



DEFENCE FORCE WELFARE ASSOCIATION

NATIONAL OFFICE

31 January 2023

Committee Secretary
Senate Economics Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senate Economics Committee,

Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 - Schedule 9

Thank you for the opportunity to provide feedback in relation to schedule 9 of the Treasury Laws Amendment (2022 Measures No. 4) Bill 2022 (the Bill).

While DFWA support some aspects of the proposed changes, we also believe that the amendments as drafted will further embed inequity in the tax treatment of superannuation benefits for veterans.

Areas which are supported:

- Legislation of The Commissioner of Taxation vs Douglas¹ decision:
 - This embeds the findings of the Douglas decision to allow Veterans in receipt of a payment as a result of invalidity to be recognised as a lump sum with a Disability Support Benefit (beneficial tax treatment).
- Improves on the Douglas decision:
 - The amendments extend the benefits of the Douglas decision to spouses and children of deceased veterans receiving invalidity pensions
- Implements a Veterans' superannuation (invalidity pension) tax offset:
 - This offset allows ensures that no veterans are worse off as a result of this change in legislation. A minority of veterans have received a negative tax outcome as a result of the Douglas Decision. This offset negates this negative effect and ensures equitable outcomes.

Areas which are not supported:

- Restrictive date:
 - The proposed amendments only apply to those veterans whose 'invalidity pay commenced on or after 20 September 2007'. This enshrines inequity under legislation, where date of payment of invalidity benefits determines whether a veteran will receive preferential tax treatment. Same service, different outcome.
- Superannuation schemes covered:
 - The amendments specifically cover the Defence Force Retirement and Death Benefits Act 1973 and the Military Superannuation and Benefits Act 1991. Since 2016, new members of the Australian Defence Force have no option to join these schemes, and instead have access

¹ Federal Court of Australia: The Commissioner of Taxation vs Douglas, The Commission of Taxation vs Burns, The Commission of Taxation vs Walker, 4 December 2020, FCAFC 220. Hereafter referred to as 'the Douglas Decision'

to ADF Cover and ADF Super. This means that newer veterans will not be able to access the preferential tax treatment which recognises the disability and lack of employment options for which the payment has been received.

We submit that Schedule 9 should be expanded to include veterans on ADF Cover/ADF Super, and that no date should be included in the legislation. This would allow all veterans to receive the same benefits as a result of their service.

The DFWA (Queensland) Branch has submitted a detailed response outlining further information on each area raised above. Please see this submission for further detail on our concerns.

If you have any concerns or questions, please contact Kate Bowden by email at kate.bowden@dfwa.org.au.

Regards,



for
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ABOUT THE DEFENCE FORCE WELFARE ASSOCIATION (DFWA)

DFWA is an independent voice for Australian Defence Force members, veterans, and their families.

We advocate to government on matters affecting the welfare of this group of Australians. We have a particular interest in ensuring that government policy representing the veteran community is fair and represents no disadvantage. We advocate for good policy.

DFWA has been running since 1959, and has branches across Australia, with the National Office located in Canberra at Royal Military College of Australia, Duntroon.

DFWA (Qld) was heavily involved in supporting the veterans involved in the Douglas decision, and believe this case has broader impact across a wide section of the veteran community.