An unfair, untargeted fix for a limited 'anomaly'

The Coalition's May 2015 Budget announced cuts to Centrelink entitlements for public sector retirees such as nurses, police, firemen, teachers, lecturers and clerks who receive a superannuation pension from their employer's fund. Perversely, Ministers of the Uniting Church of Australia (UCA) were also hit by these cuts, even though their fund is 100% financed by the church and its Ministers.

This 2015 decision is still very topical because:

a) It continues to unfairly penalise age pensioners who in good faith put their savings into defined benefit funds according to longstanding rules; and
b) It's inconsistent with government criticism last year of proposed franking credits reform (pulling the rug out from under the elderly, etc)

What happened?

Despite Tony Abbott's pre-election promise of "no change to pensions", his 2015 Budget cut Centrelink payments for some 48,000 retirees receiving a "defined benefit pension" from their former employer. These cuts were achieved via a new, tougher income test for these retirees. Since commencement on 1.1.2016, savings have exceeded half a billion dollars.

Most of those affected were in public sector super funds, but 1,200 were members of the UCA super fund. It seems the UCA was the only church fund affected. According to the government the average loss was $2,150. This makes a huge difference to someone on a low-to-moderate fixed income. But in the unique circumstances of the UCA super fund (see below) many members with only modest finances lost $5,000-$10,000 annually.

Who was the Minister responsible?

Scott Morrison was Minister for Social Security (23.12.2014 to 21.9.2015) at the time of the decision; Christian Porter succeeded him (21.9.2015 to 20.12.2017) at the time the cuts took effect.

How were the cuts "sold"?

Under the Abbott government, strategic stories were leaked to the Daily Telegraph. On 7 May 2015, the Daily Telegraph announced the cuts with a headline: "Public sector gravy train derailed by pension crackdown", citing "fat cats" and alleging a "double-dipping rort". Scott Morrison was given credit for discovering this "loophole": https://www.dailytelegraph.com.au/news/nsw/budget-2015-public-sector-gravy-train-derailed-by-pension-crackdown/news-story/c9813bdca901132740a77d86b78d06d8

Ministers Morrison and Porter both touted an extreme example of a high-end public sector retiree with a superannuation pension of $120,000 and a part-pension from Centrelink. While this person doesn't need Centrelink, data obtained under Freedom of Information shows that the government knew most of those facing cuts were on modest superannuation incomes (less than $35,000) – see graph, Fig 1 attached.

The government claimed the existing situation was an "unintended consequence of tax changes" made by former Treasurer Peter Costello in his 2007 *Simpler Super* reforms. **This claim was incorrect but it was repeated ad nauseum. Costello's *Explanatory Memorandum* says explicitly that these changes <u>would apply</u> to the social security income test.** The Howard government was riding high on the mining boom and the plan to give superannuants better access to Centrelink payments was part of the Howard-Costello largesse. It was also consistent with bipartisan policies to encourage people to choose lifetime pensions rather than lump sums that could be frittered away.

The government opined that the Costello changes *"…resulted in …higher income support payments, even though nothing had changed …in terms of … the amount of income they receive each year from their [super fund]."* But that is exactly what Costello intended, and nurses, teachers, fire-fighters, clerks, policemen and Ministers of religion made their retirement plans on the assumption that Costello's rules would continue to apply.

Because the government claimed they were correcting an "anomaly" from 2007 – suggesting there was an error in the *Simpler Super* package – they dismissed the need for any grandfathering arrangements.

<u>A retiree tax?</u>

Last year the Coalition ran a successful scare campaign about Labor's franking credit policy – dubbed a "retiree tax". In taxpayer-funded forums, people complained about the potential impact on their retirement. Labor failed to acknowledge that elderly folk become very anxious when their regular income sources are cut, and it ignored the impact of the proposal on lower-income shareholders. [Of course it's arguable that the more affluent could sell a few shares to supplement their incomes if they lost their franking credits; none of those affected were Centrelink clients.]

Minister Morrison's cuts hit the UCA's retired Ministers hard. They are on modest incomes and (for reasons explained below) had very few "spare" assets to draw on when their Centrelink income was suddenly cut. Like the franking-credits retirees, they had worked hard, saved for retirement and made financial commitments based on the existing rules. Like the franking credits folk, they suffer much anxiety when their regular income sources are suddenly cut.

How is it an outrage to cut franking credit refunds to people who have accumulated share assets, but OK to cut Centrelink payments to retirees who have accumulated modest superannuation entitlements? If the former is a "retiree tax", why not the latter?

<u>The UCA super fund – aka the Uniting Church Beneficiary Fund (UCBF)</u>

The worst-affected members are the most elderly Ministers and surviving spouses, because during their years of community service, wages were low (and usually the wife didn't have paid work). So their defined benefit pension entitlement is also very modest. In the days when home ownership was still possible for most Australians, Ministers struggled to buy a home before retirement, and some had to pay a mortgage from their superannuation pension. Surplus assets (eg share portfolios) were a rarity.

The church actually required (it was not a matter of choice) Ministers to contribute a set percentage (7 per cent) of their "After-Tax Stipend" to their Defined Benefit Fund - a specific strategy to ensure that people who had lived on the margins all of their working life, would have an adequate and dignified level of income in retirement. That retirement would be part-funded by the church super fund and part-funded by Centrelink. This was long-term, responsible planning. Hence the sudden change in the rules for their Centrelink entitlements caused great distress for our Ministers/widows who have few spare resources.

The UCA also encouraged its employees to pay additional contributions into super where possible (eg a small inheritance). Fund costs were charged against the employer contributions, not the member contributions. As a result of these arrangements, Ministers contributed a greater percentage of their modest superannuation pension, compared to other employer funds. Minister Morrison's decision to target that percentage (explained in next section) hit them hard. Financial commitments (eg a home mortgage, or buying into a retirement village) made under existing rules became unaffordable under these cuts.

Only Bob Katter and Andrew Wilkie opposed the cuts. Due to the action of Government, supported by the Opposition and Greens, some of the UCA fund members have been plunged into near penury. Rather than being "fat cats", these people are more like "new-born kittens" with no hair to protect them or keep them warm. All the allegations about "double-dipping" are irrelevant to these retirees. **Not a cent of the UCA super fund is provided by the government; it is all contributed by the Ministers or the church community (who finance the employer).** These super pensions are not automatically indexed; modest rises are granted when the actuary says the UCA fund can afford it, and it doesn't keep pace with CPI.

The UCA's appeal to the government was rejected. Some of the UCA church leaders are reluctant to seek financial justice for retired Ministers and their surviving spouses, because they consider that the treatment of refugees and unemployed is even harsher.

The income test for Centrelink

Historically, it was recognised that if "defined benefit" members contributed to their superannuation pension, their own contributions should not be counted in the income test for welfare payments. A dollar-value of member contributions was "deductible" from the income assessment, but somewhat unfairly, that "deductible" amount wasn't indexed to account for the fact that the member's contribution would continue to grow in the super fund. In 2007, Treasurer Costello indexed the deductible amount, and depending on the member's years of service (if any) prior to 1983, he offered an additional bonus for the "deductible" amount.

Instead of trimming Costello's generosity to the few high-income superannuants receiving part-pensions from Centrelink, Minister Morrison took a one-size-fits-all approach and capped the "deductible" amount at 10% for everyone. By resolutely quoting "average" figures, the government ignored particular circumstances of individuals. Most of the half-billion dollars of savings came from retirees on low-to-modest incomes (as per graph in Fig 1).

The one-size-fits-all approach

Key aspects of Minister Morrison's approach to plugging the alleged 'loophole' for Centrelink clients with defined benefits super pensions:

- Complex issues but little public discussion

- Media campaign about fat cats and rorts
- Don't just target the high-earning retirees on Centrelink; target everyone on a superannuation pension because that will bring in more money (half a billion dollars)
- Rush it through parliament less than two months after announcement - before the public can absorb its implications.
- It takes effect in six months; those affected get a notice two months before the cuts bite (retirees were given 18 months to adjust to other pension changes)
- Military and Defence retirees are exempt from the changes (presumably to get Jacqui Lambie's support)
- Senator Siewert (Greens) reported to parliament on 24.6.15 that Senate estimates showed modelling was minimal and Government seemed unaware of:
    - how many super funds are affected
    - how many members are in each of those funds
    - whether those funds are still accepting new members
    - the former occupations of those affected
    - average household income of those affected.

Senator Siewert noted that the police federation advised they have 15 defined benefits schemes affecting serving and retired police officers and the situation was highly complex, for example where employees took out various options or gave up benefits/ income in a range of ways – which affect how the cuts impact an individual. The Greens voted in support of the changes while urging the government to monitor the situation, especially any unintended consequences for people with "low and modest assets", and to make amendments if warranted. The issue seems to have been lost in the mists of time but is still hurting retirees.

The Coalition's campaign last year about franking credits policy raised issues of fairness: targeting the elderly; upsetting responsible plans made long ago on existing rules; hitting those with modest incomes who can least afford cuts to their retirement income. For those defined benefit superannuants affected by the 2015 cuts, these arguments were salt in the wound.

<u>Solutions?</u>

A Freedom of Information request revealed that government advisors had considered possible solutions to the plight of retirees adversely affected by these changes, but the half-billion dollars in savings would be reduced. For example, if the cap on the deductible amount was set higher, at 20%, one-third of the budget savings would be sacrificed. If the UCA Ministers were exempted (as military/defence personnel were exempted due to their special service) then the government would also have to consider exempting emergency services retirees (police, firemen, ambulance workers) and again, the budget savings seemed more important than fairness to retirees.

<u>Quotes from the Government</u>

- Those retirees "with a guaranteed defined benefit income stream who are affected by this measure will still have a total income greater than most other age pensioners." - Minister Christian Porter's letter to the UCA, 18.12.15 ***By this logic, the government can justify random cuts to any Centrelink clients until they become as destitute as the poorest of clients. What happened to: "If you have a go, you'll get a go?" Why save towards super??***

- "I note your concerns regarding annual reductions in Age pension payments of $5,000 and greater for some of your retired ministers. However most are likely to have a smaller reduction." - Minister Christian Porter's letter to the UCA, 18.12.15. ***Too bad if you're one of the unlucky ones losing many thousands of dollars in retirement income. And too bad even if you're losing two or three thousand dollars, which might be your holiday budget or your car repair budget.***

- "… [Here is] an example showing why this is equitable. If you were a couple who had an investment property and were receiving $30,000 a year in rent, then your rental income plus your part pension would allow for $51,500 a year in total. If perchance you happened to be earning $30,000 a year in income from a defined benefit scheme, given the rules we are now about to change, you would have been eligible for $59,000 per year. The only salient difference was the source of the income. [Under the] change we are making… the amount would reduce to $54,000… still more than the couple who receive their $30,000 income on rent…" – Minister Christian Porter, House of Representatives, Question Time, 8.2.16 ***A couple with such high (net) rental income would likely fail Centrelink's assets test so the example doesn't make sense. Regardless, after death their underlying valuable property asset will pass to the estate, whereas for the defined benefit superannuant, <u>there is no underlying asset to bequeath</u>. That is a key difference. The two situations are not comparable – the landlord couple are much better off.***

<u>Quotes from others</u>

- "… most of the people who will be affected by this change are not wealthy – in fact 68% of those affected have a defined benefit income of less than $35,000. The Tasmanian Association for State Superannuants [TASS] calculates that the average reduction in pensions because of these changes is $86 per fortnight or $2,242 per year. This is an enormous reduction for people who are receiving modest incomes. It's also unfair for the Government to have sprung this decision on superannuants, who have paid into their super fund throughout their working life and made decisions some time ago about how to manage their retirement benefit. If nothing else, these changes should have included grandfather provisions to protect existing superannuants." – Andrew Wilkie's Facebook entry in response to Minister Porter's Question Time remarks, 8.2.16

- "We are dismayed at Centrelink's action in cutting my partner's and my pension by $81.70 each per fortnight (combined fortnightly reduction of $163.40). We have no assets to speak of (only a 13-year-old caravan and car) and our combined income as used by Centrelink to calculate our income is $21,114 (the entire income is from our superannuation). I used my super to buy extra years of service for my partner's defined benefits. Both of us have spent all our working lives saving towards a retirement income that would support us with the help of the Old Age Pension." - A 2016 email to TASS from two Tasmanian superannuants.

- "One cannot help but think those who devised the super change in 2015 thought they could pick on a vulnerable group and get away with it." - Lawyer Greg Barns, The Mercury, 26.9.16 https://www.themercury.com.au/news/opinion/talking-point-superannuation-changes-a-low-blow-to-pensioners-who-have-planned-ahead/news-story/c8e7c63436d652d083c49b376e455fbe

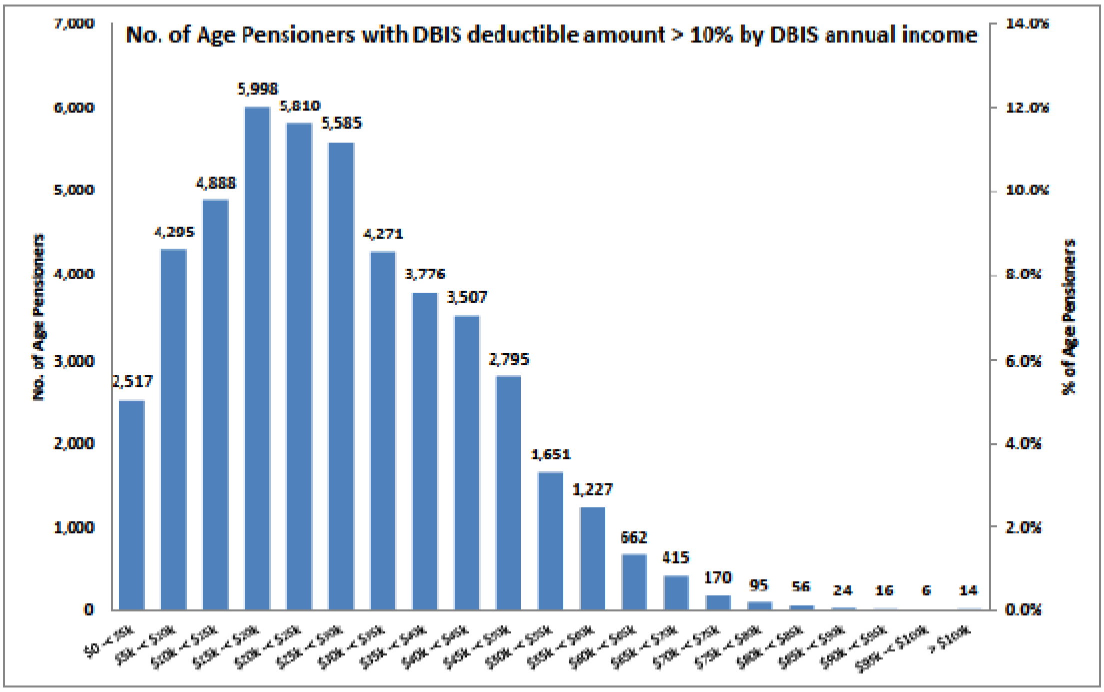

FIG1: Dept of Social Services FOI Request 18/19-014 Schedule 6. Most (70%) of those targeted are at the lower end of defined benefit income streams (DBIS up to $35K). Refer to "Acc" (cumulative) column in table below:

Analysis of Deductible Amount for Defined Benefit Income Streams

Annual income from DBIS	Total	%	Acc %
$0 -< $5k	2517	5.3%	5.3%
$5k -< $10k	4295	9.0%	14.3%
$10k -< $15k	4888	10.2%	24.5%
$15k -< $20k	5998	12.6%	37.0%
$20k -< $25k	5810	12.2%	49.2%
$25k -< $30k	5585	11.7%	60.9%
$30k -< $35k	4271	8.9%	69.8%
$35k -< $40k	3776	7.9%	77.7%
$40k -< $45k	3507	7.3%	85.1%
$45k -< $50k	2795	5.8%	90.9%
$50k -< $55k	1651	3.5%	94.4%
$55k -< $60k	1227	2.6%	96.9%
$60k -< $65k	662	1.4%	98.3%
$65k -< $70k	415	0.9%	99.2%
$70k -< $75k	170	0.4%	99.5%
$75k -< $80k	95	0.2%	99.7%
$80k -< $85k	56	0.1%	99.9%
$85k -< $90k	24	0.1%	99.9%
$90k -< $95k	16	0.0%	99.9%
$95k -< $100k	6	0.0%	100.0%
> $100k	14	0.0%	100.0%
$105k -< $110k	4	0.0%	100.0%
$110k -< $115k	3	0.0%	100.0%
$115k -< $120k	1	0.0%	100.0%
$120k -< $125k	1	0.0%	100.0%
Total	47787	100.0%	

FIG 2:

Prior to the 2007 Costello changes, there were **2,930 superannuants with "deductible" amounts greater than 10% - not because of any "anomaly" or "unexpected consequences" but because of their contributions to their super fund over their working lives**. Minister Morrison cut them back to a 10% deductible amount for no reason other than to save money. How would politicians like to get a random pay cut?

Pensioners with defined benefit income streams - deductible amount in 2006 and 2014

Year	0%	0-10%	10-20%	20-30%	30-40%	40-50%	>50%	Total	No with DA > 10%	% with DA >10%
Number 2006	6,776	104,389	1,617	372	208	136	597	114,095	2,930	2.6%
Percentage 2006	5.9%	91.5%	1.4%	0.3%	0.2%	0.1%	0.5%			
Number 2014	79,480	20,009	10,265	7,690	6,960	7,771	8,227	140,402	40,913	29.1%
Percentage 2014	56.6%	14.3%	7.3%	5.5%	5.0%	5.5%	5.9%			

ATTACHMENT A - Senator Abetz under fire from constituents (26.8.15)… ***[FOI request to DSS: 19/19-094 schedule 23; RBF is Tasmania's Retirement Benefits Fund – for state public sector workers]***

Senator Abetz is still copping a steady stream of emails and phone calls from Tasmanian defined benefit pensioners. They are basically saying:
They are generally Liberal supporters but very concerned at changes to the pension. They believe these changes could be very costly at the next election. They state that with the defined benefits changes costing 46,000 pensioners an average of $2150 p.a. each, there will be a voter backlash.

They believe the changes to the defined benefit pension that comes into effect 1 January 2016 were not well publicised, and when done so by Government presented as removing an anomaly that would stop the wealthy (income of $120,000) receiving a part aged pension.

But have now discovered that changes to the assessment of modest RBF pensions will cause a loss or $2,000 to $2600 pa,. On Departmental figures 3/4 of part pensioners affected have a gross private income less than $40,000 p.a. The figures they quote are based on evidence from the Dept. of Social Services to Senate Estimates and the Legislative committee.

They have been advised that the change was to fix an anomaly created by change in the tax treatment in 2007 of parts of the Defined Benefits Superannuation, where up to 50% could be 'tax free' and thus excluded from the income test for a part pension and that the 1 January 2016 change is to reduce this to 10% of gross income.

This advice does not satisfy them and I wondered if your office has developed a further response that the one which you provided to me last time I asked for your assistance.

s22 [redacted]
Electorate Officer
Office of Senator the Hon. Eric Abetz
Leader of the Government in the Senate
Minister for Employment

Follow-up correspondence (28.8.15):

Having a further read of my constituent letters, they are quoting two Senate committees. Budget Estimates 4 July 2015 and the Committee on Legislation. The constituents are saying that on these figures very few of the DB pensioners that will be affected will be big earners like the $120k example, and that 36000 of the pensioners affected will be under $40k income.

So I was after a different explanation as I have used most of the standard words without satisfying the pensioners in Tasmania.

Note: the Liberals lost all 3 of their Tasmanian seats at the 2016 election.

ATTACHMENT B – Special cases of hardship were put to Minister Morrison – to no avail

This couple lost one-third of their pension – info sent in by former Senator Bob Day (on 17.6.15, the week before the legislation passed):

"Please clarify whether or not the intended target of the policy were this couple:"

Below are the details of our financial situation:

<u>Centrelink (the same for each of us):</u>
Age Pension; $452.01
Energy supplement: $10.60
Pensions Supplement: $48.20

Total per fortnight (each): $510.81

<u>ESS:</u>
Deductible proportion notified to Centrelink= 48.38%
Pension, Wife only: $1506.36 (fortnight) = $39,165.36 (year)

This pension is the result of working for 35 years full time s47F [redacted] It is paid to me for life and then 5/8 to s47F [redacted] if I pre-decease him. There is no residual amount to hand on to our children. I cannot convert this pension into a lump sum to earn extra income.
The deductible amount is based on contributions for the 35 years up to 9% of my salary and my employer was expected to put in their share. This pension is paid from a taxed fund.

If the decision to only allow 10% deductible is passed, we will each lose approximately $150 per fortnight, or a total of $7500 per year. This amounts to 1/3 of our pension disappearing forever. It does not seem fair for us to be the unintended consequences of a decision made to stop public servants in Sydney who earn over $120,000 per year from accessing Centrelink benefits.