institutions Royal Commission.

The Veterans Affairs Minister initiated an Ombudsman's enquiry into this matter and the Ombudsman decided to take the CSC evidence at face value. and totally ignore some 3000 Veteran Statutory Declarations.

Please do not allow this enquiry to go down the same path and ignore our pleas for some consideration. To be fobbed off by the Minister is bad enough, to have a Public Servant investigate the Public Service and ignore our evidence is insulting. This I believe is our last roll of the dice to have some fairness from our country. I might remind you of the Commonwealths commitment to Veterans; "For What They Have Done This We Will Do". Whatever, that means.

### **Reparation**

I think that this can be resolved by CSC taking the following action;

From day one of my pension assume that I **did not** commute.

Calculate the **total value** of my pension to a set date.

Deduct the total pension **amount paid**.

Deduct my **Commutation** amount.

Provide the difference as an un-taxed **Payment Gratuity**.

Revert my pension to its **Full Uncommuted Value**.

### **Conclusion**

As stated in my introduction, this is not meant to be a legal argument but rather, an explanation as to how and why I and, some 50,000 of my fellow Veterans were misled into making logical decisions by being given logical and un-ambiguous information by an authority delegated by CSC to provide said information. For CSC now to produce contradictory interpretations to the financial detriment to Veterans is beyond description.

Finally, I hope that this submission is read with its content in mind and not with a critical eye to its construction or expression.

Should you wish me to provide further clarification or, to appear before your committee please do not hesitate to ask.

Yours faithfully,

Clive Dennett

