

## DFRDB UPDATE – JULY 2018

### Introduction

In our June 2018 Update we signalled our intent to explore redress through the Courts and set out to:

- Continue to build our case and to determine its viability.
- Substantially increase the awareness of our cause.
- Create a register of DFRDB recipients and their benefit details.

### Meeting with Senator Jim Molan

On 17 July 2018, Herb met with Senator Jim Molan, who advised that he had forwarded the concerns expressed in Herb's Youtube [Presentation](#) to the Minister, but had not received a response. Herb's impression was that there was not much the Senator could do.

We anticipate that the response Senator Molan will receive from the Minister will not differ from the response Senator Canavan recently received to a similar approach. The final sentence in that response states; *"no further changes to the structure of the DFRB and DFRDB schemes are intended."*

### Meeting with Industrial Barrister Ralph Warren

On 18 July 2018, Herb met with Ralph Warren, an Industrial Barrister. Also at the meeting were; Ron Haack (WgCdr retired), Treasurer of the Fighter Squadrons Branch of the RAAF Association and Alan Wylie (WgCdr retired). An Accredited Specialist in Commercial Litigation, Alan was a solicitor in a legal practice from 1988 to 2016.

The outcome of the 3 hour meeting was not encouraging. In short, the advice was that; *"Regardless of the outcome of a provision in the Act, if the plain words in that provision are able to be understood and effected literally and are in keeping with the general object of the Act, extrinsic (other) evidence is not admissible."*

In essence, that eliminates the likes of; the Jess Report, speeches in the Parliament, explanatory notes to the Cabinet and the Parliament on provisions in the Act and our empirical data which illustrates the inequitable outcome of the legislation. All of which are integral to the case we are putting forward.

With regard to that meeting, our sincere thanks go to:

- Ralph Warren for giving his time and the benefit of his experience, pro bono.
- Alan Wylie for his time and the benefit of his experience.
- Ron and Lizzie Haack for providing the venue for the meeting and their gracious hospitality in accommodating Herb.
- The Fighter Squadrons Branch of RAAFA for meeting Herb's return travel costs from Rutherglen to Port Stevens.

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### **The Initiative for a Class Action**

Those of you who registered your support of Wing Commander (retired) Ken Stone's initiative for a Class Action to redress the inequity in the DFRDB Commutation arrangement already know that a Class Action is not viable. Mainly, because in the end there is no pot of gold for a Class Action Law Firm.

A Class Action was never our intent, but we don't own this issue. Ken Stone was fully within his rights to pursue that course of action. It is imperative however, that from now on we all pull in the same direction.

### **What Now?**

The bureaucrats who drafted the DFRDB Act and its amendments were very clever. They knew that if they could just get the devious and insidious sections which defined the commutation arrangement and the automatic adjustment of benefits through the Parliament, they would be safeguarded by one of the oldest pieces of Commonwealth legislation, the *Acts Interpretation Act, 1901*.

But we are still pursuing other lines of enquiry and will not give up on seeking redress through the Courts until we have fully examined all avenues.

If legal action proves to be viable, we will form an incorporated Association, through which we will raise the necessary funding and mount the legal action. If it does not, we will return to seeking a political solution, with a better campaign that is hopefully better supported by the members affected and their Ex-Service Organizations (ESO).

### **We are still gathering more Evidence**

A gap still exists in our chain of evidence from the Jess Report to the passage of the legislation through the Parliament and that is Cabinet approval. We are now in the process of locating and acquiring, from the National Archives, the drafts DFRDB Bills which underlie all our concerns and the Departmental Notes which explain the provisions in those Bills to the Cabinets of the day which approved them. We believe these documents are important and already, we have discovered a significant piece of evidence of which we were not previously aware.

Unfortunately, most of these records exist only as hard copies, so there is a substantial lead time for obtaining copies.

### **Identifying the Surviving Members of the DFRB and DFRDB Schemes**

Since Herb posted his DFRDB [Presentation](#) on YouTube, it has attracted more than 7,400 views, but that is not overly significant given there are more than 50,000 DFRDB recipients alone.

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It is essential that we reach as many DFRB/DFRDB recipients as possible and ensure they are aware of how they are affected by the legislation. We are relying on you to make every effort to forward this Update to every DFRB/DFRDB recipient or serving DFRDB member you know and to every ESO you think a DFRB/DFRDB recipient may belong to and to ask those ESOs to forward this to their members. Facebook and the like are also very effective.

**We now have a Web Site <https://www.adfra.org/>**

The current indirect method of communicating with many in our audience is not satisfactory so we have now created a web site <https://www.adfra.org/> the acronym ADFRA standing for Australian Defence Force Retirees Association. On this site DFRDB recipients and contributing members and DFRB recipients can register their contact details, allowing us to communicate directly with each individual.

Again, our thanks go to the Fighter Squadrons Branch of the RAAF Association for meeting a substantial part of the web site development costs.

This web site also allows DFRDB recipients, once registered, to record the details of their retirement benefits, thereby providing us with a statistically valid number of case studies with which we can properly demonstrate the effect of the DFRDB legislation.

The web site incorporates state of the art security to safeguard your personal details. Your case studies will be used to create a profile of the DFRB/DFRDB recipient population and a composite view of the effect of the DFRDB legislation. Some of your individual case studies may be helpful in expressing our message to the public but no individual case study will be used without your express approval.

If you don't already have a record of your DFRDB retirement benefits, from the time of your retirement, then please ask for it. The web site shows how you can get the required details.

Please do this. The workload it will create will send an immediate message, at least to the Commonwealth Superannuation Corporation, that we are not going away.

**Jim and Herb**