

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

DEFENCE FORCE RETIREMENT AND DEATH BENEFITS AMENDMENT BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Defence,
the Hon D.J. Killen, MP)

DEFENCE FORCE RETIREMENT AND DEATH BENEFITS

AMENDMENT BILL 1981

Outline

The Bill deals with two matters:

- (a) the rationalisation of the contributions and benefits arrangements applicable to pensioners who re-enter the Defence Force; and
- (b) the contributions and benefits arrangements applicable to members who during a period prescribed (1 October 1972 - 13 May 1981) died or retired while holding acting or temporary rank.

The revised provisions for re-entered pensioners provide more equitable contributions and benefits arrangements which take account of the levels of benefits payable on initial retirement and the length and nature of any additional full-time service rendered.

They also provide for non-cancellation of pensions and non-payment of additional contributions for pensioners who re-enter for periods of less than one year; and for those who re-enter for periods of one year or more, appropriate pension increments, but with no further access to the commutation options.

The remaining provisions ensure that the annual rates of pay applicable to substantive rank shall be used for all future contributions and benefits calculation purposes.

Provision is made, however, for pensioners who died or retired during the prescribed period while holding acting or temporary rank to be paid the higher levels of benefits applicable to their acting/temporary rank annual rate of pay status in respect of the period commencing on the day following their retirement and ending on 13 May 1981.

The Bill gives effect to the Government's decisions announced by the Minister for Defence on 14 May 1981.

NOTES ON CLAUSES

DEFENCE FORCE RETIREMENT AND DEATH BENEFITS AMENDMENT
BILL 1981

Clause 1 - Short Title

This clause sets out the short title of the proposed Act and identifies the Principal Act.

Clause 2 - Commencement

Sub-clause (1) provides for clauses (1) and (2) to come into operation on the date of Royal Assent.

Sub-clause (2) provides for clauses 4(1) and 7(1) to come into operation on 1 October 1972.

Sub-clause (3) brings sub-clauses 4(2), 5(1) and 6(1) and clauses (8) and (9), which all relate to the amendments in relation to the annual rates of pay for specified ranks, into operation on 14 May 1981, the date of the Minister's announcement in the Parliament of the Government's intention to amend the Principal Act.

Sub-clause (4) provides for clause (3), sub-clause 5(2), 6(2) and 7(2), (3) and (4) which amend the re-entered recipient member benefit provisions to come into operation twenty eight days after the date of Royal Assent.

Clause 3 - Contributions by members of scheme

This clause inserts a new sub-clause (1A) in section 17 of the Principal Act, to ensure that re-entered recipient members who commence further service for a period of less than one year do not again become contributing members of the scheme.

Clause 4 - Amount of contributions on reduction in pay

This clause amends section 20 of the Principal Act to exclude members who at any time during the prescribed period were paid salary on the basis of acting or temporary rank from the right to elect to contribute on that salary basis.

Clause 5 - Commutation of retirement pay

Sub-clause (1) amends section 24 3(b) of the Principal Act to establish the level of retirement pay applicable to a member who retired before 14 May 1981 holding an acting or temporary rank.

Sub-clause (2) inserts a new sub-section 24(1A) which has the effect of excluding re-entered recipient members from the commutation provisions of the Act.

Clause 6 - Commutation of Class C invalidity pay

Sub-clause (1) amends section 32A 5(b) of the Principal Act to establish the level of retirement pay applicable to an eligible Class C invalidity pensioner who retired before 14 May 1981 while holding acting or temporary rank.

Sub-clause (2) inserts a new sub-section 32A (1A) which has the effect of excluding a re-entered Class C invalidity pensioner from the commutation provisions of the Act.

Clause 7 - Recipient member who becomes eligible member

Sub-clause (1) rectifies a deficiency in section 62 of the Principal Act. It provides a period of effective service for DFRB pensioners whose pensions were cancelled on re-entry to the DFRB scheme and who subsequently became DFRDB contributors.

Paragraphs (a) and (b) of sub-clause (2) provide in effect for non-cancellation of pensions of those pensioners who re-enter the Defence Force for periods of less than one year.

Paragraph (c) replaces sub-section 62(4) with a new sub-section (4), the practical effect being to remove the requirement for re-entered pensioners to re-pay to the Commonwealth part of their initial commutation proceeds.

Clause 8

This clause inserts in the Principal Act a new part XB - Provisions Relating to Certain Members of the Defence Force, which contains the special transitional provisions relating to the contributions and benefits arrangements applicable to members who during the prescribed period (1 October 1972 - 13 May 1981) died, or retired while holding, acting or temporary rank.

Section 98 H - Interpretation

Defines for the purposes of the special transitional provisions "prescribed member" and "prescribed period".

Section 98 J - Waiving of contributions

Sub-sections (1) and (2) provide for the waiver of the additional contributions based on a member's higher acting or temporary rank annual rate of pay where no additional pension benefit ultimately became payable on his death or retirement as a consequence of holding that higher acting or temporary rank.

Sub-section (3) provides for the waiver of any additional contributions that exceed the amounts of any additional pension benefits which became payable in respect of the prescribed period.

Section 98 K - Variation of pension benefits

Sub-section (1) provides the machinery for the re-calculation after 13 May 1981 of the retirement pay of a pensioner entitled to higher levels of benefits resulting from his retirement while holding acting or temporary rank, by reference to the annual rate of pay applicable to his substantive rank.

Sub-section (2) provides the same kind of re-calculation after 13 May 1981, on the basis of the former member's substantive rank annual rate of pay.

Sub-section (3) provides that any pension reduced in terms of sub-clauses (1) and (2) shall not be subject to further or subsequent reduction.

Sub-section (4) applies the same pension variation arrangements to deferred pension benefits.

Section 98 L - Commutation of retirement pay and invalidity pay

Sub-section (1) permits eligible pensioners to make an additional commutation election before 1 September 1982 in respect of any additional retirement pay granted on the basis of acting or temporary rank.

Sub-section (2) deems any further election made under sub-section (1) to have been made on the date of the initial commutation election.

Clause 9 - Amendment of regulations

Sub-clause (1) inserts a new sub-regulation (7) into regulation 4 of the Defence Force (Annual Rates of Pay) Regulations and ensures that a member's contributions and benefits are to be calculated on the basis of the pay applicable to his substantive rank - not on the basis of an acting or temporary rank.

Sub-clause (2) provides for the new sub-regulation 4(7) to come into operation on 14 May 1981.

Sub-clause (3) provides for future amendments to be made to the said regulation by a regulation where appropriate.