Defence Legislation Amendment Bill 1988

Date Introduced: 27 April 1988
House: House of Representatives
Presented by: Hon. Ros Kelly, M.P., Minister for Defence Science and Personnel

Digest of Bill

Purpose
The Bill will amend a range of defence-related legislation, in particular, to allow members of the Defence Forces eligible for retirement benefit to commute, prior to retirement, a portion of that entitlement to a lump sum; to increase the membership of the Defence Housing Authority; and to make consequential amendments to the Defence Act 1903 and Naval Defence Act 1910. Details of these latter provisions are covered in the Explanatory Memorandum circulated by the authority of the Minister.

Background
The Defence Force Retirement and Death Benefits Act 1973 (the Principal Act) established a contributory occupational superannuation scheme for members of the Defence Forces. The scheme is based on the concept of completion of years of service, not on age at retirement.

The scheme provides assistance to Defence Force members families, in the form of benefits paid to eligible dependants in the event of death as either a contributing member, or a retired member in receipt of retirement or invalidity pay.

Contribution to the scheme is compulsory where an individual is on appointment with the Defence Forces for 12 months or more. The scheme is administered by the Defence Force Retirement and Death Benefits Authority.

The Principal Act, as it stands, provides that if a member of the Defence Forces is eligible to receive retirement pay or if, on invalidity retirement, that member is assessed by the Defence Force Retirement and Death Benefits Authority as having less than 30% incapacity, that member may elect to commute a portion of his/her retirement benefit (sections 24 & 32A). During 1986-1987 2278 members of the Defence Forces elected to commute part of their retirement pay (1).
An election by a member of the Defence Forces to commute a portion of his/her retirement benefit to a lump sum is not effective until the Defence Force Retirement and Death Benefits Authority has received notice of such election and made an assessment (section 24).

As the Act stands, if for example, a member of the Defence Forces were to die prior to making an election or before an election to commute a portion of his/her retirement benefit to a lump sum became effective, no lump sum payment to his/her dependants or estate is possible.

Section 12 of the Defence Housing Authority Act 1987 (the Principal Act), fixes the composition of the Defence Housing Authority (the Authority). The Authority comprises nine persons – a Chairperson, Managing Director, three members of the Defence Forces, three appointed members, and a member of the Commonwealth public service.

The three appointed members are persons with expertise in housing operations, property development/management and business management. The Authority, in its current form, does not provide for representation by spouses of members of the Defence Forces (refer to the Digest for the Defence Housing Authority Bill 1987).

This Bill seeks to increase the membership of the Authority to permit the appointment of a person to represent spouses of members of the Defence Forces and one additional member.

Main Provisions

Clause 7 amends section 24 of the Defence Force Retirement and Death Benefits Act 1973 (the Principal Act) to allow a member of the Defence Forces who is, or is about to become, entitled to retirement pay to commute a portion of that entitlement to a lump sum. Notice must be given to the Defence Force Retirement and Death Benefits Authority (the Authority) of intention to commute retirement pay, in writing, not earlier than three months prior and not later than one year after, or as the Authority in special circumstance allows, becoming entitled.

Clause 8 amends section 32A of the Principal Act on similar lines to Clause 7, and applies to members of the Defence Forces who on retirement are classified as having less than 30% incapacity.

Clause 11 amends section 12 of the Defence Housing Authority Act 1987 to increase the membership of the Defence Housing Authority from 9 members to 11 members.
References


For further information, if required, contact the Defence Group.

8 June 1988

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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