

Chapter 4

Conclusions and recommendations

Those currently affected

4.1 The Committee acknowledges that a number of veterans and widows now find themselves in a situation in which their disability pension is being offset to take account of a lump sum paid years earlier. The recipients were invariably not given a choice about whether to accept that lump sum or not, and did not necessarily understand all the ramifications of accepting that lump sum. A number of these recipients do not fully understand the application of the actuarial principles which underpin the operation of the relevant sections of the VE Act. They did not appreciate at the time they accepted the additional lump sum compensation, that to do so would mean that their pension would be offset, in accordance with the appropriate calculations, for the remainder of their life.

4.2 The Committee appreciates that the actuarial model is designed to deliver the better of two possible benefits to the veteran or widow. The tables in the Actuary's instructions are calculated to ensure, that overall, the figures will average out over time for most recipients. The difference between the sum of the offsets applied to their pension and the original lump sum should not be very large.

4.3 For those who live longer than their actuarial or nominal age, however, there is a perception that the system works unfairly to penalise them to 'pay' for those who have died earlier. The sum of the offsets applied to their pension appears to be in some cases much greater than the original lump sum paid.

4.4 One of the options the Committee has considered is effectively ending the offsetting in those cases where the sum of the amounts offset against the pension is equal to, or greater than, the original lump sum, taking interest into account. The Committee understands that this would involve examination of approximately 7,300 individual paper files, as the Department of Veterans' Affairs computer system does not capture the initial lump sum or the commencement date of offsetting. Some cases can extend back up to 30 years. The difficulty of doing this would be compounded by:

- benefit rates changing twice yearly due to indexation;
- the reassessment of the pension from time to time as the disability worsens; and
- the relative contribution of a compensable disability to the overall assessment for an individual when additional non-compensable disabilities are accepted.

4.5 The Committee has received additional information from the Australian Government Actuary¹ (the Actuary) which addresses two issues in relation to those who are currently subject to offsetting:

- For those who have had their disability pension reduced, how much of the corresponding lump sum has already been ‘paid off’, allowing for a reasonable rate of interest; and
- What is the value of the outstanding offsets—that is, how much would it cost to restore everyone on a limited pension to a full pension?

4.6 Comparing the accumulated value of a lump sum of \$1,000 with the accumulated ‘repayments’, the calculations indicate that only one of the illustrative groups of pensioners has had pension offsets which have accumulated to more than the value of the lump sum. This data indicates that for disability pensioners aged 60 in 1980 and who are still alive today, the value of accumulated ‘repayments’ on the \$1,000 lump sum was \$10,752, compared with an accumulated value of the lump sum of \$9,726.

4.7 The Actuary’s report also considers the cost of restoring the full pension to those who are currently subject to offsetting. The value of the total fortnightly offsets is approximately \$360,000 or \$9.4 million per year. This means that the cost of ceasing offsetting and restoring all reduced pensions to full value would be over \$9 million in the first year, with the cost increasing until the mid 2020s and then tapering off over the following decades. The report also indicates that the present value of the total offsets is likely to be in the order of at least \$150 million.

4.8 The Committee is sympathetic to the plight of those veterans and widows who find themselves in difficult financial circumstances as a result of the offsets applied to their disability pension. This is especially the case for those who, for various reasons, were not fully aware of the consequences for their pension at the time a lump sum was awarded.

4.9 However, in light of all the above, the Committee is not able to make any recommendations in favour of those recipients who are currently affected by the offsetting arrangements.

Future recipients

4.10 The Committee has considered a number of possible options with regard to future potential claimants under the VE Act and the SRC Act, including:

- converting from the actuarial model to a loan type repayment model, for future claimants only; and

1 A copy of the Actuary’s report is at appendix 7.

- ending offsetting by requiring those with dual eligibility to make a choice between a benefit under the VE Act or the SRC Act, but not both.

Converting to a loan model

4.11 The issue of whether it would be possible to convert from the existing system to a loan type model, with a fixed repayment period, was considered at the Committee's hearing on 23 June 2003. The Armed Forces Federation of Australia indicated a preference for the loan model over the actuarial model.² Brigadier Mellor, of the Regular Defence Force Welfare Association also indicated support for the proposal:

We would see the loan as having the very great virtue of being a known quantity: having a beginning and an end, with the recipient able to look forward to a time when they would be free of it.³

4.12 The Actuary's paper considers the feasibility of converting from the current actuarial model to a loan model. Assuming that the intention of the loan model is to deliver to recipients the better of the two possible benefits, the Actuary indicates that the most practical model for a loan is one where:

- at the time of commencing the offsetting process, the relevant part of the disability pension is set to zero, ie, fully offset; and
- when the loan is fully repaid, including an appropriate allowance for interest, the pension is restored to its full value for the remainder of the veteran's life.

4.13 The Actuary's calculations indicate that the loan model is likely to cost the Commonwealth 5–10 per cent more than the actuarial model.

4.14 The Committee understands that there are a number of other factors which make the question of converting to a loan model a fairly complicated one, and which would make this model more difficult to administer. A repayment term would need to be set at say 10, 15 or 20 years, with a shorter loan period involving higher deductions from the pension so that the loan could be repaid within the given period. Appropriate interest rates would need to be determined, and varied as necessary. If interest rates increase, there is a risk for the recipient that deductions from the pension could increase substantially, or the repayment period could be extended by a number of years.

4.15 As pointed out in the Actuary's paper, implementing a 'no-cost' loan model would require a system to recover 'unpaid' amounts from veterans' estates where the veteran dies prematurely. Such a system would be unpopular and cumbersome to

2 *Committee Hansard*, 23 June, 2003, p. 30 (Mr Isolani, ArFFA)

3 *Committee Hansard*, 23 June, 2003, p. 29 (Brigadier Mellor, RDFWA)

administer. It may also result in financial hardship for the veteran's widow or dependants.

4.16 The Committee accepts that implementation of a loan system would probably require the Department of Veterans' Affairs to establish additional computer applications to generate payments and maintain records. The Department would also be required to devote resources to monitoring repayments and issuing periodic statements.

4.17 Given this, and considering the cost of such a model, the Committee is unable to recommend conversion to a loan model as a feasible option.

Ending offsetting

4.18 The Committee notes that the Clarke Review of Veterans' Entitlements considered the issue of dual eligibility under the VE Act and the SRC Act. The Review considered the compensation available to those with dual eligibility to be 'over generous' compared to those without such eligibility. It recommended that 'a veteran who has entitlement to claim disability compensation under both the VEA and the SRCA, but has not yet made a claim, be required to make a one time election at the time of his first claim'.⁴

4.19 This would, in effect, end offsetting. Rather than being entitled to choose to accept benefits under the VE Act and the SRC Act, and one being offset as required against the other, potential recipients would be required to choose either one or the other.

4.20 The earlier Department of Defence Review of the Military Compensation Scheme, established to develop options for a single, self contained military compensation scheme for peacetime service, pointed out the complexity of the dual eligibility arrangements. The Review recommended that 'dual eligibility as it currently exists be brought to a close as soon as possible and at the same time appropriate steps be taken to avoid creating other inequities and anomalies'.⁵

4.21 The possibility of ending offsetting was raised at the Committee's hearing on 23 June. Brigadier Mellor, of the RDFWA, pointed out that the validity of this option would depend on the quality of the advice provided to the recipient, and upon an assurance that the advice was comprehensive and fully understood before the choice was made.⁶

4 *Report of the Review of Veterans' Entitlements* (The Clarke Review), Commonwealth of Australia, 2003, pp. 637–638.

5 *The Review of the Military Compensation Scheme*, (The Tanzer Review) Department of Defence, March 1999, pp. 21–23.

6 *Committee Hansard*, 23 June, 2003, pp. 29–30 (Brigadier Mellor, RDFWA)

4.22 The Committee notes that the proposed new military compensation scheme removes dual eligibility for compensation claims. However, the new scheme will only apply from the date the legislation is enacted, not retrospectively. There will still be a number of individuals to whom the current system applies and who may be eligible to claim compensation under both the VE Act and the SRC Act.

4.23 The Committee acknowledges that altering current legislative entitlements is not without complications, but ending dual eligibility for future recipients under the current scheme has the potential to solve a number of the problems associated with offsetting, as detailed in Chapters 2 and 3. The Committee considers that the Department of Veterans' Affairs should give further consideration to the possibility of ending dual eligibility in its current form from a date in the near future, perhaps linked with the commencement of the new compensation scheme.

Recommendation

The Committee recommends:

- that comprehensive and expert information be given to potential recipients once claims have been accepted, detailing the MCRS lump sum and VE Act pension, with a complete cost schedule, including the rate of offset; and
- that this information should be provided to potential recipients before they are required to make a decision about whether to accept a lump sum or a pension. It should also include any other likely payments that will impact on recipients' future payments (for example, CPI increases).

