

28 April 2013

ATTN: Committee Secretary
Senate Foreign Affairs, Defence and Trade Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600.

**RE: VETERANS' AFFAIRS LEGISLATION AMENDMENT
(Military Compensation Review and Other Measures) Bill 2013**

INTRODUCTION

I am a Flight Lieutenant (ADMIN) (Retired), Royal Australian Air Force. I am an authorised practitioner at the Bribie Island Sub Branch of the RSL and am qualified to the grade of Pension Officer Level 2. This submission is made on my own behalf with the knowledge of my President on the proviso that my opinions and arguments are not necessarily considered to be those held by the President and Committee of the Sub-Branch. This submission arises from information and opinions acquired during actions taken by me on behalf of my clients and my nine years experience as an Administrative Officer in the RAAF, particularly, as part of 40 years military experience as a Naval Reservist as a Sailor and Commissioned Officer and RAAF Commissioned Officer, retired in 1993 and I continue to hold a Queens Commission as a retired Officer. Also, I have been appointed a Commissioner for Declarations in Queensland.

CASE HISTORY

Following about 12 months of claim and counter claim between one of my clients and various officers of DVA, about the withholding of her War Widows Pension for 28 years on a legal technicality, including, finally, two letters to the Secretary DVA who responded telling me that I had misread the Legislation (which was technically correct but due to a deceptively drawn Section 13AG of the VEA 1986) and continued on to say that "it was unfortunate that my client missed out on retrospectivity". After all it wasn't his half a million dollars. And she is still suffering financially in spite of having a reasonably well-paid position. The future earnings of her late husband were not taken into account when her compensation was assessed which operated to her severe disadvantage and some positive action is well and truly overdue.

The nub of the issue is that two classes of widow have been created one of which remarried on or before 28 May 1984 (on the advice of DVA this group numbered about 3000 widows) and suffered severe disadvantage by losing their War Widow' Pension (see Note at the end for definition) on remarriage (to the tune of about \$350,000 each in today's money) in comparison to the other group who remarried on or after 29 May 1984 and continued to receive their pension uninterrupted, which the Director, Benefits and Payments Policy, DVA, seems to think it would be unfair to redress. As it stands the whole issue is unfair. Initially, the Repatriation Act required that any War Widow who remarried lost her entitlement to Pension. On 28 May 1984, under the Hawke Government, that provision was repealed; however, we believe that as an oversight, no action was taken to reinstate the widows who had lost their pension prior to that date until 1 January 2002. In the meantime the second group of War Widows who remarried on or after the 29 May 1984 continued to receive their pension. The impression is that under later Governments it was never the Government's intention to redress this anomaly and retrospectivity was not included in the legislation which was written into the Veterans' Entitlement Act 1986, fairly obviously because it was going to cost too much. However, the Clarke Report, in 2010, at Chapter 19, recommended that the anomaly be redressed and the Government at the time chose to ignore that recommendation.

My client qualifies for reinstatement on no fewer than three occasions. Firstly, because the other class of widows (post 29 May 1984 remarriages) continued to receive their pensions following

remarriage on or after 29 May 1984. Then, on the recommendation of the Clarke Report, following her divorce in 1986. Finally, on 1 Jan 2002, after 17 years, the Government of the day was embarrassed into making some amends for the lack of consideration, but only on application and without retrospectivity (which is not the way Sections 13AG and 13B can be read; of which, particularly, S13B clearly states that reinstatement was to be AUTOMATIC). Then they could not see their way clear to reinstate my client's pension until the date of her application on 25 Jan 2012. In today's money that represents a Government withholding nearly \$600,000 in today's money, of her war widows pension on a legal technicality. All in contravention of the spirit of provisions of the VEA Section 13AG. And now they want to offset any direct compensation she received from the RAAF, as compensation for the death of her husband, or from Boeing for faulty workmanship on the aircraft that crashed, a total of about \$73,000.

Ms Tiff Beer, senior investigator, Ombudsman's Office, ACT, has indicated that her office will write to DVA with the recommendation that my client be awarded an Act of Grace payment. The amount of such payment would not be specified.

Furthermore, we believe that ALL offsetting action should cease and any deductions made refunded.

To date there has been no action proposed to remedy any of these shortcomings.

Essentially, across the board, the Government, through a legislative technicality, has withheld from about 3000 war widows a bit over \$1,000,000,000 in today's money, arguably, the most forgotten of our war casualties. It is the widows who suffer most when a Serviceman is killed in action (or, in cases when they are seriously injured it could actually be worse) and, at present, the common feeling is that the Government just does not care.

CONCLUSION

This case is being submitted to the Committee to highlight the plight of the widows of all Servicemen. The widows of all Servicemen, particularly Junior Rates/Airmen/Soldiers, Non-Commissioned and junior Commissioned Officers alike generally become second-class citizens once their spouses pass-on because of the nature of Service life, which does not provide opportunities for much accumulation of wealth and the pensions, such as they are, seem to be designed to just sustain a basic lifestyle which, in due course, under the present indexation rules, soon will be reduced to that of an old age pensioner. This is more relevant now that the taking of pension has been extended to age 65 years and is not helped by the fact that, on the passing of her spouse her Military Superannuation Pension is reduced to about 60% of the going rate (this is where the expression: four fifths of five eighths of F****A** actually originated) and any war pension or disability pension is ceased and the conditions of award of a 'Gold Card' to the widow extremely limited. Where did the strange notion arise which decided that the remaining Pensioner could live more cheaply than one, which particular expenses are reduced? (The situation is not quite so bad for the widowed Veteran when there is no reduction in either superannuation or pension). Shopping for two is difficult enough but shopping for one???

In the past, a pension could be taken by a Serviceman after 20 years service and helped to keep body and soul together whilst the member retrained and started a new career. Now it is much more difficult. There is an interesting comparison to be made between the pension entitlements for a member of the Police Force and those for a Defence member and the possibility of serious injury and death in each occupation. How many Police have been killed or even seriously injured in the line of duty in the last decade or three compared with military casualties?

The bottom line plea is for more consideration of widows of all Servicemen, provision of more generous pension entitlements and the issue of a 'Gold Card' for all medical conditions. There must be some compensation for the months of separation and the difficulties of resettlement on the Veteran's return home suffered by most Service wives. Additionally, for widows of serving members some compensation for salary and allowances forgone in the future.

Additionally, the worst aspect of these proposed amendments, which are being promoted as an improvement in conditions for veterans' entitlements by RSL News, is that it represents a net saving to the Government of \$17,700,000. (See the 'Financial Impact Statement'). The actual increases proposed are miniscule or non-existent.

There is more but due to a timing error we were not advised of the return date for submissions until we became aware of the Enquiry through the April 2013 issue of RSL News that we received on 26 April 2013, eight days after the return date. We respectfully request that this submission be favourably considered in the present review. Although, if past experience is of any moment, the Government will only adopt those recommendations which produce cost savings or are revenue neutral.

At the time of my retirement from the RAAF in 1993 I was employed in Air Force Office and was made aware of about six Reviews, or maybe more, which were gathering dust in a vault in the Campbell Park Offices at the time when the Wrigley Report on Civilianisation was submitted. That one suited the Government because of the perception that they would save money by reducing the size of the Defence Force regardless of the restriction it might impose on effectiveness. In any case, I am not sure that they saved much money but it sure reduced the size of the Defence Force, at least for a while, and with that went the future promotion prospects of numerous personnel. (In the 1990's, if my memory serves me correctly, the entire Defence Force would only half fill the MCG). No union would have stood for it, but the Defence Force is not allowed to go on strike. We are all on duty 24/7 to put our lives on the line at the whim of the Generals and/or the Government. The Defence Wives are the ones who suffer most. What did Churchill say: "They also serve who only stand and wait".

John Goldsworthy, Cdec (QLD)
Flight Lieutenant, RAAF, (Retired)

Note: My client was widowed as a result of an aircraft training accident but because of the confusion between the definitions of 'Defence Widow and 'War Widow', all widows of serving members are termed 'War Widows' as opposed to DFRB, DFRDB and MSBS recipient widows to whom the title Defence Widows apparently applies.