

The Senate

Standing Committee on
Finance and Public Administration

Superannuation Legislation Amendment Bill
2007 [Provisions]

July 2007

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Abbreviations

ARIA	Australian Reward Investment Alliance
the bill	Superannuation Legislation Amendment Bill 2007
the committee	Senate Standing Committee on Finance and Public Administration
CPSU	Community and Public Sector Union
CSS	Commonwealth Superannuation Scheme
CSS Act	<i>Superannuation Act 1976</i>
Defence	Department of Defence
DFRB Act	<i>Defence Force Retirement Benefits Act 1948</i>
DFRDB Act	<i>Defence Force Retirement and Death Benefits Act 1973</i>
DFRB Scheme	Defence Force Retirement Benefits scheme
DFRDB Scheme	Defence Force Retirement and Death Benefits scheme
Finance	Department of Finance and Administration
HREOC	Human Rights and Equal Opportunity Commission
MSBS	Military Superannuation Benefit Scheme
MSBS Rules	Military Superannuation Benefit Scheme Rules
PSS	Public Sector Superannuation Scheme
PSS Act	<i>Superannuation Act 1990</i>
PSSAP	Public Sector Superannuation Accumulation Plan
PSSAP Act	<i>Superannuation Act 2005</i>
RDFWA	Regular Defence Force Welfare Association
SCOA	Superannuated Commonwealth Officers' Association
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
SIS Regulations	<i>Superannuation Industry (Supervision) Regulations 1994</i>
1922 Act	<i>Superannuation Act 1922</i>

Recommendations

Recommendation 1

4.13 The committee recommends that the Government instruct ARIA and ComSuper to advise members of the PSS and CSS of changes to their entitlements, and the general benefits and disadvantages associated with reducing member contributions and leaving the PSS. This advice should include an invitation for members to contact ComSuper to discuss their current and future individual benefits within the PSS or CSS before choosing to reduce their contributions or leave the PSS.

Recommendation 2

4.23 The committee recommends that the Government instruct ARIA, the DFRDB Authority, and ComSuper, to use their newsletter circulations to inform members of the restoration of pensions that had previously been cancelled upon remarriage, and that they liaise with SCOA, RDFWA, Centrelink, FACSIA and the Combined Pensioners Association and other relevant organisations to utilise their newsletters for the same purpose.

Recommendation 3

4.31 The committee recommends that Schedule 4 of the bill be amended to ensure that all successful applicants are restored their pension from 1 January 2008, regardless of the date their application is lodged with the Commissioner for Superannuation or the DFRDB Authority.

Recommendation 4

4.46 The committee recommends that the commencement date of Schedule 6 in the bill be backdated to 9 May 2006.

Recommendation 5

4.47 Subject to the recommendations in this report, the committee recommends that the Senate pass the bill.

Chapter 1

Introduction

Background

1.1 The Superannuation Legislation Amendment Bill 2007 (the bill) was introduced into the House of Representatives on 21 June 2007 by the Special Minister of State, the Hon. Gary Nairn MP.¹

1.2 On 21 June 2007, the Senate adopted the Selection of Bills Committee Report No. 11 of 2007 and referred the provisions of the bill to the Senate Standing Committee on Finance and Public Administration (the committee) for inquiry and report by 27 July 2007.²

Purpose of the bill

1.3 The purpose of the bill is to amend the law relating to civilian and military superannuation schemes and in particular to align certain superannuation arrangements for Commonwealth employees with those of the broader community.

1.4 The bill proposes amendments to the following legislation:

- *Superannuation Act 1922* (1922 Act);
- *Superannuation Act 1976* (CSS Act);
- *Superannuation Act 1990* (PSS Act);
- *Superannuation Act 2005* (PSSAP Act);
- *Defence Force Retirement and Death Benefits Act 1973* (DFRDB Act); and
- *Defence Force Retirement Benefits Act 1948* (DFRB Act).

Civilian superannuation

1.5 If passed by Parliament, the bill will:

- remove, from 1 July 2008, the mandatory requirement for members of the Commonwealth Superannuation Scheme (CSS) to make member contributions to the scheme;
- allow, from 1 July 2008, for Public Sector Superannuation Scheme (PSS) members to cease membership of the scheme and choose to make contributions to another scheme;
- enable, from 1 January 2008, CSS members to obtain early release of their accumulated funds on severe financial hardship and compassionate grounds as defined under the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations);
- provide, from 1 January 2008, for the prospective restoration of pensions for persons who have previously had their spouse pensions cancelled upon remarriage; and

1 *Votes and Proceedings*, No. 182, 21 June 2007, p. 1997.

2 *Journals of the Senate*, No. 152, 21 June 2007, p. 4033.

-
- make a number of consequential and technical amendments arising from the Government's *Better Super* reforms.

1.6 In some instances, changes to the PSS similar to those proposed for the CSS, will not be made in the bill, but instead will be made by a PSS Amending Deed.³

Military superannuation

1.7 If passed by Parliament, the bill will:

- provide, from 1 January 2008, for the prospective restoration of pensions for persons who have previously had their spouse pensions cancelled after remarriage; and
- amend the DFRDB Act in relation to post retirement marriages.⁴

1.8 In some instances, changes to the Military Superannuation Benefit Scheme (MSBS) similar to those proposed for the DFRDB Act, will not be made in the bill, but instead will be made by amendment to the MSBS Trust Deed and Rules.⁵

Conduct of the inquiry

1.9 The committee advertised its inquiry in *The Australian* on 27 June 2007 and details of the inquiry, the bill and associated documents were placed on the committee's website. In addition, the committee contacted a number of organisations in writing alerting them to the inquiry and inviting them to make a submission. A list of submissions can be found at appendix 1.

1.10 The committee held a public hearing in Melbourne on 5 July 2007. A list of witnesses who attended the hearing can be found at appendix 2. The Hansard transcript is available at: <http://www.aph.gov.au/hansard/senate/commtee/S10400.pdf>.

Report structure

1.11 The remainder of this report will explore the provisions of the bill and issues raised during the committee's inquiry. Chapter 2 will address issues pertaining to civilian superannuation; chapter 3 will explore military superannuation; and chapter 4 will make certain conclusions and recommendations.

1.12 References to committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

Acknowledgement

1.13 The committee wishes to thank all those that assisted with the inquiry.

3 Explanatory Memorandum, p. 2; and the Hon. Gary Nairn MP, Special Minister of State, *House of Representatives Hansard*, 21 June 2007, p. 8.

4 Explanatory Memorandum, p. 2; and the Hon. Gary Nairn MP, Special Minister of State, *House of Representatives Hansard*, 21 June 2007, p. 8.

5 Explanatory Memorandum, p. 5.

Chapter 2

Civilian Superannuation

Background

2.1 The Superannuation Legislation Amendment Bill 2007 (the bill) is designed to reduce some of the complexities surrounding public sector superannuation, and remove certain rigidities associated with the Commonwealth Superannuation Scheme (CSS) and Public Sector Superannuation Scheme (PSS). The bill is intended to provide members 'with the same flexibility and incentives to contribute to superannuation that are available to the broader community'¹ and thereby remove some disincentives associated with public sector employment.²

2.2 There are currently three major Commonwealth public sector superannuation funds:

- CSS;
- PSS; and
- Public Sector Superannuation accumulation plan (PSSAP).

2.3 The CSS is a hybrid scheme, the PSS is a defined benefits scheme, and the PSSAP is an accumulation fund. The Australian Reward Investment Alliance (ARIA) is the trustee that manages the schemes, while ComSuper is responsible for the day-to-day administration of the schemes.

Voluntary contributions

2.4 Schedule 1 of the bill removes, from 1 July 2008, the mandatory requirement for members of the CSS to pay five per cent of their post-tax salary as a basic contribution to the scheme. Instead, the bill proposes that member contributions be voluntary, permitting members to elect to pay zero per cent basic contributions. The Department of Finance and Administration (Finance) estimates that only a very small proportion of CSS members will take up this option.³

2.5 Similar changes are proposed to be made for the PSS. The PSS currently requires members to pay contributions of between 2 and 10 per cent. However, amendments to the *Superannuation Act 1990* (PSS Act) are not required as the

1 The Hon. Gary Nairn MP, Special Minister of State, *House of Representatives Hansard*, 21 June 2007, p. 8.

2 Department of Finance and Administration, *Submission 6*, p. 3.

3 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 21. Finance's estimate for the number of people in the CSS expected to reduce contributions is based on a zero per cent actuarial assessment.

changes to the PSS will be made by a PSS Amending Deed.⁴ Finance estimates that approximately 10 per cent of PSS members will take up this option.⁵

2.6 A number of organisations expressed concern that some members may be disadvantaged by opting to make zero per cent contributions to their scheme. A member may choose to receive their benefit as an indexed pension, a lump sum, or a combination of both. The schemes have an accumulation component which is used to calculate a member's lump sum payment; this is based on the member's contributions plus earnings, less tax. In this context the Superannuated Commonwealth Officers' Association (SCOA) commented:

Should the member opt to cease contributions to the CSS, the lump sum will continue to grow but the ultimate lump sum will be less.⁶

2.7 At the public hearing, SCOA cited an article by Mr Daryl Dixon, chairman of Dixon Advisory and Superannuation Services, which provides an example in real dollar figures of how a member could be disadvantaged by reducing their contributions to zero per cent:

...he estimated the reduction in the pre-age 55 retirement pension of a person aged 45 at present—so with 10 years to run—who is earning currently \$50,000 a year. The loss was estimated to be in the order of \$800 for every year that no contribution was made to the CSS. So in 10 years you could accumulate—in reverse...an \$8,000 reduction in your pension that you would otherwise have had at age 55. That is a very substantial drop in pension for quite a modest income earned of \$50,000.⁷

2.8 Mr Dixon expanded on these concerns in his article:

To the extent that CSS members reduce their contributions below the basic 5 per cent level in the future, they will be shooting themselves in the foot by reducing the potential value of a future preservation benefit from the fund.⁸

2.9 The committee notes a number of submissions recommended that members be adequately informed of the proposed changes to the PSS and CSS, and the impact that zero per cent contributions will have on their future benefits. This issue is discussed in chapter 4 under, 'Informing members of changes to superannuation'.

4 Explanatory Memorandum, pp 2, 3 and 10. The PSS Amending Deed is a delegated legislative instrument made by the Minister for Finance and Administration which is subject to Parliamentary disallowance.

5 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 21. Finance's estimate for the number of people in the PSS expected to reduce contributions is based on the number of members currently making the minimum contribution of 2 per cent.

6 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 8.

7 Mr Hazell, Federal President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, p. 2.

8 Mr Daryl Dixon, 'Now for the July 2008 super changes', *Canberra Times*, 3 July 2007, p. 33.

Choice of fund for PSS members

2.10 Currently, PSS members can only cease contributing to the scheme upon leaving employment or retirement. In addition, when former members return to the public sector they must also return to the scheme from which they left, regardless of the amount of time they have not been contributing to that scheme.⁹

2.11 Schedule 2 of the bill will allow, from 1 July 2008, for PSS members to cease membership of the scheme and choose to make contributions to another scheme while retaining a preserved benefit in the PSS. The bill also amends the *Superannuation Act 2005* (PSSAP Act) to allow eligible PSS members to elect to join the PSSAP. PSS members who choose to leave the scheme are not eligible to return to the PSS at a later date.¹⁰

2.12 Finance outlined in their submission that this entitlement was not made available to members of the CSS as they had been given the opportunity to leave the fund and transfer to the PSS in 1990 and 1996. Further, due to the differences between the defined benefit structure of the CSS and the PSS, a decision to re-invite members of the CSS into the 'choice of fund' environment would have significant budgetary impacts.¹¹

2.13 To cease membership of the PSS and join another fund, a member must apply in writing to ARIA. Further, the member must be eligible to join the PSSAP, or have a chosen fund that is accepted by the employer, and be a member who is making contributions to the PSS (this excludes members with only a preserved benefit in the PSS).¹²

2.14 A member's eligibility to join another superannuation arrangement will be determined by the choice arrangements that their employer has in place. Where a PSS member elects for a 'choice of fund', they will usually become a PSSAP member in the first instance, with the ability to then cross over to another fund.¹³

Requirement to transfer to PSSAP

2.15 The committee asked Finance why members electing for 'choice of fund' were required to join the PSSAP before they were permitted to join another fund.

2.16 Finance told the committee that PSSAP is the default superannuation scheme for employees of the Australian Public Service. The requirement for members to join PSSAP in the first instance was the simplest way to place members in the 'choice of

9 Department of Finance and Administration, *Submission 6*, p. 5.

10 Department of Finance and Administration, *Submission 6*, p. 5.

11 Department of Finance and Administration, *Submission 6*, p. 6.

12 Explanatory Memorandum, p. 13.

13 Explanatory Memorandum, pp 2 and 13.

fund' environment from a statutory perspective. To enable 'choice of fund' directly from the PSS would require complex changes to the PSS Act, whereas PSSAP is already established within the 'choice of fund' framework. Once a member of PSSAP, an employee can opt to join another scheme.¹⁴ In effect, PSSAP is being used as a gateway for members to enter the 'choice of fund' environment.

Disadvantages of leaving the PSS

2.17 SCOA noted in their submission that some members could be disadvantaged by leaving the PSS:

Those who leave the PSS will lose the matching employer contribution as well as the Government co-contributions. This would need careful balancing against the payment of contributions at the marginal tax rate...Importantly many may not have the knowledge to recognise it.¹⁵

2.18 This option may not be advantageous to the majority of members, whereas some may find the new found flexibility suits their personal circumstances. For example, those who desire to take a higher level of investment risk may choose to move to an accumulation fund,¹⁶ or those with a terminal illness may have little use for the pension provided by the PSS and prefer to move to a fund that will give a greater lump-sum payout.¹⁷

2.19 The committee notes the recommendations from a number of organisations to ensure members are fully informed about the proposed 'choice of fund' entitlement and the impact that leaving the PSS would have on their future benefits. This issue is further discussed in chapter 4 under 'Informing members of changes to superannuation'.

Pension restoration

2.20 Schedule 4 of the bill provides, from 1 January 2008, for the prospective restoration (upon successful application) of pensions for persons who have previously had their spouse pensions cancelled upon remarriage. This amendment only affects pensioners under the civilian scheme prior to 1976 which was then governed by the

14 Department of Finance and Administration, *Submission 6*, pp 5–6; and Mr Sotiropoulos, Assistant Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 18.

15 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 5.

16 Mr Leslie Nielson, 'Superannuation Legislation Amendment Bill 2007', *Bills Digest*, No. 2, 2007–08, 18 July 2007, p. 13.

17 Mr Hazell, Superannuated Commonwealth Officers' Association, *Committee Hansard*, 5 July 2007, pp 4–5.

Superannuation Act 1922 (1922 Act).¹⁸ The 1922 Act predates the CSS and PSS, and therefore members of the PSS and CSS are not affected by these amendments.

2.21 Once satisfied that a person's application is valid, the Commissioner for Superannuation must grant full restoration of the pension at the same rate the person would now be receiving, had the pension never been cancelled. If an application is received on or after 1 January 2008, the pension will be reinstated from the date the application is received by the Commissioner. If an application is made before 1 January 2008, if granted, the pension is payable only from 1 January 2008 as specified in the bill.¹⁹ The pension is restored on a prospective basis and therefore, pensioners are not reimbursed for the period of time pre-dating their application.

2.22 This amendment is likely to impact on a small number of pensioners that exist under a scheme that pre-dates the CSS and PSS. SCOA told the committee that there are in total approximately 8000 pensioners currently benefiting from the 1922 scheme, aged between 50 to over 100. Based on these figures, SCOA estimates there would be no more than a few thousand people eligible to apply for the restored pension in a similar age bracket.²⁰

2.23 Finance informed the committee that they have no record of the number of pensioners eligible for the restored pension, nor records of contact details, and it is therefore difficult to estimate an overall number. However, Finance expects that there would only be a small number of eligible persons.²¹

2.24 A number of organisations highlighted the difficulties that having no contact details for the pensioners would pose in alerting eligible remarried pensioners to their restored entitlement. In addition, many of the pensioners would not have had contact with ComSuper for many years, and perhaps decades. SCOA, the Community and Public Sector Union (CPSU) and the Regular Defence Force Welfare Association (RDFWA) argued that extra measures be taken to alert these pensioners to their restored entitlement. This matter is further discussed in chapter 4 under, 'Informing members of changes to superannuation'.

2.25 In addition, SCOA recommends that due to the amount of time it would take to locate the beneficiaries of this provision, all successful applicants should be

18 It also applies to military pensioners under the *Defence Force Retirement Benefits Act 1948* and the *Defence Force Retirement and Death Benefits Act 1973* prior to the 1977, which is discussed in chapter 3.

19 Explanatory Memorandum, pp 2 and 19.

20 Mr Hazell, Federal President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, 5 July 2007, pp 3 and 6.

21 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 18.

reinstated their pension from 1 January 2008 regardless of when their application is lodged.²² This matter is explored further in chapter 4 under, 'Restoration of pensions'.

Early release of benefits

2.26 From 1 January 2008, Schedule 3 of the bill will enable CSS members to obtain early release of their accumulated funds on 'severe financial hardship' and 'compassionate grounds' as defined under the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations). Amendments to the PSS Act are not required as the changes to the PSS will be made by a PSS Amending Deed.

2.27 These amendments are required to bring CSS and PSS member entitlements into line with that of the broader community, as the early release provisions of the SIS Act and SIS Regulations do not operate automatically within the CSS and PSS. In order for the provisions to operate in a particular scheme, the early release provisions must be explicitly included in the rules of that scheme.²³

2.28 The committee supports these amendments.

Amendments relating to the Government's *Better Super* reforms

2.29 Schedule 5 of the bill seeks to make consequential and technical amendments arising from the Government's *Better Super* reforms provided in the 2006–07 Budget and to provide consistency with the arrangements for the broader community. The main amendment will ensure the continued payment of employer productivity contributions for a member who cannot make member contributions because they have not provided their tax file number.²⁴

2.30 The committee supports these amendments.

Other matters raised during the inquiry

2.31 A number of matters not directly related to the provisions of the bill were discussed by various organisations. These matters are briefly addressed below.

Interdependency

2.32 The CPSU argued that, unlike most private sector schemes, a partner in an interdependency (including same-sex) relationship is excluded from receiving a reversionary pension benefit on death of a CSS or PSS member, and that this should be rectified. The union argued that the amendments proposed by the bill do not adequately address the issue.

22 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 9. This matter is also raised by the Regular Defence Force Welfare Association and is further discussed in chapter 3.

23 Explanatory Memorandum, pp 2 and 15.

24 Explanatory Memorandum, p. 2.

2.33 The CPSU argued that whilst a reversionary pension benefit would become available to these members in the 'choice of fund' environment, those leaving the PSS would still be required to retain accumulated funds in the PSS. The union was concerned that certain benefits in the employee's new scheme would become progressively available only as funds accumulated. Further, the CPSU argued that funds retained in the PSS would still be unavailable to members in an interdependency relationship seeking a reversionary pension benefit.

2.34 The union endorsed the recommendations made by the Human Rights and Equal Opportunity Commission (HREOC) in its recently published report, *Same-Sex: Same Entitlements*.²⁵ The HREOC recommendations relating to superannuation stated:

The inquiry's preferred approach for bringing equality to same-sex couples is to:

- retain the current terminology used in federal legislation (for example retain the term 'spouse' in the Superannuation Act 1976)
- redefine the terms in the legislation to include same-sex couples (for example redefine 'spouse' in the Superannuation Act 1976 to include a 'de facto partner')
- insert new definitions of 'de facto relationship' and 'de facto partner' which include same-sex couples.²⁶

2.35 The committee observes that providing a reversionary pension benefit to those in an interdependent relationship is not the explicit intention of the bill. However, the bill does alleviate the situation to some degree by allowing members of the PSS to accumulate future contributions in a fund that offers the reversionary pension benefit to employees in interdependent relationships.

Salary sacrifice

2.36 Both SCOA and the CPSU pursued their ongoing interest in allowing CSS and PSS members to salary sacrifice member contributions before tax (to align the CSS and PSS with the same tax concessions available to the general community). SCOA and the CPSU note in their submissions that rather than making this change, the Government has opted to give members the opportunity to leave the PSS entirely. The organisations do not believe this is a satisfactory solution.²⁷

2.37 Finance responded to the issue:

25 Community and Public Sector Union, *Submission 4*, p. 5.

26 Human Rights and Equal Opportunity Commission, *Same-Sex: Same Entitlements*, May 2007, p. 307.

27 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 5; and Community and Public Sector Union, *Submission 4*, pp 4 and 6.

The PSS and CSS come as a package deal. Members contribute post marginal tax salary. In the PSS they have a matching contribution provided by the government and the taxpayer and what are considered to be generous pension conversion factors and a reversionary pension. That comes as a package. Were the government to decide that those contributions were to be paid post the 15 per cent tax rate, that will come at an additional cost to the taxpayer.²⁸

Other matters

2.38 Other matters addressed during the committee's inquiry include:

- Introduction of Transition to Retirement;²⁹
- Changing CSS and PSS pension indexation from the Consumer Price Index to the Male Total Average Weekly Earnings;³⁰
- Changing the taxation arrangements for employees in 'untaxed' superannuation schemes;³¹ and
- Tax arrangements for military personnel following the *Better Super* reforms.³²

2.39 The committee observes that the matters raised that were outside the scope of the bill may have fiscal implications. To avoid further delays in enacting the provisions of this bill, the committee does not believe it appropriate to address these issues in the bill.

28 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 24.

29 Community and Public Sector Union, *Submission 4*, p. 4.

30 Community and Public Sector Union, *Submission 4*, p. 5.

31 Community and Public Sector Union, *Submission 4*, pp 5–6.

32 *Committee Hansard*, 5 July 2007, pp 25–26.

Chapter 3

Military Superannuation

Background

3.1 The Superannuation Legislation Amendment Bill 2007 (the bill) amends aspects of the military superannuation schemes administered under the *Defence Force Retirement Benefits Act 1948* (DFRB Act) and the *Defence Force Retirement and Death Benefits Act 1973* (DFRDB Act).

3.2 In 1973, all contributory members covered under the DFRB Act transferred to the superannuation scheme administered under the DFRDB Act. This scheme was closed to all new members on 30 September 1991, due to the implementation of the Military Superannuation Benefits Scheme (MSBS) under the *Military Superannuation and Benefits Act 1991*. ComSuper is the Government agency that administers the Defence Force Retirement and Death Benefits scheme (DFRDB scheme) and the Defence Force Retirement Benefits scheme (DFRB scheme).

3.3 An independent review into the broad aims of military superannuation is taking place. This was announced by the Minister Assisting the Minister for Defence, the Hon. Bruce Billson MP, in February 2007.¹ The review is scheduled to report to the Government in July 2007.²

Pension restoration

3.4 Schedule 4 of the bill contains amendments to allow eligible former spouses, whose former partner contributed to either the DFRB or DFRDB schemes, to apply for restoration of a spouse pension that was previously cancelled on remarriage.³

3.5 The Explanatory Memorandum states that although the restrictions on spouse pensions were removed for military personnel in 1977, some people who remarried before that time could not access these changes.⁴ To reinstate previously cancelled spouse pensions, amendments will be made to the DFRB Act and the DFRDB Act.

1 The Hon. Bruce Billson MP, *Media Release: Review of Military Superannuation*, 27 February 2007, <http://www.minister.defence.gov.au/Billsontpl.cfm?CurrentId=6415> (accessed 9 July 2007).

2 Mr Steven Grzeskowiak, Director General, Department of Defence, *Committee Hansard*, 5 July 2007, p. 25.

3 Schedule 4 of the bill also applies to civilian pensions under the *Superannuation Act 1922* prior to 1976 which is discussed in chapter 2.

4 Explanatory Memorandum, p. 4.

3.6 The bill provides for the restoration of pensions on approval by the DFRDB Authority.⁵ The restored pensions will only be payable upon receipt of a successful application on or after 1 January 2008. Applications may be made before 1 January 2008, however, the restored pension is payable only from 1 January 2008 as specified in the bill.⁶ The Regular Defence Force Welfare Association (RDFWA) stated in its submission that in many cases, beneficiaries may not have had contact with ComSuper for over 30 years.⁷

3.7 Department of Defence (Defence) officials informed the committee that the number of spouse pensions expected to be restored is likely to be small. Furthermore officials stated that Defence does not have records of who may be eligible to apply for pension restoration.⁸

3.8 The committee investigated the issue of how to make eligible widows and widowers aware of their rights to apply for reinstatement of their pension.

3.9 The committee heard evidence from the Department of Finance and Administration (Finance) and Defence about various promotional and awareness raising campaigns that will be developed to try to contact people who may be eligible under Schedule 4 of the bill. Defence officials told the committee of several proposed avenues they will pursue to contact eligible spouses which are detailed in chapter 4 under, 'Informing members of changes to superannuation'.

Reversionary benefits for post-retirement marriages

3.10 The bill amends the DFRDB Act to provide 'reversionary benefits', where a retired pensioner commenced a marital relationship after age 60. The Explanatory Memorandum states:

Currently a spouse's pension under the DFRDB Act scheme is generally not payable if the pensioner, who commences a marital relationship after age 60, dies within 5 years of the relationship commencing.⁹

3.11 To alleviate the current inequity faced by military personnel and their spouses covered by the DFRDB scheme, the bill will amend the DFRDB Act to make it consistent with Australian Government civilian superannuation schemes. Currently

5 The DFRDB Scheme is managed by the fund trustee, the DFRDB Authority. The Chairman of the Authority (the Commissioner for Superannuation) provides administrative support to the Scheme, together with staff from ComSuper. For details on the DFRDB Authority, see: <http://www.dfrdb.gov.au/pages/about/authority.htm>

6 Superannuation Legislation Amendment Bill 2007, Schedule 4, Item 8, p. 17.

7 Regular Defence Force Welfare Association, *Submission 3*, p. 3.

8 Mr Steven Grzeskowiak, Director General, Personnel Policy and Employment Conditions, Department of Defence, *Committee Hansard*, 5 July 2007, p. 18.

9 Explanatory Memorandum, pp 4–5.

these schemes set a time frame of three years of marriage after which a spouse's pension will be paid.¹⁰

3.12 Furthermore, the bill provides for a spouse to receive reversionary benefits on a pro-rata basis if the relationship existed for less than three years before the pensioner's death. A lump sum may be payable if the amount is small.¹¹

3.13 The features of the Schedule 6 amendment will be introduced into the Military Superannuation Benefit Scheme Rules (MSBS Rules) through the MSBS Trust Deed, rather than through the bill itself.¹²

Delayed implementation

3.14 The measures contained in Schedule 6 of the bill were originally announced in the 2006–07 Budget (May 2006).¹³ By contrast these amendments have been adopted in Australian Government civilian superannuation schemes since 2003.¹⁴

3.15 Concerns about the delay in introducing and passing the bill were raised by the RDFWA. Its submission stated that although it 'welcomes this long overdue measure'¹⁵ delays in implementing the bill have already caused a considerable inconvenience for the 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 life pension, no matter how small, would probably be a significant factor.

...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.¹⁶

3.16 The RDFWA informed the committee of anecdotal evidence that some of its members are experiencing hardship due to the delays in passing the Schedule 6 amendment. For example it submitted that it was aware of one surviving spouse who

10 Explanatory Memorandum, p. 24.

11 Explanatory Memorandum, p. 5.

12 Explanatory Memorandum, p. 24.

13 For details of the announced changes in the Budget 2006–07 see: *Budget 2006–07, Budget Paper No. 2*, p. 146. http://www.budget.gov.au/2006-07/bp2/html/bp2_expense-04.htm (accessed 9 July 2007).

14 Explanatory Memorandum, p. 24.

15 Regular Defence Force Welfare Association, *Submission 3*, p. 2.

16 Regular Defence Force Welfare Association, *Submission 3*, p. 2.

has lost an entitlement to a pension because of the delays thus far. During the hearing, the RDFWA elaborated on these circumstances:

Her husband had died in August 2006 after just over 37 months of marriage...The widow had gone to the delegate of the Defence Force Retirement and Death Benefits Act in Victoria, who had rejected her claim because the legislation had not been amended.¹⁷

3.17 The RDFWA submitted that there will probably be several more spouses who will be in the same situation before the Schedule 6 amendment is implemented, and who will therefore not be entitled to a pension.¹⁸

3.18 Defence officials explained the circumstances behind the delay in introducing the Schedule 6 amendment:

At that time [2003] in the military scheme there was no such pressure [as there was on the civilian side] and the view was taken that we would have a look at the options. The Minister for Defence, or possibly the ministers assisting—and I am not sure which at the time—asked in 2004 for options to be canvassed in this regard. That was done and that culminated in a bid in the development of the 2005 budgetary process. The bid was unsuccessful in 2005. It was resubmitted in the context of the 2006 budget and that bid was successful. It was announced in the May budget in 2006 and is now proposed as part of this legislative amendment.¹⁹

3.19 The RDFWA also drew the committee's attention to another foreseeable delay in the passage of the bill. If the bill does not receive Royal Assent before the calling of an election later this year, then the delay may be stretched beyond the next 12 months.²⁰

3.20 Notwithstanding the possibility of a delay caused by the calling of an election, the RDFWA stated that it also did not accept the rationale behind the commencement provisions for the regulations to implement Schedule 6 of the bill:

...the commencement provisions in Section 2 [allow] 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.²¹

17 Mr Richard Griffiths, National Secretary, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 14.

18 Regular Defence Force Welfare Association, *Submission 3*, p. 2.

19 Mr Steven Grzeskowiak, Director General, Personnel Policy and Employment Conditions, Defence, *Committee Hansard*, 5 July 2007, p. 19.

20 Regular Defence Force Welfare Association, *Submission 3*, p. 2.

21 Regular Defence Force Welfare Association, *Submission 3*, p. 2.

3.21 The committee considered two possible options which would largely remedy the delayed implementation of this measure: Act of Grace payments; and retrospectivity. These options are discussed in Chapter 4 under 'Reversionary benefits for post-retirement marriages'.

Family law superannuation splitting

3.22 Item 5 of Schedule 6 amends the DFRDB Act to remove an anomaly that occurred when certain family law amendments were originally applied to the Act. Currently, family law orders do not apply to second, subsequent, or later pensions and lump sums. The new provision will provide for family law orders to apply to a second or subsequent (or later) pension and lump sums that become payable to be reduced to the amount calculated under the orders.²²

3.23 The committee did not receive any specific evidence about the family law superannuation splitting measures.

3.24 The committee supports the family law superannuation splitting measure, as outlined in the bill.

22 Explanatory Memorandum, p. 24.

Chapter 4

Conclusions and recommendations

4.1 During its inquiry the committee reviewed the provisions of the Superannuation Legislation Amendment Bill 2007 (the bill) and consulted with a number of organisations. Throughout the inquiry process, three major issues emerged. These issues, discussed in chapters 2 and 3, are listed below:

- Informing members of changes to superannuation;
- Pension restoration; and
- Reversionary benefits for post-retirement marriages.

4.2 In this chapter the committee makes certain observations and recommendations relating to these issues.

Informing members of changes to superannuation

4.3 A number of organisations highlighted the need to inform people of the proposed changes, in particular those changes making zero per cent contributions to the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS), leaving the PSS, and the restoration of pensions.

Changes relating to the PSS and CSS

4.4 The Superannuated Commonwealth Officers' Association (SCOA) raised a number of concerns relating to informing CSS and PSS members of the amendments proposed in Schedules 1 and 2 of the bill. In particular, SCOA highlighted the potential financial impact on members upon changing funds or choosing to make zero per cent contributions:

Opting out of contributing to the PSS and the CSS is in line with changes in superannuation to allow further choice. We have no difficulty with that and support the legislation in this regard. However, there are slings and arrows associated with this. Opting out of the PSS and CSS carries some penalty and potential losses. These need to be made clear to anybody at the time making a decision. If that is not made perfectly clear, then the person who has opted out may come back in years to come and sue ComSuper.¹

4.5 SCOA argued the need for the Government to instruct ARIA and ComSuper to provide members with adequate information on the impacts on future benefit entitlements prior to making a decision to make a zero per cent contribution or leave the PSS.²

1 Mr Hazell, Federal President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, 5 July 2007, p. 2.

2 Superannuated Commonwealth Officers' Association, *Submission 1*, pp 6 and 9.

4.6 The Community and Public Sector Union (CPSU) extended this argument by stating that employees should be granted financial advice, funded by their employer, before being able to cease making contributions or opt to change funds.³

4.7 SCOA outlined to the committee an example of where employee-funded independent financial advice had been offered. SCOA told the committee that the Victorian Kennett government gave people the opportunity to cash their benefits into lump-sum super or a pension. In this instance the Victorian Government contracted financial planners to provide free advice to employees, at a cost of \$250 per person to the government.⁴

4.8 Nonetheless, Finance reported that there was no intention to grant employer funded independent financial advice for members:

The government has considered the need to inform members of their choices. This will be provided by the ARIA board, the trustees of the superannuation schemes. As for independent financial advice that a member may choose to accept, the government and previous governments have not provided that in the past. In 1990, with the offer to CSS members to transfer to the PSS, the then government did not provide individual financial advice for those members. It is [the] general community norm that independent financial advice be paid for by a member...The government plans on ensuring that there is a broad disclosure provided to members to assist in making these decisions.⁵

4.9 Finance told the committee that ARIA will be informing all members of the changes through its newsletters. The advice from ARIA would outline the current circumstances, the proposed changes, the ability a member has to seek independent financial advice, and would alert members that there is no time limit to make a decision (unlike the changes to the CSS in 1990).⁶

4.10 Finance outlined that neither ARIA nor ComSuper have a licence to provide independent financial advice. Therefore, ARIA is limited to providing general advice to its members. However, the committee heard that members could still contact ComSuper to establish their current benefit, what it will be in the future, and how that benefit would change if they minimised their contribution or chose to leave the

3 Community and Public Sector Union, *Submission 4*, p. 3.

4 Mr Garraway, President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, pp 4–5.

5 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 17.

6 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 17.

scheme. Furthermore ARIA has the ability to refer members to independent financial advisers.⁷

4.11 The committee notes that there is a complex calculation as to the loss of benefit in choosing to exit the PSS or reduce contributions into either the CSS or PSS, and these calculations need to be done on an individual basis. The committee recognises that ARIA and ComSuper are limited to providing only 'general' advice to members, and that they can not provide advice on the benefits of a non-Commonwealth scheme that a member may be considering as an option.

4.12 However, the committee highlights the need to adequately inform members of their new entitlements, as well as certain disadvantages in taking up the entitlement to make a zero per cent contribution, or leave the PSS. The committee appreciates that ARIA and ComSuper will be providing general advice to all members. The committee recommends this advice be extended to invite members to contact ComSuper for further information and estimates of their future individual benefits before deciding on either of these proposed options.

Recommendation 1

4.13 The committee recommends that the Government instruct ARIA and ComSuper to advise members of the PSS and CSS of changes to their entitlements, and the general benefits and disadvantages associated with reducing member contributions and leaving the PSS. This advice should include an invitation for members to contact ComSuper to discuss their current and future individual benefits within the PSS or CSS before choosing to reduce their contributions or leave the PSS.

Changes relating to pension restoration

4.14 The CPSU, SCOA and the Regular Defence Force Welfare Association (RDFWA) all highlighted the difficulties in locating and alerting remarried pensioners to their restored entitlement as specified in Schedule 4 of the bill. Finance informed the committee that they have no record of names or contact details of the beneficiaries. Similarly, the Department of Defence (Defence) has no records.⁸

4.15 Further, RDFWA noted that some pensioners may not necessarily be a member of a Commonwealth scheme, or have had contact with one for over 30 years.⁹ SCOA stressed the importance of taking certain measures to inform these pensioners of the restored entitlement:

7 Ms Campbell, Deputy Secretary and Mr Sotiropoulos, Assistant Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, pp 21–22.

8 See paragraph 2.23 and 3.7.

9 Regular Defence Force Welfare Association, *Submission 3*, p. 3.

...it is going to be very difficult to find these people. However, I think it is incumbent upon the government and the superannuation funds to make a supreme effort and to be seen to make the effort in this case. Otherwise it will be seen [as] nothing more than an illusion. I cannot stress strongly enough that this needs to be done.¹⁰

4.16 SCOA argued that ARIA and ComSuper should encourage members through their newsletters to inform anyone who could be affected by the changes to contact ComSuper.¹¹ The CPSU suggested that information also be distributed through organisations such as Centrelink, the Combined Pensioners Association and SCOA.¹²

4.17 SCOA and RDFWA indicated that they would endeavour to inform members through their newsletters, and appeal to their members to inform friends and family members who may be entitled to the restored pension.¹³ RDFWA indicated, however, that this measure would be unlikely to locate the total number of beneficiaries.¹⁴

4.18 Finance officials informed the committee that they are already liaising with SCOA on a communication strategy to locate the beneficiaries. In addition, ARIA will be informing all members through its newsletters, and also working with Centrelink and the Department of Families, Community Services and Indigenous Affairs (FACSIA) to incorporate messages within their age pensioner newsletters. The newsletters will encourage recipients to contact people they know who may be eligible for the restored pension. This will be done on several occasions on both a national and international level of distribution.¹⁵

4.19 In a similar approach to Finance, officials from Defence informed the committee of how it intends to inform widows and widowers who will be affected under Schedule 4:

We have a Military Superannuation Communication Committee, which includes membership, for example, from ComSuper and the various boards of the superannuation schemes. We will be working through that committee

10 Mr Hazell, Federal President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, 5 July 2007, p. 2.

11 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 9.

12 Community and Public Sector Union, *Submission 4*, p. 3.

13 Mr Hazell, Federal President, Superannuated Commonwealth Officers' Association, *Committee Hansard*, 5 July 2007, p. 6; and Mr Griffiths, National Secretary, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 16.

14 Mr Griffiths, National Secretary, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 16.

15 Mr Sotiropoulos, Assistant Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 18.

to develop a strategy, clearly using similar sorts of things that you have heard about from the civilian schemes.¹⁶

4.20 In addition, Defence has indicated it will liaise with various ex-service networks and organisations to utilise their newsletter circulations.¹⁷

4.21 The committee appreciates the efforts that Finance has already taken to develop a strategy to effectively provide information to these pensioners. Nonetheless, the committee would like to echo the concerns and arguments of the organisations it consulted with, of the importance of making a thorough effort to utilise all avenues of communication with these pensioners to inform them of their entitlements.

4.22 On the other hand, the committee has some concerns in relation to the preparedness of Defence to inform eligible recipients of the restored pensions once the changes take effect. From the evidence it appears that Defence is yet to develop a communication strategy or discuss with the various ex-service military organisations the possibility of utilising their networks.

Recommendation 2

4.23 The committee recommends that the Government instruct ARIA, the DFRDB Authority, and ComSuper, to use their newsletter circulations to inform members of the restoration of pensions that had previously been cancelled upon remarriage, and that they liaise with SCOA, RDFWA, Centrelink, FACSIA and the Combined Pensioners Association and other relevant organisations to utilise their newsletters for the same purpose.

4.24 The committee sees benefit in using the sector specific newsletters to notify members that the pension has been restored for both the civilian and military schemes. For example, although ARIA may not usually discuss the military schemes with CSS and PSS members, it would be beneficial in this unique situation to notify members that changes have also been made to the DFRDB Act so they can contact friends or relatives who may be affected by the changes.

4.25 The committee also sees benefit in Finance and Defence exploring further avenues of locating the beneficiaries through consultation with Medicare, the Australian Taxation Office and the Australian Electoral Commission.

Pension restoration

4.26 The evidence presented to the committee strongly suggests that considerable time will be required to locate the pensioners who had their pensions cancelled upon remarriage. Given the expected delays, SCOA argues that all successful applicants

16 Mr Grzeskowiak, Director General, Personnel Policy and Employment Conditions, Department of Defence, *Committee Hansard*, 5 July 2007, p. 18.

17 Mr Grzeskowiak, Director General, Personnel Policy and Employment Conditions, Department of Defence, *Committee Hansard*, 5 July 2007, p. 18.

should be reinstated their pension from 1 January 2008 regardless of when their application is lodged.¹⁸

4.27 Finance noted that a widow or widower has had provision to apply for restoration of pension under the grounds of 'necessitous circumstances' as set out in the provisions of the *Superannuation Act 1922* (1922 Act), the *Defence Force Retirement Benefits Act 1948* (DFRB Act) and the *Defence Force Retirement and Death Benefits Act 1973* (DFRDB Act).¹⁹

4.28 'Necessitous circumstances' however are somewhat limited in scope and would only cover a small proportion of those who will be eligible once Schedule 4 is enacted.

4.29 The committee acknowledges the significant difficulties in locating the beneficiaries of the restored pension, and the potential for this to take a considerable amount of time. The committee notes SCOA's estimation that only a few thousand people would be eligible for the restored pension. Of this number, Finance expects there to be a small number who will become aware of the restored entitlement and apply.²⁰ Therefore the committee concludes that the cost of granting all pensions from 1 January 2008 would have a minimal budgetary impact.

4.30 The committee can see no reason to disadvantage pensioners by further delaying the restoration of their pension based on the date they became aware of their entitlement and make application to the Commissioner for Superannuation or the Defence Force Retirement and Death Benefit Authority (DFRDB Authority).

Recommendation 3

4.31 The committee recommends that Schedule 4 of the bill be amended to ensure that all successful applicants are restored their pension from 1 January 2008, regardless of the date their application is lodged with the Commissioner for Superannuation or the DFRDB Authority.²¹

Reversionary benefits for post-retirement marriages

4.32 The committee notes there has been a delay in implementing the changes to reversionary spouse benefits announced in the 2006–07 Federal Budget, as discussed in chapter 3. During the hearings the committee considered two possible approaches which would largely remedy the impact of the delay: Act of Grace payments; and retrospectivity, each of which is discussed below.

18 Superannuated Commonwealth Officers' Association, *Submission 1*, p. 9.

19 Superannuation Legislation Amendment Bill 2007, Explanatory Memorandum, p. 4.

20 Ms Campbell, Deputy Secretary, Department of Finance and Administration, *Committee Hansard*, 5 July 2007, p. 18.

21 See appendix 3 for proposed amendments to the bill relating to recommendation 3.

Act of Grace Payments

4.33 The RDFWA's submission referred to written correspondence from the Minister for Veteran's Affairs, the Hon. Bruce Billson MP. The Minister stated in a letter to the RDFWA that Act of Grace payments may be considered for people who lost their spouse pensions between the 2006–07 Budget announcement and the commencement of Schedule 6.²²

4.34 The scope and application of Act of Grace payments are defined under the *Financial Management and Accountability Act 1997*. Section 33 stipulates that the Finance Minister and his or her delegates may approve Act of Grace payments. These discretionary payments may be one-off or periodical payments to individuals in special circumstances, of an amount specified in the authorisation by the Minister. If the granting of a payment is over \$100 000 then the Minister must consider a report by an Advisory Committee.²³

4.35 The committee notes that because Act of Grace payments are discretionary in nature, the outcome of an application is inherently uncertain. This is clearly stated in the guidance provided by Finance on Act of Grace payments, which are said to be 'approved at the discretion of the decision maker.'²⁴

4.36 Finally, Mr David Jamison, National President of the RDFWA, emphasised to the committee that the use of Act of Grace payments would create the wrong impression:

We think it sends the wrong message to the ex-service community that such a process has to be gone through on something that is seen to be an act of fairness and equity on behalf of the government and its treatment of the ex-service community.²⁵

Retrospectivity

4.37 The RDFWA canvassed the option of amending the bill to make Schedule 6 retrospective in preference to Act of Grace payments. The suggested dates for retrospective application were either 1 July 2003, when the entitlement was granted to

22 The letter received by the Regular Defence Force Welfare Association from the Minister for Veteran's Affairs was tabled during the 5 July public hearing (see http://www.aph.gov.au/senate/committee/fapa_ctte/super_07/index.htm (accessed 16 July 2007)).

23 *Financial Management and Accountability Act 1997*, Section 33 (1) See: [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C093254E35BA6D0ECA2572E6000BECA2/\\$file/FinanMgmtAccount1997WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C093254E35BA6D0ECA2572E6000BECA2/$file/FinanMgmtAccount1997WD02.pdf) (accessed 10 July 2007).

24 Department of Finance and Administration, *Finance Circular No. 2006/05 – Discretionary Compensation Mechanisms*, p. 2, see http://www.finance.gov.au/finframework/docs/FC_2006.05.pdf (accessed 13 July 2007).

25 Mr David Jamison, National President, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 15.

civilian superannuants, or from the announcement of the measure in the 2006–07 Budget (May 2006).²⁶

4.38 During the course of its inquiry the committee heard evidence from the RDFWA that Act of Grace payments are complex and hold various uncertainties for the applicants. By contrast, if the provisions were made retrospective, the recipients would be assured of their entitlement.

4.39 The committee discussed with Defence officials, why it was decided to use Act of Grace payments, rather than applying Schedule 6 retrospectively. Defence officials informed the committee that:

Ultimately the Office of Parliamentary Counsel advised that the legislation should be prospective. As part of that advice it was noted that there were alternative means of filling the gap, primarily through the use of an act of grace payment.²⁷

4.40 The committee supports the traditional approach that, in general, retrospective legislation should be avoided as it can have a detrimental effect on citizens, whereby they have acted under the understanding that their actions were lawful, only to be penalised after they have committed the act. However, the retrospective application of Schedule 6 would not cause a detrimental effect, rather it would be beneficial. It would bring the entitlements of military scheme recipients in line with their civilian counterparts.

4.41 It is common for tax bills to apply from the date of announcement, usually through a press release. This form of retrospectivity is accepted by the Scrutiny of Bills Committee. Applying retrospectivity stops those likely to be negatively affected from rearranging their affairs prior to the bill being passed. This acts as a safeguard to government revenue or policy. Further, for those beneficially affected, retrospectivity provides an assurance that the benefit will be received, despite any delays in the passage of the bill.

Financial implications

4.42 During the public hearing, in order to understand the financial implications of a change in this area, the committee sought to clarify how many widows and widowers may be affected by the delay to implement Schedule 6 of the bill. Mr Richard Griffiths, National Secretary of the RDFWA, estimated that there would be approximately 10 people per year, at a cost of between \$10 000 and \$20 000 per annum, per person.²⁸ With an approximate annual cost of \$150 000, Mr Griffiths

26 Regular Defence Force Welfare Association, *Submission 3*, p. 3.

27 Mr Grzeskowiak, Director General, Personnel Policy and Employment Conditions, Department of Defence, *Committee Hansard*, 5 July 2007, p. 15.

28 Mr Richard Griffiths, National Secretary, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 15, and *Budget measures 2006–07, Budget Paper No. 2*, p. 146.

summed up by saying that 'it is not very many people and it is not very much money'.²⁹

4.43 In any event, the Minister for Veteran's Affairs' letter clearly indicates that the Government is open to covering the small additional cost associated with recompensing recipients for the delayed implementation of Schedule 6.

4.44 The committee notes that while the cost to the Commonwealth is relatively minor, the financial impact on those pensioners affected could be significant.

4.45 For the reasons outlined above the committee believes that the commencement of Schedule 6 should have retrospective effect. The majority of committee members support the view that the relevant date should be when the Government committed to the measure, that is when it was announced in the 2006–07 Budget. However, Australian Labor Party members believe that the schedule should be backdated to 1 July 2003 when the entitlement was granted to civilian superannuants.

Recommendation 4

4.46 The committee recommends that the commencement date of Schedule 6 in the bill be backdated to 9 May 2006.³⁰

Recommendation 5

4.47 Subject to the recommendations in this report, the committee recommends that the Senate pass the bill.

Senator Mitch Fifield

Chair

29 Mr Richard Griffiths, National Secretary, Regular Defence Force Welfare Association, *Committee Hansard*, 5 July 2007, p. 15.

30 See appendix 4 for a proposed amendment to the bill relating to recommendation 4.

Appendix 1

Submissions Received

1. Superannuated Commonwealth Officers' Association
2. The Military Superannuation and Benefits Board of Trustees
3. Regular Defence Force Welfare Association
4. Community and Public Sector Union
- 4a. Community and Public Sector Union
5. Mr Roscoe Howell
6. Department of Finance and Administration

Additional Information and Related Evidence

Letter to the Regular Defence Force Welfare Association from the Minister for Veterans' Affairs, the Hon Bruce Billson MP, tabled during the 5 July 2007 public hearing.

Appendix 2

Public Hearings and Witnesses

Thursday, 5 July 2007 – Melbourne

CAMPBELL, Ms Kathryn, Deputy Secretary
Financial Management Group
Department of Finance and Administration

FELTHAM, Mr Peter, Industrial Officer
Legal and Technical Unit
Community and Public Sector Union

GARRAWAY, Mr Lance, Victorian President
Superannuated Commonwealth Officers' Association

GILLESPIE, Ms Margaret, Assistant National Secretary
Community and Public Sector Union

GRIFFITHS, Mr Richard, National Secretary
Regular Defence Force Welfare Association

GRZESKOWIAK, Mr Steven, Director-General
Personnel Policy and Employment Conditions
Defence Personnel Executive
Department of Defence

HAZELL, Mr Ewan, Federal President
Superannuated Commonwealth Officers' Association

JAMISON, Mr David, National President
Regular Defence Force Welfare Association

ROBINSON, Ms Rosemary, Director
Superannuation Policy Branch
Department of Finance and Administration

SOTIROPOULOS, Mr George, Assistant Secretary
Superannuation Policy Branch
Department of Finance and Administration

WELLSPRING, Mr Adrian, Director
Superannuation Policy
Department of Defence

Appendix 3

Amendments to the bill proposed by recommendation 3: Pension Restoration

Schedule 4, Item 1, subclause 44(3), page 15 (line 20)

Omit:

the day on which the Authority receives the application.

Substitute:

1 January 2008.

Schedule 4, Item 6, subclause 64A(3), page 16 (line 19)

Omit:

the day on which the Authority receives the application.

Substitute:

1 January 2008.

Schedule 4, Item 7, subclause 48AA(3), page 17 (line 14)

Omit:

the day on which the Commissioner receives the application.

Substitute:

1 January 2008.

Appendix 4

Amendment to the bill proposed by recommendation 4: Reversionary benefits for post-retirement marriages

Schedule 6, Part 1, Item 4, page 24 (line 9)

Omit:

this Part commences.

Substitute:

9 May 2006.