

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

MILITARY SUPERANNUATION AND BENEFITS BILL 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Defence
Science and Personnel, the Hon Gordon Bilney, MP)

MILITARY SUPERANNUATION AND BENEFITS BILL 1991
(Amendments)

GENERAL OUTLINE

1. The principal purpose of the Military Superannuation and Benefits Bill 1991 is to establish a new superannuation scheme for members of the Defence Force. The Bill provides, among other matters, for membership of the scheme and contains transfer arrangements to allow existing members to transfer from the Defence Force Retirement and Death Benefits (DFRDB) Scheme.

2. The development of administrative procedures for the scheme has revealed that the provisions for membership and transfer do not provide adequately for some cases. It is the purpose of the proposed amendments to rectify this situation.

FINANCIAL IMPACT

3. It is the intention that the amendments ensure that the Bill attains its original object.

NOTES ON AMENDMENTS

Amendment (1)

4. Clause 6 of the Bill specifies the persons who are members of the Military Superannuation and Benefits Scheme (MSBS). The proposed amendment includes a reference to section 61B of the DFRDB Act 1973 which was inadvertently omitted.

Amendment (2)

5. Clause 7 of the Bill provides members of the Emergency Forces and the Reserve Forces, who are rendering continuous full-time service, for a period of less than 12 months with an opportunity, in some circumstances, to elect to join MSBS. This proposed amendment requires members to make the election before commencing service.

Amendment (3)

6. This proposed amendment inserts a reference in clause 54 in consequence of the proposed amendment made by amendment (7).

Amendment (4)

7. Clause 58 of the Bill inserts a proposed new section 61B in the DFRDB Act which requires pensioners, or persons entitled to deferred benefits, under that Act, who resume full time service for not less than 3 months, to elect whether to become a member of MSBS or (except in the case of members of the Emergency Forces or the Reserve Forces rendering service for less than 12 months) to become contributing members of the DFRDB Scheme.

8. The new section should have referred also to service under an undertaking to serve with a unit allotted for duty in an operational area. In addition, the section has the unintended effect of requiring a person to make a fresh election on each occasion of rendering service whereas the intention is that the person in most cases should be bound by his or her initial election.

9. This proposed amendment:

- a. inserts a new subsection 61B(2) which prevents a person from making a second election (except in the case of a member of the Emergency Forces or the Reserve Forces rendering service for less than 12 months who did not previously elect to join MSBS);

- b. replaces the previous subsection (2) with a new subsection (3) which extends to service in an operational area.

Amendment (5)

10. Clause 58 of the Bill inserts a proposed new section 61C in the DFRDB Act which deals with the effect on the retirement pay of a retirement pensioner under the DFRDB scheme who joins MSBS under new section 61B. Subsection 61C(3) contains an incorrect reference to section 47 of the DFRDB Act and incorrect references to invalidity pay.

11. This proposed amendment corrects these references.

Amendments (6) and (7)

13. Clause 58 of the Bill inserts a proposed new section 61D in the DFRDB Act which cancels the invalidity pay of an invalidity pensioner who becomes a member of MSBS. An exception should have been made in the case of an eligible member of the DFRDB scheme with more than 20 years service who, if he or she had retired otherwise than for invalidity, would have been entitled to commute at the date of retirement: where the person was retired on the ground of invalidity and had been classified Class C on retirement and immediately before recommencing service was in receipt of invalidity pay under section 32 of the DFRDB Act, he or she should be treated in the same way as a person in receipt of retirement pay.

14. Amendment (6) makes a consequential drafting amendment to proposed new section 61D and Amendment (7) adds further subsections. Proposed subsection (2) provides for the invalidity pay of the person described above to be suspended instead of cancelled. Proposed subsection (3) provides for the suspension to be lifted when the person again retires, and subsection (4) provides (in effect) that, if the person dies while his or her invalidity pay is suspended, benefits are to be payable to the deceased person's spouse or children as if the deceased person had been entitled to invalidity pay immediately before his or her death.

Amendment (8)

15. The DFRDB Act provides for pensions to be increased having regard to increases in the consumer price index. Clause 60 of the Bill proposes to amend section 98C of the DFRDB Act so that such increases will apply to pensions suspended under new section 61C.

16. This proposed amendment further amends the amendments proposed by Clause 60 by including references to new subsections contained in these amendments which provide for suspension of pensions.

Amendment (9) and (10)

17. Clause 61 of the Bill inserts a new Part XIII into the DFRDB Act to provide for transfers from the DFRDB scheme to

MSBS. Included in this new Part is proposed new section 135 which provides that a person who transfers (or is taken to transfer) to MSBS is not entitled to benefits under the DFRDB Act. Such persons may include former DFRDB pensioners who again became contributing members before the commencement of MSBS, their pensions being cancelled under section 62 of the DFRDB Act.

18. It was the intention that these persons would count, towards MSBS, their service after recommencing service, their DFRDB pensions being restored on cessation of service. New section 135 fails to take into account the requirements of these persons.

19. Amendment (9) makes a consequential drafting amendment to proposed new section 135 and Amendment (10) adds a further subsection. Proposed subsection (2) provides (in effect) for such a person's pension to be treated as having been suspended instead of cancelled, the suspension being removed upon the person ceasing to render service.



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