



AUSTRALIAN PEACEKEEPER & PEACEMAKER VETERANS' ASSOCIATION INC

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Also assisting veterans' of Iraq, Afghanistan and Peacetime Service

*Commemorating 20 Years of the Deployment of the
Australian Contingent to the United Nations Advance
Mission in Cambodia (UNAMIC)*

9th September 2015

Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015

On the 7 September 2015, schedule 2 of the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015 was referred to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 25 September 2015.

The Australian Peacekeeper & Peacemaker Veterans' Association (APPVA) would like to acknowledge the Senate Foreign Affairs, Defence and Trade Committee letter dated 8 September 2015 for allowing the APPVA this opportunity to respond the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015 in particular Schedule 2 – Reconsideration and review of determinations under the Military Rehabilitation and Compensation Act 2004.

The APPVA in the past has produced submissions in 2007, 2009 and 2011 outlining the need to have a single appeals pathway. I respect the approach we as an association did take and I thanked those involved in writing the policy document back then who had foreseen the rationale behind our submission at the time. The APPVA since then has seen enough policies

implemented by DVA that have disadvantaged veteran's entitlements under the MRCA. It is because of these changes in the past that the APPVA has changed its opinion on the single appeals pathway.

As a practicing advocate I feel that given my stance with the ESO that I represent I cannot justify to my clients the choice of the two pathways available to them through MRCA if they wish to contest a determination made by the MRCC, that being the Reconsideration Path or the VRB Process.

Every case is different and client's circumstances are also different and I cannot justify why I wouldn't allow my client the option of the two paths that are currently available to them.

This concern about lawyers is not the real issue before us, the issue before us is why the department continues to deny the veterans community of the stats relating to the Reconsideration review path and the time taken to process claims through this process.

These stats would be readily available through the SRCA to justify why the reconsideration should stay or should go, by the department not releasing such figures it sends out a very negative response to those who are happy with the process.

Is this because that many claims that have gone through this process have had a better outcome, this is something that neither practitioners nor the VRB have any access too.

Which brings me to the point of ***"why does the department want to abolish the Reconsideration path"*** the only explanation I have is it is costing them money due to the amount of claims that are being overturned by legal firms who take on these claims at the AAT which is out of the DVA control in terms of costs associated with cases being overturned.

The DVA must see this as a cost saving measure.

I understand the ESO concerns with lawyers wanting to engage with veterans or members; this has come about because of the decreasing numbers in practitioners/advocates who have now taken on significant high number of claims due to shortfall in expertise within ESO in regards to MRCA claims.

More pension officers/ advocates are finding out the complexities of the MRCA legislation. Most practicing pension officers/advocates within ESO are more conversant with the VEA legislation and to some extent have some knowledge of SRCA but have a lack of ability of the requirements of submitting a reconsideration back to the DVA.

If we the APPVA deny veterans and members of this right to have the two pathways available to them, then I feel that we are only conceding to the current Veterans' Legislation Amendments (2015 Budget Measures) Bill 2015 and doing the greater veterans community who have an entitlement under the current legislation some injustice.

The Veterans' Review Board (VRB)

The APPVA would like to reiterate that the VRB is a tribunal created by the Australian Parliament to review decisions about Repatriation pensions (other than Service Pensions) and attendant allowance. It is independent of the Repatriation Commission, the Military Rehabilitation Compensation Commission and the Department of Veterans' Affairs. It is made up of members who review decisions, and staff who assist the members.

Costs associated with VRB Process that cannot be claimed at the AAT

There is no provision for the award of costs for AAT matters where a person appeals a decision by the VRB, again this is one area that the APPVA strongly recommend that the provisions of the scheduling of fees under MRCC be implemented under the VRB process so both the TIP trained practitioner and lawyer if the veteran or member chooses is not disadvantaged by the cost outcomes at the AAT.

The APPVA agrees that the current ADR process that is being trialled in NSW and the ACT will only enhance the time taken to process rejected decisions and deliver a better outcome for veterans and members under the VRB process without the veteran or member incurring any out of pocket expenses.

The APPVA recommends that the Minister for Veterans' Affairs accept the scheduling of fees under the MRCC be incorporated under the VRB process for MRCA clients, the APPVA would like the following statement supported in the Veterans Affairs Amendment (2015 Budget Measures) Bill 2015:

“Where the AAT has reviewed a VRB decision under MRCA, the AAT can order the Commonwealth to pay some or all of the costs incurred by the claimant in relation to the AAT matter where the AAT has varied or set aside a determination and found in the claimant’s favour”.

The APPVA agrees that the VRB process should not be open to lawyers and affirms its stance to omit lawyers from this VRB process but request that the choice be made available if the client wishes to seek legal counsel from Lawyer firm at the AAT an in a win, win situation the AAT can order the Commonwealth to pay some or all of the costs incurred by the claimant in relation to eh AAT matter, where the AAT has varied or set aside a determination and found in the claimant’s favour.

If you have any questions or concerns regarding my submission I am more than happy to discuss these issues with you.

Regards

Allan Thomas

Allan Thomas **JP**
National President of the APPVA