



**Australian Government**  

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**Australian Government Actuary**

**ADJUSTMENT OF BENEFITS FOLLOWING FAMILY  
LAW SPLITS – DFRDB AND DFRB**

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## **1 Background**

1.1 Under the default arrangements included in the Family Law (Superannuation) Regulations 2001 (the Regulations), amounts awarded to a non member spouse in respect of an interest in a defined benefit superannuation scheme do not need to be paid until the benefit becomes payable. Similarly, the default arrangements for such schemes provide for the member spouse's benefit to be adjusted at the time of payment.

1.2 The Regulations do, however, allow for a split to be brought to an end prior to the payment of benefits through the creation of a new interest for a non-member spouse of at least the base amount (adjusted, where appropriate). This is designed to facilitate the 'clean break' approach to family law splits of superannuation. The Commonwealth has taken the view that this principle should be adopted in relation to its own superannuation schemes.

1.3 The instruments that establish the framework for creating new interests and adjusting members' benefits for members of the Defence Force Retirement and Death Benefits Scheme and the Defence Forces Retirement Benefits Scheme are:

- the Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004 (the SLA Act), which made the necessary changes to the Defence Act 1903, the Defence Force Retirement and Death Benefits Act 1973, the Defence Forces Retirement Benefits Act 1948, the Military Superannuation and Benefits Act 1991;
- the Defence Force (Superannuation)(Productivity Benefit) Amendment Determination 2004;
- the Defence Force Retirement and Death Benefits (Family Law Superannuation) Orders 2004;
- the Defence Forces Retirement Benefits (Family Law Superannuation) Orders 2004; and
- the Military Superannuation and Benefits Amendment Trust Deed 2004, which made the changes to the Scheme Rules to provide for the creation of non member spouse interests within that scheme;

- 1.4 Note that for the purposes of family law, a member's entitlements under the DFRDB and Defence Act are considered to be two separate interests and an agreement or order would need to be made in respect of each interest.
- 1.5 The broad process which applies when a splitting order or agreement is received by ComSuper has three steps:
- determine the transfer amount
  - determine the benefits for the associate interest
  - determine the reduction in the member spouse benefit
- 1.6 The following sections deal with each of these elements in turn. The appendix to the report includes a number of examples of how the methods will operate in practice.

## **2 Determining the Transfer Amount**

- 2.1 A splitting order or agreement will specify either a base amount or a splitting percentage.
- 2.2 Regulation 14G of the Regulations establishes the minimum value of a new interest created to satisfy the non member spouse entitlement as:
- the base amount, if the order or agreement specifies a base amount and the interest is created at the operative time;
  - the adjusted base amount, if the order or agreement specifies a base amount and the interest is created at time later than the operative time; or
  - if a splitting percentage is specified, that splitting percentage multiplied by the value that would be calculated under Part 5 of the Regulations at the time the interest is created.
- 2.3 The rules being implemented for the military superannuation schemes go further than this by comparing the scheme value against the family law value and pro-rating up the minimum value by the ratio of the two values if the scheme value is greater. The result of this calculation is the transfer amount.

- 2.4 In this context, the family law value is defined in section 49A of the DFRDB Act and section 80 of the DFRB Act as the amount which would be calculated as the value under the Regulations if the relevant date were the date on which the operative time occurs. This means that the gross value of the interest must be calculated using the scheme specific methodologies for the relevant type of interest and the scheme specific factors appropriate to the circumstances of the member at the operative time. The gross value of the interest is then reduced by the amount of any surcharge debt as stated in the most recent member information statement.
- 2.5 Note that the scheme specific factors for family law purposes are derived using the economic assumptions established by the Attorney-General's department for the purposes of calculating the default factors, together with the demographic assumptions taken from the 1999 Report on Long Term Costs (the LTCR). These latter assumptions cover the exit experience of contributory members, mortality experience of pensioners and commutation assumptions.
- 2.6 The method of calculating the scheme value is prescribed in section 2.01 of the DFRDB and DFRB Orders as the family law value methodology, with the exception that the scheme specific factors are replaced by factors nominated by an actuary for the purpose of the Orders (the scheme value factors). The scheme value factors have been provided separately. Again, any surcharge debt as reported in the most recent member information statement will need to be deducted from the gross value determined using the scheme specific methods and scheme value factors.
- 2.7 The scheme value factors have been calculated by Australian Government Actuary (AGA) using an identical methodology to that adopted for the scheme specific factors but incorporating the assumptions (both demographic and economic) from the 2002 LTCR. The use of a lower discount rate in the LTCR than that prescribed for family law purposes (6% versus 6.5%) and the incorporation of promotional salary increases have the most significant impact and result in an increase in virtually all factors. Changes in some exit assumptions and pensioner mortality rates have a second order effect. The 1999 and 2002 long term cost reports have a fairly detailed description of the assumptions adopted.
- 2.8 In most cases, therefore, the scheme value is higher than the family law value and the transfer value is commensurately higher than the base amount.
- 2.9 In practical terms, the process of calculating the transfer value is the same for all splits and works as follows:
- (i) calculate the family law value of the member spouse interest;

- (ii) calculate the scheme value of the member spouse interest;
- (iii) if the scheme value of the interest greater than the family law value go to step v, otherwise go to step iv;
- (iv) if the order or agreement provides for a base amount split, the transfer amount is the base amount. Otherwise, the transfer amount is the family law value times the splitting percentage;
- (v) if the order or agreement provides for a base amount split, the transfer amount is the base amount in whole dollars (disregarding any cents) multiplied by the scheme value and divided by the family law value in whole dollars. Otherwise, the transfer amount is the scheme value times the splitting percentage;

2.10 The transfer amount forms the basis of both the associate interest created for the non-member spouse and the reduction of member spouse benefits.

### **3 Determining the Benefits for the Associate Interest**

3.1 The form which the associate interest takes depends upon whether the member spouse is in the payment phase or the growth phase at the operative time.

#### ***Payment Phase (Pension) Interests***

3.2 If the member spouse is in the payment phase, the associate interest takes the form of an associate pension (see section 49B of the DFRDB Act as amended by the SLA Act, and section 80B of the DFRB Act as amended by the SLA Act).

3.3 Under section 2.02 of the DFRDB and DFRB Orders, the rate of the associate pension is determined as follows:

- (i) identify the transfer amount
- (ii) identify the single life indexed spouse pension factor that applies for the non member spouse's age and gender;
- (iii) divide the transfer amount by the pension factor to give the annual rate of associate pension.

- 3.4 There is an option for the non member spouse to commute the pension if the annual rate of pension is small (currently less than \$1,300 per annum). In this case, the non member spouse is entitled to receive a lump sum equal to the transfer amount.

***Growth Phase Interests***

- 3.5 Where the member spouse is in the growth phase at the operative time (that is, an active or deferred member), the associate interest is an accumulation interest in the MSBS.
- 3.6 The MSBS Rules provide for two types of associate benefits. An associate A benefit is held as units in an Investment Division of the MSBS Fund. An associate B benefit is a notional benefit which grows in line with movements in the long term bond rate. Both the associate A and associate B benefits are preserved in the MSBS until the non-member spouse reaches his or her preservation age.
- 3.7 The split between associate A and associate B benefits is determined having regard to the funded and unfunded components of the member spouse's benefit. Since all DFRDB benefits are unfunded, the non member spouse interest has only an associate B benefit (that is, a benefit that grows in line with the long term bond rate). Accordingly, under Rule 49(2) of the MSBS Rules, the entire transfer amount is allocated to an associate B benefit for the non member spouse.

**4 Determining the Reduction in Member Spouse Benefits**

- 4.1 The method of reduction of member spouse benefits varies depending upon whether the interest is in the growth phase or payment phase.

***Payment Phase (Pension) Interests***

- 4.2 If the member spouse is in the payment phase, the member spouse pension (and any associated spouse reversions that may become payable following remarriage) is reduced by the proportion that the transfer amount bears to the scheme value (see section 2.08 in the DFRDB Orders and 2.06 in the DFRB Orders).
- 4.3 The process is specified as having the following steps:
- (i) identify the annual rate of pension that was payable to the member spouse immediately before the operative time;

- (ii) calculate the reduction factor as

$$\frac{\text{scheme value} - \text{transfer value}}{\text{scheme value}}$$

- (iii) multiply the result of step (ii) by the pension identified in step (i) to give the annual rate of pension payable immediately after the operative time;

4.4 For DFRB pensioners, this calculation needs only to be done for the pension being paid to the member as reversionary pensions are a set proportion of the member spouse's pension. For DFRDB pensioners, however, the reduction factor calculated in step (ii) needs to be applied to any non-indexed pension in payment, the indexed reversionary pension and the non-indexed reversionary pension to identify the pensions payable after the operative time.

4.5 Children's pensions or the component of a spouse's pension that reflects the presence of eligible children being paid at the operative time are not reduced. The treatment of such pensions which become payable in future is an issue that still needs to be resolved.

#### ***Growth Phase Interests – DFRDB Act Entitlement***

4.6 The benefit adjustment process in respect of DFRDB benefits is prescribed in sections 2.06 (for those qualifying for a pension) and 2.07 (for those not qualifying for a pension) of the DFRDB Orders. Under the Orders, the benefit is not adjusted until the time of payment. However, the adjustment process itself is still dependent upon benefit information at the operative time.

4.7 The following steps should be followed

*At the operative time:*

- (i) identify the member contribution component and the accrued pension multiple of the member spouse's benefit immediately before the operative time
- for active members who are not yet eligible to retire with a standard pension, Table 3 of the scheme specific methodology sets out the accrued pension multiples which should be used

- for deferred benefit members, the accrued pension multiple should be calculated as 0.0175 multiplied by the completed years of service at the time of exit from service

- (ii) calculate an adjustment factor as

$$\frac{\text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

- (iii) multiply the member contributions identified in step (i) by the adjustment factor calculated in step (ii) to give the member contribution reduction amount
- (iv) multiply the accrued pension multiple identified in step (i) by the adjustment factor calculated in step (ii) to give the pension multiple reduction

*At the time of payment:*

if the member is entitled to a pension

- (v) identify the pension multiple that would apply if there had not been a payment split
- (vi) subtract the pension multiple reduction from the multiple identified in step (v) to give the multiple that should be applied to the member spouse's salary for superannuation purposes in order to calculate the rate of standard pension payable on retirement

if the member is not entitled to a pension

- (vii) identify the member contributions that would have been used to calculate the lump sum payable if there had not been a payment split
- (viii) subtract the member contribution reduction amount calculated in step (iv) to give the lump sum payable to the member spouse

4.8 Note that this process will also work for deferred benefit members, where in practice, the adjustment process could take place at the operative time, but the orders appear to require the adjustment at the time of payment.

- 4.9 The member contribution reduction amount calculated in step (iii) should be used as the undeducted contribution component transferred to the non member spouse for the purposes of complying with section 27ACB of the Income Tax Assessment Act 1936.

***Growth Phase Interests – Defence Act Entitlement***

- 4.10 For the Defence Act entitlement of DFRDB members in the growth phase, the Productivity Determination specifies that the reduction in productivity benefits is to be made in accordance with benefit reduction methodology developed and maintained by an actuary (see Clause 15(2)).
- 4.11 The reduction process is complicated by the fact that the Determination effectively provides for the benefits to be calculated on exit (even though for practical purposes a running balance of both the 3% benefit and the SG top up is maintained by ComSuper). As a result, it will be necessary to set up a negative accumulation account which grows with the same interest rates applying to the productivity benefits themselves.
- 4.12 The process we have developed is very similar to that adopted for the DFRDB entitlement and involves the following steps:

*At the operative time:*

- (i) identify the 3% benefit and SG top up benefit (if any) immediately before the operative time
- (ii) calculate the adjustment factor as
$$\frac{\text{transfer amount}}{\text{scheme value} + \text{surchage debt}}$$
- (iii) multiply each of the values identified in step (i) by the reduction factor calculated in step (ii) to give the offset accounts that should be established at the operative time;
- (iv) the offset accounts accumulate with the interest rate applying to the productivity benefits until the time of payment

*At the time of payment:*

- (v) the benefits which would otherwise be payable under the Determination are reduced by the offset accounts, with the proviso that if there is no SG top up benefit payable before adjustment, the SG top up offset account is also set to zero.

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## APPENDIX: Examples

The following examples show how the processes described in the report would work in a range of hypothetical situations. These scenarios (with the exception of the DFRB pensioner) are taken from the original application for scheme specific factors. They do not relate to real members and all of the benefit details have been made up.

The following scenarios are included:

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4	DFRDB contributory member aged over 55 (with a pension entitlement)	23
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Note that the steps itemised in the examples refer back to the methods described in the body of the report.

As noted in paragraphs 2.4 and 2.6 of the report, both family law value and scheme value are net of any outstanding surcharge liability. That is, the gross value is calculated using the relevant valuation factors and then the surcharge liability, if any, is deducted from this value to give the family law or scheme value. Pensioner and associate members cannot have a surcharge debt. In examples 3 to 6, where surcharge debt is relevant but is assumed for the purposes of the example to be zero, this adjustment to the gross value has been shown in the calculations of family law and scheme values as a ‘ - 0’

## **Rounding**

The definition of the transfer amount in the Defence Act, DFRDB Act and DRRB Act requires both the base amount and the family law value (but not the scheme value) to be expressed in whole dollars (that is, disregarding any cents). There is no other prescription of the rounding conventions to be used in the adjustment process. The following conventions have been adopted:

- reduction factors have been calculated to six decimal places;
- dollar amounts have been calculated to two decimal places, but truncated to whole dollars where required for determining the transfer amount; and
- pension multiples have been calculated to four decimal places.

## **Example 1: DFRDB Pensioner**

### ***Scenario***

At the relevant date, the male pensioner was aged exactly 60 with an annual indexed pension of \$20,000, a non-indexed pension of \$100, and indexed reversion of \$12,500 and a non-indexed reversion of \$1,200.

The family law value at the relevant date was calculated as:

$$20,000 \times 14.3115 + 100 \times 11.2674 + 12,500 \times 0.4622 + 1,200 \times 0.2643$$
$$= \$293,451.40$$

The court has awarded the non member spouse a percentage split of 45% with the operative time being exactly one year after the relevant date. The indexed component of the pension has been indexed over the intervening period and is now paid at the rate of \$20,500. Similarly, the indexed reversion has increased to \$12,812. The non member spouse is aged exactly 48 at the operative time.

### ***Determination of the Transfer Amount***

Step (i): Calculate the family law value at the operative time.

Male IP Factor at 61	13.9413
Male NIP Factor at 61	11.0425
Male IR factor at 61	0.4708
Male NIR factor at 61	0.2738

$$\text{Family law value} = 20,500 \times 13.9413 + 100 \times 11.0425 + 12,812 \times 0.4708 + 1,200 \times 0.2738$$
$$= \$293,261.35$$

Step (ii): Calculate the scheme value at the operative time.

Male IP Factor at 61	14.8033
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Male NIP Factor at 61                      11.6211

Male IR factor at 61                        0.5202

Male NIR factor at 61                      0.2978

Scheme value        = 20,500 × 14.8033 + 100 × 11.6211 + 12,812 × 0.5202 + 1,200 × 0.2978  
  
                              = \$311,651.92

Step (iii):        The scheme value is greater than the family law value so go to step (v).

Step (v):        The order specifies a splitting percentage so calculate the transfer amount as the splitting percentage times the scheme value.

Transfer amount    = \$311, 651.92 × 0.45  
  
                              = \$140,243.36

***Determining the Benefits for the Associate Benefit Interest (Payment Phase)***

Step (i)        The transfer amount has been calculated as \$140,243.36.

Step (ii):        The female single life factor at 48 is 21.2044.

Step (iii):        Calculate the amount of the associate pension as the transfer amount divided by the scheme value pension factor for the non member spouse.

Associate pension = 140, 243.36 / 21.2044  
  
                              = \$6,613.88 per annum

This exceeds the limit set for commutation of small pensions so there is no option for the non member spouse to commute the pension.

***Determining the Reduction in Member Spouse Benefits (Payment Phase)***

Step (i):        Identify the annual rates of the various components of the pension applicable immediately before the operative time.

Indexed pension        = \$20,500

Non-indexed pension = \$100

Indexed reversion = \$12,812

Non-indexed reversion = \$1,200

Step (ii): Calculate the reduction factor to apply to the member spouse as:

$$\frac{\text{scheme value} - \text{transfer amount}}{\text{scheme value}}$$

$$\text{Reduction factor} = \frac{311,651.92 - 140,243.36}{311,651.92}$$

$$= 0.550000$$

Step (iii): Apply the reduction factor to the each component member spouse's pension to give the annual rate of pension and reversion payable after the operative time in respect of the member spouse's interest.

$$\begin{aligned} \text{Indexed pension payable} &= 20,500 \times 0.550000 \\ &= \$11,275.00 \text{ per annum} \end{aligned}$$

$$\begin{aligned} \text{Non-indexed pension payable} &= 100 \times 0.550000 \\ &= \$55.00 \text{ per annum} \end{aligned}$$

$$\begin{aligned} \text{Indexed reversion payable} &= 12,812 \times 0.550000 \\ &= \$7,046.60 \text{ per annum} \end{aligned}$$

$$\begin{aligned} \text{Non-indexed reversion payable} &= 1,200 \times 0.550000 \\ &= \$660.00 \text{ per annum} \end{aligned}$$

Note that in the event that the member spouse is a reversionary beneficiary of a former member of the scheme who has remarried and is now divorcing, any component of the pension payable in respect of a dependent child is not included in either the family law or scheme value of the interest and is not subject to any reduction.

## **Example 2: DFRB Pensioner**

### ***Scenario***

At the relevant date, the pensioner was aged exactly 73 with an annual pension of \$16,000.

The family law value at the relevant date was calculated as:

$$16,000 \times 9.3404 + .625 \times 16,000 \times 0.5144$$
$$= \$154,590.40$$

The court has awarded the non member spouse a percentage split of 40% with the operative time being exactly one year after the relevant date. The pension has been indexed over the intervening period and is now paid at the rate of \$16,480 per annum. The non member spouse is aged exactly 67 at the operative time.

### ***Determination of the Transfer Amount***

Step (i): Calculate the family law value at the operative time.

Male single life factor at 74                      8.9582

Male reversion factor at 74                      0.5120

$$\text{Family law value} = 16,480 \times 8.9582 + .625 \times 16,480 \times 0.5120$$
$$= \$152,904.74$$

Step (ii): Calculate the scheme value at the operative time.

Male single life factor at 74                      9.3751

Male reversion factor at 74                      0.5487

$$\text{Scheme value} = 16,480 \times 9.3751 + .625 \times 16,480 \times 0.5487$$
$$= \$160,153.26$$

Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): The order specifies a splitting percentage, so calculate the transfer amount as the splitting percentage times the scheme value.

$$\begin{aligned}\text{Transfer amount} &= \$160,153.26 \times 0.4 \\ &= \$64,061.30\end{aligned}$$

***Determining the Benefits for the Associate Benefit Interest (Payment Phase)***

Step (i) The transfer amount has been calculated as \$64,061.30.

Step (ii): The female single life factor at 67 is 14.3178.

Step (iii): Calculate the amount of the associate pension as the transfer amount divided by the scheme value pension factor for the non member spouse.

$$\begin{aligned}\text{Associate pension} &= 64,061.30 / 14.3178 \\ &= \$4,474.24 \text{ per annum}\end{aligned}$$

This exceeds the limit set for commutation of small pensions so there is no option for the non member spouse to commute the pension.

***Determining the Reduction in Member Spouse Benefits (Payment Phase)***

Step (i): The annual rate of pension payable to the member spouse immediately before the operative time was \$16,480.

Step (ii): Calculate the reduction factor to apply to the member spouse as (scheme value – transfer value)/scheme value.

$$\begin{aligned}\text{Reduction factor} &= \frac{160,153.26 - 64,061.30}{160,153.26} \\ &= 0.600000\end{aligned}$$

Step (iii): Apply the reduction factor to the member spouse's pension to give the annual rate of pension payable after the operative time in respect of the member spouse's interest.

$$\text{Pension payable} = \$16,480 \times 0.600000$$

**Adjustment of Benefits following Family Law Splits – DFRDB and DFRB**

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= \$9,888.00 per annum



Step (iii): The scheme value is greater than the family law value so go to step (v).

Step (v): Calculate the transfer amount as the scheme value times the base amount in whole dollars divided by the family law value in whole dollars.

$$\begin{aligned}\text{Transfer amount} &= 413,705.47 \times \frac{200,000}{388,012} \\ &= \$213,243.65\end{aligned}$$

***Determining the Benefits for the Associate Benefit Interest (DFRDB Growth Phase)***

The original interest was in the DFRDB so the associate A benefit is set to zero and the associate B benefit is set to the transfer amount of \$213,243.65.

***Determining the Reduction in Member Spouse Benefits (DFRDB Growth Phase)***

At the operative time

Step (i) The member contribution component immediately before the operative time is still \$43,000 and the accrued pension multiple was 0.315.

Step (ii): Calculate the adjustment factor as  $\frac{\text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$

$$\begin{aligned}\text{Adjustment factor} &= \frac{213,243.65}{413,705.47 + 0} \\ &= 0.515448\end{aligned}$$

Step (iii): Multiply the member contributions, identified in step (i) by the adjustment factor to give the member contribution reduction amount

$$\begin{aligned}\text{Member contribution reduction amount} &= 43,000 \times 0.515448 \\ &= \$22,164.26\end{aligned}$$

Step (iv): Multiply the accrued pension multiple identified in step (i) by the adjustment factor to give the pension multiple reduction.

$$\begin{aligned}\text{Pension multiple reduction} &= 0.315 \times 0.515448 \\ &= 0.1624\end{aligned}$$

At the time of payment

Step (v): The pension multiple is unchanged at 0.315.

Step(vi): Subtract the pension multiple reduction from the pension multiple identified in step (v) to give a multiple of 0.1526. This is the multiple that should be applied to the member spouse's salary for superannuation purposes to give the standard rate of pension. In this example, the pension payable at the time of payment would be \$9,156.00 ( $0.1526 \times 60,000$ ).

Note that where the member commutes part of his or her pension, this reduction will automatically flow through due to the reduction in pension.

If the member had exited prior to satisfying the conditions of payment, only a lump sum of the member contributions less the member contribution reduction amount would be payable. In practice, it is unlikely in the extreme that a deferred member would exit without qualifying for a pension.

### **Example 4: DFRDB Contributory Member Aged Over 55 (with a pension entitlement)**

#### ***Scenario***

##### **(A) DFRDB Act Entitlement**

At the relevant date the member was a male aged exactly 56 with an immediate pension entitlement of \$32,000.19 (salary for superannuation purposes of \$57,658 and Accrued Pension Multiple of 0.555). This implies that he could commute a maximum of \$160,000.95 with the resulting residual pension entitlements of an indexed pension of \$23,318.64, an indexed reversion of \$15,659.34 and a non-indexed reversion of \$4,340.78. He had member contributions of \$50,000 and no surcharge debt.

The family law value at the relevant date was calculated as:

$$160,000.95 + 23,318.64 \times 15.7480 + 15,659.34 \times 0.4229 + 4,340.78 \times 0.2255 - 0$$
$$= \$534,824.07$$

The court has awarded the non-member spouse a base amount of \$150,000 with the operative time being exactly one year after the relevant date. Over that period, the member spouse's pension entitlement has increased to \$34,600.12 (salary of \$62,063 and Accrued Pension Multiple of 0.5575). His maximum commutation is therefore \$173,000.60 with resulting pension entitlements of an indexed pension of \$24,826.08, and indexed reversion of \$16,738.05 and a non-indexed reversion of \$4,887.02. His member contributions have increased to \$53,420

The member spouse retires a further year later with a pension multiple of 0.6025 and a salary of \$64,550.

#### ***Determination of the Transfer Amount***

Step (i): Calculate the family law value at the operative time.

Male IP Factor at 57	15.3966
Male IR factor at 57	0.4333
Male NIR factor at 57	0.2352



Step (ii): Calculate the adjustment factor as  $\frac{\text{transfer amount}}{\text{scheme value} + \text{surchage debt}}$

$$\begin{aligned}\text{Adjustment factor} &= \frac{157,023.99}{590,032.28 + 0} \\ &= 0.266128\end{aligned}$$

Step (iii): Multiply the member contributions identified in step (i) by the adjustment factor to give the member contribution reduction amount.

$$\begin{aligned}\text{Member contribution reduction amount} &= 53,420 \times 0.266128 \\ &= \$14,216.50\end{aligned}$$

Step (iv): Multiply the accrued pension multiple identified in step (i) by the adjustment factor to give the pension multiple reduction.

$$\begin{aligned}\text{Pension multiple reduction} &= 0.5575 \times 0.266128 \\ &= 0.1484\end{aligned}$$

At the time of payment

Step (v): The pension multiple is 0.6025

Step(vi): Subtract the pension multiple reduction from the pension multiple identified in step (v) to give a multiple of 0.4541. This is the multiple that should be applied to the member spouse's salary for superannuation purposes to give the standard rate of pension. In this example, the pension payable at the time of payment would be \$29,312.16 (0.4541 × 64,550).

Note that where the member commutes part of his or her pension, this reduction will automatically flow through due to the reduction in pension.

### **(B) Defence Act Entitlement**

At the relevant date the member had \$25,000 in his productivity account. This was the family law value at the relevant date.

The court has awarded the non-member spouse \$10,000 of this amount. At the operative time, the productivity account has grown to \$28,000.

When the member spouse retires a year later, the productivity account has grown to \$30,998.52.

***Determination of the Transfer Amount***

Step (i): The family law value at the operative time is \$28,000.

Step (ii): The scheme value at the operative time is also \$28,000.

Step (iii): The scheme value is not greater than the family law value so go to step (iv).

Step (iv): The order specifies a base amount, so the transfer value is the base amount of \$10,000.

***Determining the Benefits for the Associate Benefit Interest (Defence Act Growth Phase)***

The original interest was under the Defence Act so the associate A benefit is set to zero and the associate B benefit is increased by the transfer amount of \$10,000.

***Determining the Reduction in Member Spouse Benefits (Defence Act Growth Phase)***

Step (i): The member spouse has already qualified for a pension so there is no SG top up benefit. The 3% benefit is \$28,000.

Step (ii) Calculate the adjustment factor to apply to the member spouse as:

$$\frac{\text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\text{Reduction factor} = \frac{10,000}{28,000+0}$$

$$= 0.357143$$

Step (iii): Multiply the 3% benefit identified in step (i) by the adjustment factor to give the amount that should be established in the offset account at the operative time.

## Adjustment of Benefits following Family Law Splits – DFRDB and DFRB

3% benefit offset account =  $28,000 \times 0.357143$

= \$10,000.00

Step (iv): Accumulate this amounts with interest in line with the interest crediting arrangements which apply to productivity benefits over the period until the benefit is taken.

Accumulated 3% productivity offset = \$10,500.00

Step (v): At the time of payment subtract the offset account from the benefit that would otherwise be payable.

3% benefit payable =  $30,998.52 - 10,500.00$

= \$20,498.52

**Example 5: DFRDB Contributory Member Aged Less Than 55 (who will have at least 20 years service on attaining age 55)**

**Scenario**

**(A) DFRDB Act Entitlement**

At the relevant date the member was a female other rank aged exactly 34 with exactly 15 years service. Her accrued pension multiple was 0.3000, her salary for superannuation purposes was \$41,000, her member contributions were \$24,000. She has no surcharge debt.

The family law value at the relevant date was calculated as:

$$0.3000 \times 41,000 \times 18.5891 + 24,000 \times 0.0628 - 0$$
$$= \$230,153.13$$

The court has awarded the non-member spouse a base amount of \$100,000 with the operative time being exactly one year after the relevant date. Over that period, the accrued pension multiple has increased to 0.31, the member spouse's superannuation salary has increased to \$43,000 and the member account has grown to \$26,300.

The member spouse retires in five years time by which time her pension multiple is 0.3650 and her superannuation salary is \$53,600.

***Determination of the Transfer Amount***

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

P Factor at 35 with 16 years service                      19.4497

LS Factor at 35 with 16 years service                      0.0445

$$\text{Family law value} = 0.31 \times 43,000 \times 19.4497 + 26,300 \times 0.0445 - 0$$
$$= \$260,434.85$$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors.

P Factor at 35 with 16 years service                      23.1077

LS Factor at 35 with 16 years service    0.0466

$$\begin{aligned}\text{Scheme value} &= 0.31 \times 43,000 \times 23.1077 + 26,300 \times 0.0466 - 0 \\ &= \$309,251.22\end{aligned}$$

Step (iii):    The scheme value is greater than the family law value so go to step (v).

Step (v):    Calculate the transfer amount as the scheme value times the base amount in whole dollars divided by the family law value in whole dollars.

$$\begin{aligned}\text{Transfer amount} &= 309,251.22 \times \frac{100,000}{260,434} \\ &= \$118,744.56\end{aligned}$$

***Determining the Benefits for the Associate Benefit Interest (DFRDB Growth Phase)***

The original interest was in the DFRDB so the associate A benefit is set to zero and the associate B benefit is set to the transfer amount of \$118,744.56.

***Determining the Reduction in Member Spouse Benefits (DFRDB Growth Phase)***

Step (i)    The member contribution component immediately before the operative time was \$26,300 and the accrued pension multiple was 0.31.

Step (ii):    Calculate the adjustment factor as  $\frac{\text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$

$$\begin{aligned}\text{Adjustment factor} &= \frac{118,744.56}{309,251.22 + 0} \\ &= 0.383974\end{aligned}$$

Step (iii):    Multiply the member contributions identified in step (i) by the adjustment factor to give the lump sum benefit reduction.

$$\text{Member contribution reduction amount} = 26,300 \times 0.383973$$

$$= \$10,098.52$$

Step (iv): Multiply the accrued pension multiple identified in step (i) by the adjustment factor to give the pension multiple reduction.

$$\begin{aligned} \text{Pension multiple reduction} &= 0.31 \times 0.383973 \\ &= 0.1190 \end{aligned}$$

At the time of payment

Step (v): The pension multiple at the time of payment is 0.3650.

Step(vi): Subtract the pension multiple reduction from the pension multiple identified in step (v) to give a multiple of 0.2460. This is the multiple that should be applied to the member spouse's salary for superannuation purposes to give the standard rate of pension. In this example, the pension payable at the time of payment would be \$13,185.60 (0.2460 × 53,600).

Note that where the member commutes part of his or her pension, this reduction will automatically flow through due to the reduction in pension.

Had the member exited in circumstances where a pension was not payable (most commonly resignation), the benefit payable under the DFRDB Act would have been based on the member contributions at the time of payment less the member contribution reduction amount identified in step (iii) above.

### **(B) Defence Act Entitlement**

At the relevant date the member had \$17,500 in her 3% productivity account and \$12,800 as her SG top up amount.

The family law value at the relevant date was calculated as:

$$\begin{aligned} &17,500 + 12,800 \times 0.0579 - 0 \\ &= \$18,241,12 \end{aligned}$$

The court has awarded the non-member spouse \$9,000 of this amount. At the operative time, the 3% productivity account has grown to \$20,000 and the SG top up amount has increased to \$17,600.

When the member retires in five years time, 3% the productivity account has grown to \$36,000 and the sg top up benefit is zero because the member has qualified for a pension.

***Determination of the Transfer Amount***

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

SG Factor at 35 with 16 years service 0.0390

$$\begin{aligned}\text{Family law value} &= 20,000 + 17,600 \times 0.0390 - 0 \\ &= \$20,686.40\end{aligned}$$

Step (ii): Calculate the scheme value at the operative time using the relevant scheme value factors.

SG Factor at 35 with 16 years service 0.0389

$$\begin{aligned}\text{Scheme value} &= 20,000 + 17,600 \times 0.0389 - 0 \\ &= \$20,684.64\end{aligned}$$

Step (iii): The scheme value is not greater than the family law value so go to step (iv).

Step (iv): The order specifies a base amount, so the transfer value is the base amount of \$9,000.

***Determining the Benefits for the Associate Benefit Interest (Defence Act Growth Phase)***

The original interest was under the Defence Act so there is no associate A benefit and the associate B benefit is increased by the transfer amount of \$9,000.

***Determining the Reduction in Member Spouse Benefits (Payment Phase)***

Step (i): The 3% benefit is \$20,000 and the SG top up benefit is \$17,600.

Step (ii) Calculate the adjustment factor to apply to these benefits as:

$$\frac{\text{transfer amount}}{\text{scheme value + surcharge debt}}$$

$$\text{Reduction factor} = \frac{9,000}{20,684.64 + 0}$$

$$= 0.435105$$

Step (iii): Multiply the 3% and SG top up benefits identified in step (i) by the adjustment factor to give the amounts that should be established in the offset accounts at the operative time.

$$\text{3\% benefit offset account} = 20,000 \times 0.435105$$

$$= \$8,702.10$$

$$\text{SG top up benefit offset account} = 17,600 \times 0.435105$$

$$= \$7,657.85$$

Step (iv): Accumulate these amounts with interest in line with the interest crediting arrangements which apply to productivity benefits over the period until the benefit is taken. Assume:

$$\text{Accumulated 3\% productivity offset} = \$11,105.27$$

$$\text{Accumulated SG top up offset} = \$9,772.74$$

Step (v): At the time of payment subtract the offset accounts from the benefit that would otherwise be payable, noting that no SG top up benefit is payable and hence the SG top up offset is also set to zero.

$$\text{3\% benefit payable} = 36,000 - 11,105.27$$

$$= \$24,894.73$$

$$\text{SG top up benefit payable} = \$0$$

### **Example 6: DFRDB Contributory Member Without Entitlement to a Standard Pension at Age 55**

Note that this covers both those who are over 55 and do not have a pension entitlement and those who are aged less than 55 and will not have completed 20 years of service to establish a pension entitlement by the time they reach 55.

#### **Scenario**

##### **(A) DFRDB Act Entitlement**

At the relevant date, the member was a male aged 52 years and six months with 14 years and 4 months service. His accrued pension multiple was 0.28 his salary for superannuation purposes was \$48,000 and his member contributions were \$30,000. There is no surcharge debt.

The family law value at the relevant date was calculated as:

$$0.28 \times 48,000 \times \left\{ 5 + \left( 1 - \frac{5}{12.47} \right) \times 12.2423 + 0.625 \times \left[ \left( 1 - \frac{4}{12.47} \right) \times 1.288 + \frac{4}{12.47} \times 0.751 \right] \right\} \times 0.7661 - 0$$

$$= \$134,171.60$$

The court has awarded the non-member spouse a base amount of \$80,000 with the operative time being exactly six months after the relevant date. Over that period, the accrued pension multiple remains 0.28, the member spouse's superannuation salary has increased to \$49,000 and the member contributions have grown to \$32,600.

The member spouse retires five years and two months after the operative time (on becoming eligible for a pension) by which time his pension multiple is 0.3500 and his salary is \$61,100.

#### **Determination of the Transfer Amount**

Step (i): Calculate the family law value at the operative time using the relevant family law factors.

f Factor with 12 years until reaching 65	0.7755
IRP Factor at age 53	1.012



Step (iv): Multiply the accrued pension multiple identified in step (i) by the adjustment factor to give the pension multiple reduction.

$$\begin{aligned}\text{Pension multiple reduction} &= 0.2800 \times 0.583697 \\ &= 0.1634\end{aligned}$$

At the time of payment

Step (v): The pension multiple at the time of payment is 0.3500.

Step(vi): Subtract the pension multiple reduction from the pension multiple identified in step (v) to give a multiple of 0.1866. This is the multiple that should be applied to the member spouse's salary for superannuation purposes to give the standard rate of pension. In this example, the pension payable at the time of payment would be \$11,401.26 (0.1866 × 61,100).

Note that where the member commutes part of his or her pension, this reduction will automatically flow through due to the reduction in pension.

Note also that if the member had been an officer, the pension multiple reduction occurs before any reduction for retiring before the relevant officer notional retiring age.

Had the member exited in circumstances where a pension was not payable (most commonly resignation), the benefit payable under the DFRDB Act would have been based on the member contributions at the time of payment less the member contribution reduction amount identified in step (iii) above.

## **(B) Defence Act Entitlement**

### ***Scenario***

At the relevant date the member had \$26,000 in his 3% productivity account and \$19,000 as his SG top up amount.

The family law value at the relevant date was taken to be the 3% productivity benefit of \$26,000.

The court has awarded the non-member spouse \$15,000 of this amount. At the operative time, the 3% productivity account has grown to \$27,500 and the SG top up amount has increased to \$21,900.

At the time of retirement, the 3% productivity benefit has grown to \$47,500 and there is no SG benefit payable because the member has qualified for a pension.

***Determination of the Transfer Amount***

Step (i): Identify the family law value at the operative time as the 3% productivity benefit.

Family law value = \$27,500 - 0

Step (ii): There are no scheme specific factors for this class of member, so the scheme value at the operative time is equal to the family law value.

Step (iii): The scheme value is not greater than the family law value so go to step (iv).

Step (iv): The order specifies a base amount, so the transfer value is the base amount of \$15,000.

***Determining the Benefits for the Associate Benefit Interest (Defence Act Growth Phase)***

The original interest was under the Defence Act so the associate A benefit is set to zero and the associate B benefit is increased by the transfer amount of \$15,000.

***Determining the Reduction in Member Spouse Benefits (Payment Phase)***

Step (i): The 3% benefit is \$27,500 and the SG top up benefit is \$21,900.

Step (ii) Calculate the adjustment factor to apply to these benefits as:

$$\frac{\text{transfer amount}}{\text{scheme value} + \text{surcharge debt}}$$

$$\text{Reduction factor} = \frac{15,000}{27,500 + 0}$$

$$= 0.545455$$

Step (iii): Multiply the 3% and SG top up benefits identified in step (i) by the adjustment factor to give the amounts that should be established in the offset accounts at the operative time.

## Adjustment of Benefits following Family Law Splits – DFRDB and DFRB

3% benefit offset account=  $27,500 \times 0.545455$

= \$15,000.01

SG top up benefit offset account =  $21,900 \times 0.545455$

= \$11,945.46

Step (iv): Accumulate these amounts with interest in line with the interest crediting arrangements which apply to productivity benefits over the period until the benefit is taken.

Assume:

Accumulated 3% productivity offset = \$19,144.22

Accumulated SG top up offset = \$15,245.76

Step (v): At the time of payment subtract the offset accounts from the benefit that would otherwise be payable, noting that no SG top up benefit is payable and hence the SG top up offset is also set to zero.

3% benefit payable =  $47,500 - 19,144.22$

= \$28,355.78

SG top up benefit payable = \$0