



# Defence Force Retirement and Death Benefits (Family Law Superannuation) Amendment Order 2012 (No. 1)<sup>1</sup>

*Defence Force Retirement and Death Benefits Act 1973*

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I, Warren Snowdon, Minister for Defence Science and Personnel, make the following order under section 49F of the *Defence Force Retirement and Death Benefits Act 1973*.

Dated 30 July 2012

**WARREN SNOWDON**  
Minister for Defence Science and Personnel

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**1 Name of order**

This order is the *Defence Force Retirement and Death Benefits (Family Law Superannuation) Amendment Order 2012 (No. 1)*.

**2 Commencement**

This order is taken to have commenced on 1 January 2008.

**3 Amendment of *Defence Force Retirement and Death Benefits (Family Law Superannuation) Orders 2004***

Schedule 1 amends the *Defence Force Retirement and Death Benefits (Family Law Superannuation) Orders 2004*.

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## Schedule 1      Amendment

(section 3)

### [1]      After section 2.08

*insert*

### 2.09      Reduction of later standard pensions and associated reversions not payable under section 38 of the Act

- (1) For subsection 49E (1A) of the Act, the amount to which an annual rate of a later standard pension, payable in respect of an original interest, is to be reduced is calculated as follows:

**Step 1** Identify:

- (a) the annual rate of later standard pension that would have been payable to the member spouse at the date of commencement of the later standard pension had there not been a family law payment split (the *unreduced standard pension*); and
- (b) the indexed and non-indexed components of the unreduced standard pension.

**Step 2** Identify:

- (a) the annual rate of standard pension that was payable to the member spouse immediately before the operative time (the *pre-split standard pension*); and
- (b) the indexed and non-indexed components of the pre-split standard pension.

**Step 3** Work out a reduction factor using the formula:

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

- Step 4** Work out the annual rate of the standard pension payable in respect of the original interest to the member spouse after the operative time (the *post-split standard pension*) by multiplying the pre-split standard pension by the reduction factor.

The indexed and non-indexed components of the post-split standard pension are in the same proportion for the post-split standard pension as they were for the pre-split standard pension.

- Step 5** Work out the reduction in the standard pension at the operative time (the *reduction in standard pension*) by subtracting the post-split standard pension from the pre-split standard pension.

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Work out the corresponding reduction in the indexed component of the standard pension at the operative time by subtracting the indexed component of the post-split standard pension in step 4 from the indexed component of the pre-split standard pension in step 2.

Work out the corresponding reduction in the non-indexed component of the standard pension at the operative time by subtracting the non-indexed component of the post-split standard pension in step 4 from the non-indexed component of the pre-split standard pension in step 2.

- Step 6** Work out the increase in the indexed component of the reduction in standard pension for indexation during the period between the operative time and the date of commencement of the later standard pension as follows:
- (a) work out the *indexation factor* by dividing the indexed component of the pre-split standard pension from step 2, increased in accordance with Part XA of the Act in the period from the operative time to the date of commencement of the later standard pension, by the indexed component of the pre-split standard pension from step 2;
  - (b) multiply the indexation factor by the indexed component of the reduction of the standard pension from step 5.
- Step 7** Work out the annual rate of the standard pension payable to the member spouse at the date of commencement of the later standard pension (the *current standard pension*) by subtracting the following amounts from the unreduced standard pension:
- (a) the current value of the indexed component of the reduction in standard pension from step 6;
  - (b) the non-indexed component of the reduction in standard pension from step 5.
- Step 8** Work out the annual rate of the non-indexed component of the standard pension payable to the member spouse at the date of commencement of the later standard pension (the *current standard pension non-indexed component*) by subtracting the reduction in the non-indexed component of the standard pension at the operative time from step 5 from the non-indexed component of the unreduced standard pension identified in step 1.
- If the amount calculated is less than zero, the current standard pension non-indexed component is zero.
- Step 9** Work out the annual rate of the indexed component of the standard pension payable to the member spouse at the date of commencement of the later standard pension by subtracting the current standard pension non-indexed component from step 8 from the current standard pension in step 7.

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- (2) For subsection 49E (1A) of the Act, the amount to which an annual rate of a later reversionary pension is to be reduced is worked as follows:

**Step 1** Identify:

- (a) the annual rate of the reversionary pension that would have been payable to a surviving spouse at the date of commencement of the later standard pension if there had not been a family law split (the *unreduced reversionary pension*); and
- (b) the indexed and non-indexed components of the unreduced reversionary pension.

**Step 2** Identify:

- (a) the annual rate of the reversionary pension that would have been payable to a surviving spouse if the member spouse had died immediately before the operative time (the *pre-split reversionary pension*); and
- (b) the indexed and non-indexed components of the pre-split reversionary pension.

**Step 3** Work out the annual rate of reversionary pension that would have been payable in respect of the original interest to a surviving spouse of the member spouse had died immediately after the operative time (the *post-split reversionary pension*) by multiplying the pre-split reversionary pension by the reduction factor calculated in step 3 in subsection (1).

Work out the indexed and non-indexed components of the post-split reversionary pension. They are in the same proportion to the post-split reversionary pension as they were to the pre-split reversionary pension.

**Step 4** Work out the reduction in the reversionary pension at the operative time (the *reduction in reversionary pension*) by subtracting the post-split reversionary pension from the pre-split reversionary pension.

Work out the corresponding reductions in the indexed and non-indexed components of the reversionary pension at the operative time by subtracting the post-split pension components in step 3 from the pre-split pension components in step 2.

**Step 5** Work out the increase in the indexed component of the reduction in reversionary pension for indexation during the period between the operative time and the date of commencement of the later standard pension by multiplying the indexation factor calculated in step 6 (a) in subsection (1) by the indexed component of the reduction in reversionary pension from step 4.

**Step 6** Work out the annual rate of the standard reversionary pension that would be payable to a surviving spouse if the member spouse were to have died at the date of commencement of the later standard pension (the *current reversionary pension*) by subtracting the following amounts from the unreduced reversionary pension:

- (a) the current value of the indexed component of the reduction in reversionary pension from step 5;
- (b) the non-indexed component of the reduction in reversionary pension from step 4.

**Step 7** Work out the annual rate of the non-indexed component of the current reversionary pension that would be payable to a surviving spouse if the member spouse were to have died at the date of commencement of the later standard pension (the *current reversionary pension non-indexed component*) by subtracting the reduction in the non-indexed component of the reversionary pension at the operative time from step 4 from the non-indexed component of the unreduced standard pension identified in step 1.

If the amount calculated is less than zero, the current reversionary pension non-indexed component is zero.

**Step 8** Work out the annual rate of the indexed component of the reversionary pension that would be payable to a surviving spouse if the member spouse were to have died at the date of commencement of the later standard pension by subtracting the current reversionary pension non-indexed component from step 7 from the current reversionary pension in step 6.

## 2.10 Reduction of later standard pensions payable under section 38 of the Act

For subsection 49E (1A) of the Act, the amount to which an annual rate of a later standard pension payable under section 38 of the Act in respect of an original interest is to be reduced is calculated as follows:

**Step 1** Identify:

- (a) the annual rate of the standard reversionary pension that would have been payable to a surviving spouse at the date of commencement of the later standard pension if there had not been a family law split (the *unreduced standard reversionary pension*); and
- (b) the indexed and non-indexed components of the unreduced standard reversionary pension.

**Step 2** Identify:

- (a) the annual rate of the standard reversionary pension that would have been payable to a surviving spouse if the member spouse had died immediately before the operative time (the *pre-split standard reversionary pension*); and
- (b) the indexed and non-indexed components of the pre-split standard reversionary pension.

**Step 3** Work out the annual rate of standard reversionary pension payable in respect of the original interest to a surviving spouse of the member spouse had died immediately after the operative time (the *post-split standard reversionary pension*) by multiplying the pre-split standard reversionary pension by the reduction factor calculated in step 3 in subsection 2.09 (1).

Work out the indexed and non-indexed components of the post-split standard reversionary pension. They are in the same proportion to the post-split standard reversionary pension as they were to the pre-split standard reversionary pension.

**Step 4** Work out the reduction in the standard reversionary pension at the operative time (the *reduction in standard reversionary pension*) by subtracting the post-split standard reversionary pension from the pre-split standard reversionary pension.

Work out the corresponding reductions in the indexed and non-indexed components of the standard reversionary pension at the operative time by subtracting the post-split pension components in step 3 from the pre-split pension components in step 2.

**Step 5** Work out the increase in the indexed component of the reduction in standard reversionary pension for indexation during the period between the operative time and the date of commencement of the later standard pension as follows:

- (a) work out the *indexation factor* by dividing the indexed component of the pre-split standard reversionary pension from step 2, increased in accordance with Part XA of the Act in the period from the operative time to the date of commencement of the later standard pension, by the indexed component of the pre-split standard reversionary pension from step 2;
- (b) multiply the indexation factor by the indexed component of the reduction in standard reversionary pension from step 4.

**Step 6** Work out the annual rate of the standard reversionary pension payable under section 38 of the Act in respect of the original interest at the date of commencement of the later standard pension by subtracting the following amounts from the unreduced standard reversionary pension:

- (a) the current value of the indexed component of the reduction in standard reversionary pension from step 5;
- (b) the non-indexed component of the reduction in standard reversionary pension from step 4.

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## Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.comlaw.gov.au](http://www.comlaw.gov.au).