A former member unable to work because of accepted disabilities may choose the Special Rate Disability Pension (SRDP) in lieu of incapacity payments. Under the SRDP, they are paid an ongoing, tax-free amount for life. The SRDP rate is equivalent to the Special Rate of pension under the Veterans’ Entitlements Act 1986 (VEA; currently $1,092.90 per fortnight) and there are offsets for Commonwealth superannuation and permanent impairment compensation payments. The SRDP was built into the Military Rehabilitation and Compensation Act 2004 (MRCA) as a safety net payment.

There are significant differences between eligibility for the SRDP under the MRCA and eligibility for the Special Rate of pension under the VEA. One key difference is that, under the MRCA, the former member must undergo a rehabilitation assessment before he or she can be eligible for the SRDP. Before choosing the SRDP, a member must obtain financial advice from a suitably qualified financial adviser. Eligibility for SRDP attracts some additional benefits, irrespective of whether a former member chooses SRDP or incapacity payments.

There is no age limitation in the MRCA for SRDP eligibility. By contrast, additional conditions apply to the Special Rate of pension for applicants aged 65 years or over. It is unlikely that it was intended that the MRCA be less restrictive than the VEA in regard to remunerative work after age 65. The lack of employment history restrictions in the MRCA on SRDP applications after age 65 should be addressed.

People who are eligible for the Special Rate of pension under the VEA or SRDP under the MRCA generally have access to equivalent benefits. One exception is that, under the VEA, a person who is eligible for the Special Rate of pension is automatically eligible for the invalidity service pension; a person who is SRDP eligible, however, is not automatically eligible. The Committee recommends that SRDP-eligible former members should have automatic eligibility for invalidity service pension in the same manner as recipients of the Special Rate of pension under the VEA.

The commutation of a small amount of weekly compensation for incapacity into lump sum compensation under section 138 of the MRCA will result in a person becoming ineligible to make a choice to receive the SRDP, in circumstances where they would have otherwise been eligible. This is because section 199 of the MRCA requires a person to be receiving incapacity compensation at the time they are determined to be eligible for SRDP in order to be given the choice to receive SRDP. The Committee is not aware of any cases that have been affected by this situation.

Since the introduction of the MRCA in 2004, superannuation and taxation reforms have improved incentives for people to join, stay in and strive for greater rewards in the workforce, and to improve their standard of living in retirement. While tax offsets under superannuation schemes have changed since 2004, the superannuation offset against the SRDP has remained unchanged, with the result that the SRDP is now more advantageous than in July 2004. The setting of a single rate of offset as an adjustment to the SRDP does not result in an equitable outcome. Given the policy intention to reduce taxation for low and middle income earners and provide employment incentives, no change is recommended in the offset until age 60. The Committee recommends that, after age 60, the offset should be increased to 70 cents in the dollar to take account of reduced taxation on superannuation benefits after that age.

The Committee recommends maintenance of the current approach to not pay SRDP during a person’s imprisonment, consistent with the non-payment of incapacity payments in this situation.

(continued)
Twenty-two former members have become eligible for the SRDP since 1 July 2004. As at December 2010, only two had elected, or had indicated they would elect, to take the SRDP. This is thought to be because increases in remuneration levels in the Australian Defence Force since 2004 have flowed on to incapacity payments, making the SRDP less attractive. In addition, changes in recent years to income tax thresholds and marginal rates have had a beneficial impact on recipients of incapacity payments.

With this low rate of uptake, and since the SRDP is designed as a safety net and is unique in modern Australian compensation legislation, the Committee has considered its ongoing relevance. The Committee believes that the SRDP may still be of relevance to injured part-time Reservists and those approaching retirement. All aspects of the SRDP including its relevance, eligibility criteria and the effectiveness of rehabilitation should be evaluated as more data become available after a further five years.

Introduction

11.1 The Special Rate Disability Pension (SRDP) under the Military Rehabilitation and Compensation Act 2004 (MRCA) has its genesis in the Special Rate of pension, generally known as the totally and permanently incapacitated (TPI) pension, paid under the Veterans’ Entitlements Act 1986 (VEA) and its antecedent legislation. It was built into the MRCA as a safety net, to ensure that a former member unable to work because of accepted disabilities would have access to benefits at least the equivalent of the Special Rate of pension under the VEA.

11.2 Where eligible former members choose the SRDP safety net in lieu of incapacity payments, they are paid an ongoing, tax-free amount for life. While the SRDP rate is equivalent to the Special Rate of pension (currently $1,092.90 per fortnight), there are offsets for Commonwealth superannuation and permanent impairment compensation payments. Some Special Rate pensioners also receive Commonwealth-funded superannuation benefits that are not offset, but this was considered to be an anomaly and was not carried forward in the MRCA. The rate of SRDP is adjusted in March and September each year in line with the Special Rate of pension, which is indexed with reference to the Consumer Price Index, Pensioner and Beneficiary Living Cost Index, and the Male Total Average Weekly Earnings.

11.3 This chapter outlines the history of eligibility conditions for the Special Rate of pension under the VEA, and the experience with SRDP-related issues since commencement of the MRCA.

Background

Special Rate of pension

11.4 The Special Rate of pension under the VEA is a fortnightly amount, generally payable for the life of the recipient. It is not taxed or means tested. It may be offset by other compensation payments, but it is not offset by superannuation. It is excluded as income from service pension (but not rent assistance) means testing. It is included as income for means testing for social security purposes, but the amount by which the Special Rate of pension reduces a Centrelink income support payment is reimbursed to the recipient in the form of the Defence Force Income Support Allowance (DFISA), also payable under the VEA. The SRDP mirrors these conditions.
11.5 There are differences in the eligibility tests for the SRDP and the Special Rate of pension, and these are set out at paragraphs 11.25 et seq.

11.6 The Special Rate of pension was first introduced in the *Australian Soldiers’ Repatriation Act 1920* (Repatriation Act). The test to be applied was set out in Schedule 2 to that Act as follows:

> The Special Rate of pension may be granted to members of the Forces who have been blinded as the result of War Service, and to members who are totally and permanently incapacitated (i.e. incapacitated for life to such an extent as to be precluded from earning other than a negligible percentage of a living wage). ¹

11.7 This test did not change until 1985, when certain Federal Court decisions interpreting these words appeared to be undermining the original intention of those provisions, such that veterans who had had a full working life were able to fulfil these requirements. The Special Rate of pension began to be seen by some as a type of superannuation scheme for veterans. Clearly, when this rate of pension was introduced in 1920, this was not envisioned. In the Second Reading Speech to the Australian Soldiers’ Repatriation Bill 1920, the Minister, Senator Millen, said:

> I pass from that to refer to what is done for the benefit of those most seriously stricken men, the totally and permanently incapacitated. These terms are used with varying meaning, but are interpreted literally by the Department of Repatriation. In view of the nature of the war, the number of our men totally incapacitated is fortunately smaller than might have been expected. These men include men who are hopelessly crippled or paralyzed—spine cases—men to whom we can offer no hope of restoration to health. …

> There is a special schedule in the new Bill for the blinded, and for that class to whom I referred earlier, that is, the totally and permanently incapacitated. Provision is made to allow these a pension of £4 per week. In view of the severity of their affliction, I venture to believe that the Senate will not regard that sum as out of the way.

> … the number of those so seriously injured is very much less than one might have expected, bearing in mind the character of the war. The total number of blinded is not more than 100. … The maximum number of the totally and permanently incapacitated will not exceed 150. ²

11.8 In 1985, the special rate test was replaced with substantially the same tests that currently apply. These amendments were in the context of an economic statement by the Treasurer, in which it was indicated that a tightening of the criteria for special rate was required. Those tests were first inserted into the *Repatriation Act 1920*, and were then re-enacted in the VEA.

11.9 In introducing special rate legislation in 1985, the Acting Minister for Veterans’ Affairs said:

> Since 1920, there has been a special rate of disability pension payable in circumstances where, because of total and permanent incapacity resulting from war service, a veteran has been unable to resume or to continue in civil employment. The special or TPI rate pension was designed for severely disabled veterans of a relatively young age who could never go back to work and could never hope to support themselves or their families or put away money for their old age. It was never intended that the TPI rate would become payable to a veteran who, having enjoyed a full working life after war service, then retires from work possibly with whatever superannuation or other retirement benefits are available to the Australian work force. Determining authorities have found the application of the

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¹ First paragraph of the Second Schedule to the *Australian Soldiers’ Repatriation Act 1920.*

present legislative provisions difficult because the provisions, unchanged since 1920, contain outmoded and imprecise terms. The amendments clarify the eligibility criteria and make it clear that to qualify for a TPI pension a veteran must be eligible for the 100% general rate pension. In addition, the TPI rate pension can become payable only when a veteran is totally and permanently disabled by accepted disabilities and is thereby precluded from continuing to engage in remunerative work. If a person has had the usual span of a working life or has retired voluntarily or has left employment for reasons other than accepted disabilities, a TPI pension is not payable. It would be in only very rare cases that any veteran beyond the normal retirement age could be eligible for this pension. Special provision is made by the Bill to cover veterans who are under 65 years of age, are unemployed, and are genuinely seeking to engage in remunerative work. 3

11.10 The special rate tests introduced in 1985 required that a prerequisite for obtaining this rate of pension was that the veteran had to have a degree of incapacity of 100 per cent. In 1988, legislation was enacted to reduce the requisite degree of incapacity to 70 per cent (with effect from 22 December 1988).

11.11 The next major amendments were in 1994 (also in a restrictive budgetary context). Before the 1994 amendments of section 24, there were no special rules for veterans who were over 65 years of age. The 1994 legislation introduced restrictive rules for veterans over 65 years to apply to claims or applications made on or after 1 June 1994. They require applicants over 65 years to meet all the same criteria as those under that age, and to demonstrate that they had been working in the same business or employment for 10 consecutive years before turning 65.

11.12 Further amendments were made in 1997 upon the introduction of the Veterans’ Vocational Rehabilitation Scheme, to ensure that benefits were protected for recipients who returned to work under that scheme.

Special Rate Disability Pension eligibility

11.13 To be eligible for the SRDP, a person must:

- be a former member who has been discharged from all forms of Australian Defence Force (ADF) employment;
- be in receipt of ongoing incapacity payments;
- have been assessed for permanent impairment with 50 or more overall impairment points;
- be medically certified as unable to undertake remunerative work for more than 10 hours per week; and
- have been assessed for rehabilitation in accordance with section 44, and as a result of that assessment it is determined that rehabilitation is unlikely to increase the person’s capacity to undertake remunerative work.

11.14 SRDP eligibility is not dependent upon type of service. Since 1994, when access to the VEA for peacetime service was withdrawn (except for those not covered by the grandfather clauses of the Military Compensation Act 1994), the special rate has applied only to people whose accepted condition is related to warlike or non-warlike service. Former members with only peacetime service therefore have a benefit under the MRCA that they would not have had under the VEA if they had served only during the 1994–2004 period.


138 Review of Military Compensation Arrangements
The appendix to this chapter provides a number of scenarios demonstrating the level of financial support that may be provided to a severely incapacitated and impaired veteran who is unable to work again.

**Choice to receive the Special Rate Disability Pension**

11.16 Subsection 199(2) of the MRCA provides that a delegate must offer the former member a choice, in writing, to take the SRDP, as soon as possible after becoming aware that a former member meets the criteria. The offer must specify the date on which it is made.

11.17 A former member has 12 months from this date to make his or her choice. The time may be extended in certain circumstances. Before making the choice, a person must obtain financial advice from a suitably qualified financial adviser in respect of the choice. A suitably qualified financial adviser is someone employed by an organisation that holds an Australian Financial Services licence. The cost of financial advice to assist a former member to make the choice is refundable for up to $1,503.83.4

11.18 About 22 former members have become eligible for the SRDP since 1 July 2004. As at December 2010, only two had elected or had indicated that they will elect to take the SRDP payment. Others have remained on the incapacity payments regime, or are still within the statutory time period of 12 months allowed to finalise the choice.

**Other benefits of being eligible for the Special Rate Disability Pension**

11.19 Eligibility for the SRDP attracts some additional benefits, irrespective of whether a former member chooses the SRDP, or to continue incapacity payments. Where appropriate, Commonwealth legislation has been amended to recognise the same eligibility as the Special Rate of pension for the SRDP under the MRCA and those eligible for the SRDP.

11.20 A former member who is assessed as eligible to receive the SRDP is automatically entitled to:

- veterans allowance;
- education assistance for eligible young persons;
- GST exemption on the purchase of a motor vehicle; and
- the Repatriation Health Card – For All Conditions (Gold Card).

11.21 On the death of a member in this category, the wholly dependent partner becomes eligible for payment of a death benefit, without the additional lump sum. Death benefits are covered in Chapter 9.

11.22 The Gold Card is embossed with ‘TPI’ to enable access to various state, local government and private concessions. Concessions are not administered by the Department of Veterans’ Affairs (DVA) and no guarantees are given in relation to these benefits.

11.23 Section 282 of the MRCA provides that once a person has become eligible for a Gold Card by virtue of being eligible for the SRDP, they retain it even if they later cease to be eligible for the SRDP.

4 Section 205 of the MRCA.
11.24 Submissions were made to the Review on the matter of offsetting the SRDP by the amounts of Commonwealth-funded superannuation. This issue is discussed in Chapter 12. To date, only two former members have indicated that they will choose to take the SRDP in lieu of incapacity payments, but the choice still has a significant importance to the ex-service organisation (ESO) community. The additional benefits outlined above are also highly valued.

Comparisons — Special Rate of pension and Special Rate Disability Pension

11.25 The table below provides a summary of the differences between the SRDP and the VEA Special Rate of pension eligibility criteria.

<table>
<thead>
<tr>
<th>Eligibility for payment</th>
<th>SRDP</th>
<th>Special Rate of pension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum impairment points</td>
<td>50</td>
<td>70% Incapacity Pension, awarded at 40 points and lifestyle rating of 3, or 45 points and 2, or 50 points and 1</td>
</tr>
<tr>
<td>Maximum hours weekly remunerative work</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>Vocational rehabilitation assessed</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Ceased work solely due to accepted disabilities</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Unable to continue work solely due to accepted disabilities</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Those over 65 able to demonstrate a long-term commitment to working</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

11.26 The Committee noted the different criteria between the SRDP and the Special Rate of pension, in particular the minimum hours and the cause of the inability to work. A criterion for the Special Rate of pension is the inability to work at least eight hours per week due to the former member’s accepted conditions alone. Additionally, the SRDP is not age limited as is the case with the Special Rate of pension.

11.27 Being unable to work a minimum of 10 hours is an MRCA criterion that aligns with the part-time work provisions of the Safety, Rehabilitation and Compensation Act 1988 (SRCA), where step-downs of incapacity payments are set at intervals of 25 per cent of the working week. If the level of eight hours is a criterion for the SRDP, this would translate to a working week of 32 hours and there would be a gap between being eligible for the SRDP and being eligible for 25 per cent incapacity payments for 10 hours work.

Age conditions

11.28 Additional conditions apply to the Special Rate of pension for applicants aged 65 years or over. Applicants must have been engaged in remunerative work after age 65 in the same business or employment in which they had been working for 10 continuous
years. After age 65, a person not meeting this employment test can apply for the Extreme Disablement Adjustment. There is no age limitation in the MRCA for SRDP eligibility. It is unlikely that it was intended that the MRCA be less restrictive than the VEA in regard to remunerative work after age 65. It may have been assumed that, after age 65, there would be no reason to take the SRDP, as incapacity payments cut out at that age. However, the additional benefits gained by being SRDP eligible remain significant after age 65.

11.29 The anomaly of not having employment history restrictions after age 65 for eligibility for the SRDP should be addressed by amending legislation.

Relevance of the Special Rate Disability Pension

11.30 As the SRDP is designed as a safety net and is unique in modern Australian compensation legislation, the Committee has considered its ongoing relevance. The fact that it has not been chosen over incapacity payments is probably due to the increases in remuneration levels in the ADF, which have flowed on to incapacity payments available under the MRCA. Changes to income tax thresholds and marginal rates have also had a beneficial impact on recipients of incapacity payments in recent years.

11.31 If a former member is unable to work at all, they are eligible for incapacity payments at 100 per cent of their former salary and allowances plus the ADF loading, for at least the first 45 weeks of the incapacity. After this period, the percentage is reduced to 75 per cent if the person is not working at all. These payments are discussed further in Chapter 10.

11.32 During the development of the MRCA, ESOs raised the need for a safety net, because they doubted that 75 per cent of salary would be adequate for people in junior ranks to live on. DVA costings presented to the ESO Working Group in 2002 showed that the SRDP benefits for most scenarios at junior ranks exceeded the value of SRCA permanent impairment compensation and incapacity payments. In 2010 figures, after 45 weeks on incapacity payments, a mid-level private soldier’s income from incapacity payments is $954.70 per week ($783.08 after tax). The SRDP rate is $546.35 per week, less the offset for permanent impairment payments. The general conclusion drawn in 2002 is no longer the case.

11.33 In certain circumstances (for example, Reservists who have low civilian incomes or superannuation entitlements), the SRDP could be advantageous. It is also significant that incapacity payments reduce the income from the age and invalidity pension dollar for dollar, whereas SRDP payments and any superannuation used to offset SRDP are exempt from the income test for most income support benefits. Analysis of whole-of-lifetime returns, not simply snapshots of current entitlements, are needed for some former members to make the comparisons in a meaningful way. This is the reason that financial advice is required to be taken and is reimbursed before the choice is made.

11.34 As a former member approaches age 65 (and cessation of incapacity payments), the choice of a tax-free SRDP for life may become more advantageous. It is instructive to look at the experience in grants of the Special Rate of pension under the VEA. Figure 11.1 shows the age of payees at the time the Special Rate of pension was granted, for all TPI pensions granted up to December 2010.

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5 The same superannuation offset applies to both the SRDP and incapacity payment rates and is, therefore, not relevant to this comparison.
11.35 The age of grant peaks at around age 55 (based on decision date). There is a possibility that the MRCA will repeat the pattern that some argue has been established by the VEA.

11.36 The Committee notes that relativities have changed since introduction of the MRCA in 2004, and only two former members have indicated they will choose to receive the SRDP instead of incapacity payments. It may be several years before the implications of the SRDP are fully tested. The additional benefits available to those who become eligible to make the SRDP choice, outlined previously, are valuable in their own right.

11.37 The SRDP may prove to be more attractive than incapacity payments for former members who also receive income support payments, either under the VEA or the Social Security Act 1991 (SSA). The SRDP is also non-taxable and exempt from service pension income testing. The DFISA is paid under the SSA to claimants without qualifying service, if a disability support pension or a similar payment is affected by the payment of SRDP. Income test exemptions also apply to superannuation payments that are used to offset SRDP.

11.38 There are insufficient data available to date to review the incentives provided by the SRDP, and the impact on rehabilitation and return to work. Chapter 6 contains a recommendation for a long-term study of the effectiveness of rehabilitation and the nexus with incapacity pay. The experience with those who become SRDP eligible should be a part of such a review.

11.39 The Committee considers that all aspects of the SRDP, including its relevance, eligibility criteria and the effectiveness of rehabilitation, should be evaluated as more data become available or after a further five years.
Automatic eligibility for invalidity service pension for Special Rate Disability Pension-eligible clients

11.40 In most respects, people who are eligible for the Special Rate of pension or the SRDP have access to equivalent benefits. One exception is that under the VEA, a person who is doubly blind or TPI is automatically eligible for the invalidity service pension (ISP); a person who is SRDP eligible, however, is not automatically eligible.

11.41 Where a person is neither blind nor eligible for the Special Rate of pension, the VEA determination requires them to have a permanent impairment that prevents them from working more than eight hours per week. This is the work test for Special Rate of pension under the VEA. However, because of the difference between the MRCA and the VEA work tests, people who are SRDP eligible have established that they are unable to undertake remunerative work for more than 10 hours, rather than 8 hours per week. Therefore, after having met the requirements for SRDP, a person may then need to submit themselves to an additional assessment process to meet the criteria for ISP.

11.42 This exception appears to have been an oversight in the exercise conducted in 2003 to identify and match all TPI benefits in other Commonwealth legislation and rules. It seems reasonable that SRDP and SRDP-eligible former members should have automatic eligibility for ISP in the same manner as Special Rate of pension recipients. Minimal program cost increases are anticipated, as former members at this level of disability, once tested, would meet the criteria for ISP in almost all circumstances. The Committee recommends correcting this anomaly.

Special Rate Disability Pension eligibility and commutation of a small amount of weekly compensation for incapacity into lump sum compensation

11.43 It has come to the Committee’s attention that the commutation of a small amount of weekly compensation for incapacity into lump sum compensation under section 138 of the MRCA will result in a person to become ineligible to make a choice to receive the SRDP, in circumstances where they would have otherwise been eligible. This is because section 199 of the MRCA requires a person to be receiving incapacity compensation at the time they are determined to be eligible for SRDP in order to be given the choice to receive SRDP. The Committee believes that this apparently anomalous situation should be further considered by the MRCC.

Impact of taxation reforms on the superannuation offset to the Special Rate Disability Pension

11.44 Since the introduction of the MRCA in 2004, superannuation and taxation reforms have improved incentives for people to join, stay in and strive for greater rewards in the workforce, and to improve their standard of living in retirement. Beneficial changes have been made to taxation rates, income thresholds, low income and aged tax rebates, and taxation on superannuation benefits.

11.45 For former members on a Class A invalidity pension under the age of 60, there is a 15 per cent tax offset on the productivity contributions by the Commonwealth as employer (part of the taxable component from taxed sources). This becomes tax free.

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after age 60. The second source of superannuation benefits is the untaxed source. After age 60, the tax payable is worked out on the marginal rates for an individual and then offset by 10 per cent of the taxable component of the Defence Force Retirement and Death Benefits (DFRDB) Scheme or Military Superannuation and Benefits Scheme (MSBS) income. The superannuation offset against the SRDP, however, has remained unchanged since 2004, with the result that the SRDP is now more advantageous than in July 2004. The ‘one size fits all’ approach is no longer considered appropriate.

11.46 The following tables show the impact of taxation on military superannuation pensions. These illustrate that a very concessional approach applies to offset, at only 60 cents in each dollar received in Commonwealth-funded superannuation. In the examples below, the Corporal received $512.95 net from superannuation in 2004, but the SRDP was offset by only $132.30, a concession of $127.55 per week. By 2010–11, this concession has grown to $197.70 per week before age 60 and $244.25 per week after age 60.8

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8 These calculations, confirmed by Treasury officials, take into account the low income tax offset in 2010; further concessions may be available from the senior Australians tax offset for those receiving the age pension or service age pension, which phases out at $47,707 per year taxable income.
Table 11.2  Gross benefits from example Commonwealth superannuation pensions

<table>
<thead>
<tr>
<th></th>
<th>Corporal 10 years service</th>
<th>Warrant Officer 35 years service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A invalidity pension</td>
<td>$32,990.00</td>
<td>$45,469.00</td>
</tr>
<tr>
<td>Weekly gross</td>
<td>$634.42</td>
<td>$874.40</td>
</tr>
</tbody>
</table>

Table 11.3  Offset against SRDP at 2004 tax rates

<table>
<thead>
<tr>
<th></th>
<th>Corporal 10 years service</th>
<th>Warrant Officer 35 years service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekly after-tax income from military super, assuming no other income</td>
<td>$512.95</td>
<td>$679.14</td>
</tr>
<tr>
<td>Super offset, at 60 cents in the dollar on $634.42 and $874.40</td>
<td>$380.65</td>
<td>$524.64</td>
</tr>
<tr>
<td>Concession per week</td>
<td>$132.30</td>
<td>$154.40</td>
</tr>
</tbody>
</table>

Table 11.4  Offset against SRDP at 2010 tax rates

<table>
<thead>
<tr>
<th></th>
<th>Corporal 10 years service</th>
<th>Warrant Officer 35 years service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre age 60: weekly after-tax income from military super, assuming no other income</td>
<td>$578.36</td>
<td>$746.51</td>
</tr>
<tr>
<td>Super offset, at 60 cents in the dollar on $634.42 and $874.40</td>
<td>$380.65</td>
<td>$524.64</td>
</tr>
<tr>
<td>Concession per week</td>
<td>$197.70</td>
<td>$221.87</td>
</tr>
<tr>
<td>Post age 60: weekly after-tax income from military super, assuming no other income</td>
<td>$624.91</td>
<td>$837.89</td>
</tr>
<tr>
<td>Super offset, at 60 cents in the dollar on $634.42 and $874.40</td>
<td>$380.65</td>
<td>$524.64</td>
</tr>
<tr>
<td>Concession per week</td>
<td>$244.25</td>
<td>$313.24</td>
</tr>
</tbody>
</table>

11.47  Circumstances vary substantially for individuals on DFRDB/MSBS invalidity superannuation who become eligible for the SRDP. They could be in their early twenties or someone close to retirement age. At age 64, a person choosing between the SRDP and the incapacity payments regime would face minimal tax on a military superannuation pension for life, which is quite different to the person facing 40 years of taxation before they reach that situation.

11.48  The setting of a single rate of offset as an adjustment to the SRDP does not result in an equitable outcome. Given the policy intention to reduce taxation for low and middle income earners and provide employment incentives, no change is recommended in the offset until age 60. An adjustment should be made to the SRDP offset after that age so as not to further overcompensate.

11.49  The recommended approach is to increase the offset to 70 cents in the dollar after age 60. This would maintain the concession at pre-age 60 levels. As shown in Table 11.4, the Corporal’s concession would continue at $197.70 using this approach.
Special Rate Disability Pension payment during imprisonment

11.50 The Returned & Services League (RSL) has submitted that the MRCA section 208, which denies payment of the SRDP during imprisonment, should be repealed. The RSL believes that the SRDP should be inalienable, as it is compensation for injuries received during service.

11.51 Permanent impairment compensation for accepted injuries and disease is not affected by imprisonment. Permanent impairment has either been paid as a lump sum or the fortnightly payments have continued. Additionally, the person’s military superannuation payments continue. Incapacity payments, however, are not paid during imprisonment, as the loss of income incurred is not attributable to the accepted injury or disease. Where the choice of SRDP has been made, continuation of this payment during imprisonment would be inconsistent with the practice for incapacity payments.

11.52 The Committee confirms the current policy approach to not pay SRDP during a person’s imprisonment, consistent with the non-payment of incapacity payments in this situation.

Conclusions

11.53 Eligibility for the SRDP safety net is based on the rules applying to the Special Rate of pension. Increases in remuneration levels in the ADF since 2004 have flowed on to incapacity payments, and this is considered to be a major reason why only two former members have indicated that they will choose the SRDP instead of the incapacity payment regime out of about 22 eligible former members to date. The Committee believes that the SRDP may still be of relevance to injured part-time Reservists, for those approaching retirement, and for others who would benefit from income support payments over incapacity payments.

11.54 It may be several years before the implications of the SRDP are fully tested. The additional benefits available to those who become eligible for the SRDP are valuable in their own right. All aspects of the SRDP, including its relevance, eligibility criteria and the effectiveness of rehabilitation, should be evaluated as more data become available, or after a further five years.

11.55 The lack of employment history restrictions on SRDP applications after age 65 under the MRCA is inconsistent with the VEA and should be addressed, as it has the potential to provide a greater benefit rather than matching the VEA.

11.56 SRDP-eligible former members should have automatic eligibility for ISP under the VEA in the same manner as Special Rate of pension recipients.

11.57 The rate of offset of Commonwealth superannuation against the SRDP should be retained at the concessional 60 cents in the dollar until age 60. After age 60, the offset should be increased to 70 cents in the dollar to take account of reduced taxation on superannuation benefits after that age. This still retains the concessions brought in through taxation reforms since 2004 for those under 60 years.

11.58 No action is considered necessary to change provisions for non-payment of SRDP during imprisonment.
Recommendations

The Committee recommends that:

11.1 the *Military Rehabilitation and Compensation Act 2004* be amended to address the lack of employment history restrictions on applications for the Special Rate Disability Pension (SRDP) after age 65;

11.2 all aspects of the SRDP, including its relevance, eligibility criteria and the effectiveness of rehabilitation, should be evaluated as more data become available, or after a further five years;

11.3 SRDP recipients and SRDP-eligible former members should have automatic eligibility for invalidity service pension in the same manner as recipients of the Special Rate of pension under the *Veterans’ Entitlements Act 1986*; and

11.4 the rate of offset of Commonwealth superannuation against the SRDP should be retained at 60 cents in the dollar until age 60, and after age 60 the offset should be increased to 70 cents in the dollar to take account of the reduced taxation on superannuation benefits after that age.