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Budget Policy Division
Department of the Treasury
Langton Crescent
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cc: Minister for Finance and Deregulation
Minister for Veterans' Affairs and Defence Personnel

Submission for the 2011-2012 Budget

Background Information on the Alliance of Defence Service Organisations

The Alliance of Defence Service Organisations was formally constituted in July of 2010. It was formed as result of the constituent organisations desire to work in a more cooperative and coordinated manner.

The membership of the Alliance comprises the Defence Force Welfare Association (DFWA), the Naval Association of Australia (NAA), the Royal Australian Regiment Corporation (RARC); the Australian Special Air Services Association (ASASA); and the RAAF Association (RAAFA).

The objective of the Alliance is to provide a stronger voice on issues impacting the conditions and wellbeing of currently serving and former members of the Australian Defence Force.

Its major functions are to:

1. Improve communication, cooperation and collaboration between member organisations;
2. Gain mutual advantage from the differing of expertise of each member organisation;

3. Ensure for each issue being pursued, the appropriate organisation is identified as the “lead organisation” for coordination of the actions undertaken by the Alliance; and
4. Help spread the workload and ensure the resources of the Alliance members are used to produce the most effective result.

In particular, the Alliance seeks to achieve this by:

- monitoring those matters affecting, or likely to affect, the welfare of the defence, ex-service and veteran communities;
- developing agreed policy positions on matters effecting the defence, ex-service and veteran communities.
- promoting and/or participating as appropriate in activities of mutual interest to the member organisations; and
- advocating as necessary on matters of mutual interest.

Underlying Principles for our Submission for the 2011-2012 Budget

Two interconnected principles should guide the Government and form the philosophical context within which decisions on employment conditions for service men and women made. These are the “unique nature of military service” and the need to compensate members of the Australian Defence Force (ADF) for that uniqueness in their pay, superannuation, invalidity and death benefits, and other conditions of service. An explanation of what makes service in the ADF unique within the Australian community is attached to this letter.

In the above context the Alliance of Defence Service Organisations believes the following areas outline issues where not only are the above principles ignored but in some instances subject serving and former ADF members to discriminatory treatment at the hands of the Government. These do not constitute the full range of issues for which we seek Government action and in particular, we await the outcome of the review of military rehabilitation and compensation. We believe though, these items warrant attention in the coming budget.

We therefore submit the following policy proposals relating to the Government’s support of serving and former ADF personnel for consideration in the 2011-12 Budget. All of the proposals in this submission have been raised with the relevant Ministers previously.

Proposed Budget Initiatives

1. Indexation of all Military Superannuation Payments

The present military superannuation payment represents an unacceptable minimal level. Governments must maintain the real value of these payments by adopting an appropriate method of indexation.

Military pensions were originally indexed by the CPI to maintain their value relative to national wages. In the last 15-20 years, national standards of living have increased in real terms, which are not reflected if relying on the CPI in its present form. Acknowledging this, in 1997 the then-Government changed the method of indexing the Aged and Service Pensions from CPI to a combination of CPI and Male Total Average Weekly Earnings (MTAWE) and the present Government further extended this formula to include the “Pensioner and Beneficiaries Living Cost Index” to keep pace with increase in prices and improvements in community living standards.

Military retirement and invalidity pensions now stand out as being more harshly treated than almost every other long-term Commonwealth payment that is subject to regular indexing to maintain its value.

Proposal

- We seek the same community standard of indexation, as adopted for the Age and Service pensions to be applied to all components of DFRB/DFRDB/MSBS military superannuation pensions including the total reversionary pension for partners of deceased military superannuation pensioners and preserved employer benefits. The total estimated cost for this initiative for FY 2011-2012 is estimated not to exceed \$16M and an additional \$176M over the forward estimate period.

2. Abolition of MSBS Maximum Benefit Limits (MBL)

MBL's in MSBS are limits on the maximum amount that the military superannuation fund will pay out. They should not to be confused with Reasonable Benefit Limits which limited the amount that could be contributed and accumulated at concessional tax rates. RBL's were abolished in “Better Super” changes but MBL's were not. MBL's include the sum of both Employer and Employee benefits. There are two MBL's;

- a. All pension MBL at which the member **must stop** contributing because the member's total payout has peaked; and
- b. Lower Lump Sum MBL at which the member **may stop** contributing because the member is getting close but is urged to seek specific advice.

The effect of the application of this measure is that many long serving ADF personnel are receiving no retirement income benefit for their final years of service.

The Report of the Review of Military Superannuation recommended that MBLs be scrapped for the MSBS. The combined Ex-Service Organisations response supported that particular recommendation.

Proposal

- We seek the immediate removal of MBLs in the MSBS superannuation scheme. The exact number of MSBS members affected by this initiative is not available to us at this time but is not substantial. The cost in FY 2011-2012 is estimated to be at best a minimal figure with the cost over the forward estimates an equally modest amount.

3. Adjustment of the Veterans Disability Pension Rates

The Government has stated it understands the impact of rising costs of living and the importance of ensuring that entitlements do not erode in value and is committed to making sure that our disabled war veterans have their pensions adjusted to take account of “*not just of the cost of living but also the standard of living*”.

Analysis undertaken as part of the Harmer Review confirmed that at certain times, the rates of change in the out of pocket living costs experienced by age pensioner households have moved faster than the rate of inflation as measured by the CPI. In 2007 the Parliament recognised this in relation to Veteran Disability Pensioners and provided a “one off” catch up increase and also brought their indexation arrangements into line with the other pensions. The September 2007 Legislative changes to the indexation arrangements for DVA disability pensions have gone some way to ensuring that the veterans’ benefits did not suffer further erosion but the failure to adjust the rate of the veterans disability pensions in line with the adjustments made to other government pensions in the 2009/10 Budget, has meant that the relative value of the Veterans’ Disability Pensions measured against the other pensions has diminished. The cost to implement this proposal is substantial, but we firmly believe that the Nation’s “social contract” obligation to our servicemen and women should be honoured and those who have suffered injury to their person as a result of their service deserve fair and compassionate treatment to alleviate the detrimental effects of that service.

Proposal

- That all rates for Veterans’ Disability Pensions be adjusted by the same increment that was granted at the time for the Single Rate of Service Pension in the 2009 Budget. The projected cost to implement this initiative in FY 2011-2012 is estimated to be in the order of \$164M with an additional estimated \$485M over the forward estimates.

4. Unfair Balance of Legal Resources at the Administrative Appeals Tribunal

Veterans, when appealing to the Administrative Appeals Tribunal against the rejection of a claim for compensation (or the Department is appealing against the acceptance of one) are entitled to Legal Aid funding. This funding covers the preparation of the case, one medical report, the appearance of the author of the medical report at the Tribunal to defend it, and a barrister to argue the case before the Tribunal for one day. But more and more cases are not conforming to these limits. More and more cases are lasting two, three and four days and require more than one medical report. However Departmental legal representatives do not operate within these limits and can take as many days as they like. Neither are they limited in the number of medical reports they commission nor the number of medical specialist appearances at the Tribunal hearing. To make matters worse, the best qualified doctors are reluctant to provide reports for veterans because Legal Aid funding does not cover their usual fees. They have no such reluctance to provide reports for the Department which pays the higher fees. To make matters even worse, many law firms simply refuse to take on veterans' cases citing inadequacy of remuneration but exercise no such reluctance in working for the Department which pays higher fees.

Proposal

- In the interest of fairness, the Department of Veteran Affairs must restrict itself to employing similar legal resources to those available to the veteran and observe the Model Litigant Rules. In this proposal we are suggesting a rebalancing of financial resources allocation rather than advocating additional funding to cover this proposal.

Yours Sincerely,



Colonel D K Jamison AM. (Retired)
National President, Defence Force Welfare Association,
on behalf of
The Alliance of Defence Service Organisations.

Attachment: The Unique Nature of Military Service

THE UNIQUE NATURE OF MILITARY SERVICE

In recent years there has been a shift in assumptions and attitudes underpinning the way military service is viewed. Those in government who shape policy are increasingly attracted to the idea that the soldier (sailor or airman) is adequately provided for by salary and allowances that compensate for his service both while it is being given and after it has ceased. Military service can be mistakenly seen as comparable to other forms of service that involve risk and danger, and therefore no longer viewed as unique.

The unique nature of military service is rooted in the nature of society itself. Most democratic societies recognize the central place of the individual as the primary unit of sovereignty. Sovereign individuals are vested with inalienable human rights, recognized in the Universal Declaration of Human Rights as, among others, life, liberty and the security of the person (Article 3). Australia is a signatory of the Declaration, adopted by the General Assembly of the UN in 1948

Implicit in Article 3, there is also a right to defence of self and of others from attack, and this right inevitably gives rise to an obligation to do so if it is the State which is under threat or attack.

The inter-relationship of rights and responsibilities borne both by the state and the individual is complex, and based on the principle of the social contract. The state may not alienate the rights of the individual without his assent. The individual, while preserving the integrity of his or her rights, may assent to the state's demand for surrender of some of them for the common good, but in all circumstances save one, the state is obliged to uphold and defend the individual's rights.

In volunteering for military service, the individuals accept the surrender of their basic rights under Article 3. They place their life, liberty and security of person in the hands of the State. This surrender is not unconditional, though *in extremis*, it is absolute. The State, for its part, accepts the obligation to preserve, as far as is consistent with the achievement of the military mission, the physical and spiritual wellbeing of such individuals who place themselves at its disposal. This obligation extends beyond the period of service itself, to the physical and psychological consequences of that service.

Even when the state demands surrender of these rights by imposing a compulsion for service, the terms of the social contract imply that such compulsion is done only within the democratic framework and is therefore with the assent of the individual, who at all times is party to it.

In no other calling, occupation or profession has the State the power to accept or demand the surrender of these rights. Military service in this fundamental respect is unique, and the obligation this places on the State is inescapable, as it is enduring.

A service person's calling is unique.