



Peak Council representing Commonwealth, including military, State, Territory and other public sector retirees.

12 Muresk Street, Farrer ACT 2607

16 December 2016

Media Statement
Happy Christmas?

[Answers](#) made public on 9 December to Questions on Notice from a Senate Estimates Committee, show that the Department of Social Services is now suggesting a new reason for making the “10% Cap” policy change that was originally legislated in June 2015 and implemented from 1 January 2016.

In the May 2015 Budget, when there was a “Budget emergency”, Mr Morrison was Minister for Social Services, responsible for Age pension policy. Mr Morrison was told that if he reduced from 50% to 10% the amount of tax-free income that defined benefit pensioners – police, academics, public servants, clergy, etc - can exclude from the age Pension income test he could save the Government just over \$100 million pa. The real financial burden of the 10% Cap measure has fallen primarily on retirees on total incomes – super plus part Age pension – in the \$30,000-\$60,000 pa range [see Note 1].

[The original justification](#) that was provided by the Government to the Parliament in 2015 was based *entirely* on retirees’ pre-30 June 1983 service, even though the Department of Social Services has admitted that it does not know who has pre-30 June 1983 service. [See Note 2]

The issues are:

- although [explained](#) in 2015 as stopping “fat cats” from claiming a part Age pension, the effect of the 10% Cap has fallen primarily on much poorer defined benefit retirees [see Note 1];
- the Parliament failed to review the measure properly [see Note 3];
- even the latest claimed justification for the measure – that there were significant employer contributions to *all* the tax-free pension elements for *all* defined benefit retirees, with or without pre-30 June 1983 service - does *not* apply to all of those who have now lost a significant amount of their retirement income [See Note 2];
- the information required to differentiate between types of retirees and income streams was, and is, available, if the Department of Social Services bothers to look for it;
- the lack of grandfathering for the measure contrasts with the Government's treatment of part Age pensions for defined contribution retirees with allocated pensions.

We are approaching the anniversary of the implementation of the 10% Cap policy. Its history is replete with prevarication, prejudice and now more evasion. As they reflect on the cuts to their own retirement incomes, many far from affluent defined benefit retirees feel bitter contemplating the tax cuts and pork-barrelling which the Government has felt able to provide to others this Christmas.

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Notes to ACPSRO 16 December 2016 Media Statement

Note 1 – Affected Defined Benefit Retirees

As can be seen from the [Departmental letter of 18 May 2016](#), over 9,000 single defined benefit retirees on *total* retirement incomes – super plus part Age pension – of between \$30,000 and \$35,000 pa have lost about \$42.00 per fortnight, while over 1,200 couples on retirement incomes up to \$45,000 lost about \$50 per fortnight. That's a total of about 11,400 of the 47,800 retirees affected by the 10% Cap measure.

On those levels of income, after paying fixed living expenses, like rent, utilities, transport, phone bills, etc, such a reduction reduces the retiree from eating bread and dripping to eating bread *or* dripping!

On the other hand, Mr Morrison's [purported](#) target group - retiree couples on pensions of up to \$120,000 - is only a small *subset* of the total of 30 single defined benefit pensioners and 163 couples shown in the Departmental letter as having a total income above \$104,000 pa (ie well below Mr Morrison's claimed \$120,000 target) who were affected. That's a total of only 256 of the 47,800 retirees affected by the 10% Cap measure.

Clearly the 10% cap measure hits far more than its claimed targetted retirees, so either the target was simply to save \$100 million, irrespective of the financial pain it caused to retirees, or the administrative measure adopted – the 10% cap – was inappropriate. ACPSRO would have expected that the claimed inequity which benefitted fat-cat retirees could have been more easily rectified with an across the board monetary cap on the amount that can be excluded from part Age pension calculations.

Note 2 – Why some Defined Benefit Retirees have a tax-free component of their super

Pre-30 June 1983 service was introduced as one of several determinants of tax-free elements of superannuation income in the 2007 *Better Super* package. Note that *all* forms of tax-free income generated by the *Better Super* package were excluded from the Age pension income test, under the rules pertaining at that time, and it took the Department of Social Services over 7 years to start to address that.

This pre-30 June 1983 service, which has been called an “anomaly” by recent Ministers for Social Services, was dealt with in detail by the Australian Taxation Office in 2007 in a document called *Calculating the tax-free component after a trigger event – non-account based superannuation streams*. Clearly the generation of a tax-free component due to pre-30 June 1983 service for defined benefit pensioners was a well recognised element of the 2007 *Better Superannuation* package.

Readers should note that the Government has recently shifted tack markedly with regard to its reasons for the 10% Cap and the significance of pre-30 June 1983 service for defined benefit retirees. In its [written submission](#) to the Senate Community Services Committee in June 2015, the Department of Social Services placed *total* reliance on pre-30 June 1983 service when justifying the 10% Cap to the Parliament. In its December 2016 [answers to Estimates Questions on Notice](#) the Department, in effect, claims that *all* tax-free elements received by defined benefit pensioners contain a significant element of employer contribution, irrespective of whether there was any pre-30 June 1983 service.

That is simply untrue. In the case of at least Commonwealth public sector employees with no pre-30 June 1983 service, the only tax-free element of their defined benefit pensions derives from their personal after-tax contributions, which the Government withheld from their salary and used for its own purposes for several decades, until returned to them as a lump sum when they retired. The Department could have easily determined who those post-1983 Commonwealth pensioners were because that information is in a database called APSED (Australian Public Service Employment Database), which is held by the Public Service Commission. Inquiries to the trustees of other defined benefit schemes would doubtless have elicited similarly relevant information for use by the

Department and Centrelink.

Many other defined benefit pensioners also had a tax-free component of their super pensions because they had purchased additional pension with their own tax-paid savings, as legislated for in their various superannuation schemes. Many chose to do that as a result of the 2007 *Better Super* reforms because of the Age pension income test rules that pertained until 1 January 2015. (An alternative could have been to open a SMSF and take an allocated pension in which case, if done before 1 January 2015, the income would, to this day, still be excluded when calculating any part Age pension.) [That background may explain to the Department one reason why there was the marked increase in the number of defined benefit retirees with exempt income after 2007, which the Department notes with apparent bafflement in some of its correspondence.]

Note 3 – Parliamentary consideration

Most Australians might have expected the Parliament to have investigated all of the issues and Government claims *before* passing the measure.

Unfortunately the legislation was introduced just before Parliament rose for its winter recess in 2015, the Senate Community Affairs Committee, then chaired by Liberal Senator Seselja, held no hearings, the Greens decided to support the Government (with commendable but subsequently unenforceable reservations), the ALP decided that as the Government thus had the numbers in the Senate there was no point in opposing the legislation, so the Bill in its final form was passed in less than 24 hours.

The only saving grace for the Parliament's reputation in this matter has been that Greens Senator Siewert did, at least, ask relevant Questions on Notice in Senate Estimates hearings, although the “answers” largely avoid answering the questions.