



DEFENCE FORCE WELFARE ASSOCIATION

Patron-in-Chief: His Excellency General the Honourable Sir Peter Cosgrove AK MC (Retd)

NATIONAL OFFICE

**PO Box 4166
KINGSTON ACT 2604**

13 September 2015

Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
PO Box 6100
Parliament House
CANBERRA ACT 2601

VETERANS' AFFAIRS LEGISLATION AMENDMENT (2015 BUDGET MEASURES) BILL 2015

Thank you for the opportunity to make a submission into the Senate Committee Inquiry into the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015.

The Ex-Service Organizations' Round Table members comprising the major national Ex-Service Organisation (ESO) National Presidents have been consulted at length on the proposal for a single appeals pathway and have had the opportunity to express their views to the Department on this proposal. As a result the National Presidents have supported this approach, in terms of streamlining and having one process rather than a parallel option.

This legislation comes at a time when the Department in consultation with the Ex-Service Round Table members is considering a range of proposals to simplify its processes and assist Ex -Service Organisations to provide more effective help to veterans and ex-service personnel. Initiatives such as a review of advocacy training for ex-service volunteers , the blueprint for which has been accepted in principle recently by the Ex-Service Organisation Round Table (ESORT) members and the trial of an alternative dispute resolution (ADR) process which have the potential to make significant improvements to the support of those needing support from DVA. The trial of an alternative dispute resolution (ADR) process will allow the use of modern and effective dispute resolution processes, improved case management powers and administrative procedures which have the potential to bring more responsiveness and timeliness to the Department's support for veterans and ex-service personnel.

Although DFWA strongly supports the streamlined single appeal pathway, we have not yet had the capacity to fully analyse the exact wording of the legislation and we trust there are no hidden or unintended adverse consequences contained in it. Nevertheless, we believe that as stated in the Ex-Service Organisations Media Statement of 11 September 2015 that:

- the single path set out in the Bill, and
- the firm and enduring assurance given by the Minister that every adverse decision by the Commission that is the subject of an application to the Veterans Review Board will be reviewed by the Commission before the VRB process begins,

will adequately safeguard veterans' rights and interests and that in the adoption of an alternative dispute resolution process veterans' interests will be further protected.

The Government has a role and responsibility to ensure that laws are fair and that administrative and legal processes are as simple as possible so that, in our case, veterans and ex-service personnel are not disadvantaged in challenging Departmental decisions. This, together with providing financial support for Legal Aid and other non-government welfare agencies to provide advice and assistance to veterans and ex-service personnel disputing a decision is a core responsibility of Government. However, we believe there is a failure to meet this obligation and we have a serious concern about the inequality of access to legal resources between the Department and individual veterans or ex-service personnel when a decision is being challenged.

If as part of the process for reconsideration of a decision when an appeal is made to the VRB, the Department seeks legal advice to reach its decision and again finds against the veteran ex-service person, it would seem only fair that it offers to fund legal assistance to the veteran/ex-service person to help him/her to better prepare the appeal. If an appeal to the AAT is made then equity demands that public funding be provided to the veteran to enable proper preparation and conduct of the appeal before the tribunal.

In expressing this concern, the Association is mindful that the legislation is meant to be beneficial in its application and seen to be so.

In addition the Association has two further concerns as follows:

1. Departmental processes need to be more transparent; and
2. Many ESO advocacy services are having difficulty keeping up with the current workload. Moreover, the volunteer pool is aging and diminishing. It thus stands to reason that additional funding must be allocated to allow ESOs to employ paid advocates where volunteers are not available. In implementing this legislation we believe the Government must take steps to ensure that adequate legal aid funding is provided to cover legal and medical report-related cost for veterans and ex-service personnel disputing Departmental decisions. The legislation should allow the ability for full costs to be awarded should the matter proceed to the AAT.

If there is a need for any clarification of matters raised in this submission I would be happy to provide this verbally and/or in writing if requested.

Yours Sincerely



Colonel David Jamison AM (Rtd)
National President
Defence Force Welfare Association