



DEFENCE FORCE WELFARE ASSOCIATION

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

NATIONAL OFFICE

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17 September 2015

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

SUPPLEMENTARY SUBMISSION BY THE DEFENCE FORCE WELFARE ASSOCIATION VETERANS' AFFAIRS LEGISLATION AMENDMENT (2015 BUDGET MEASURES) BILL 2015

On behalf of the Defence Force Welfare Association and with the Committee's kind indulgence, I would like to cordially request that you accept the enclosed **Supplementary Submission** to add to the one forwarded to you previously – it should continue to stand as a Committee document from us.

Our **Supplementary Submission** herein is made because, after having a little more time to examine and analyze the said Bill, we believe we have found a flaw in it of sufficient seriousness as to render our support for the Bill contingent on removing what seems to be a previously overlooked flaw.

The Defence Force Welfare Association supports the proposed adoption of a single path for reconsideration of decisions of the Military Rehabilitation and Compensation Commission, accepting as firm and enduring the Minister's assurances that every unfavourable decision of the Commission that is the subject of an application for review by the Veterans' Review Board (VRB) will be the subject of internal reconsideration by the Commission before VRB proceedings begin.

We notice that the Bill contains no provision for removal of that part of S359, which provides that S357 does not apply to review by the AAT of a determination of the VRB. We feel sure that retention of this provision is an oversight, and we think, a serious one. S357 provides for award of costs against the Commonwealth in some circumstances, in the event of a decision by the AAT in favour of the Veteran.

Moreover we feel strongly that not only should that part of S359 of the MRCA which refers to S357 be removed, but that a provision having the same effect as S357 of that Act should be inserted in the Veterans' Entitlement Act, thus providing a "single path" for review of decisions for all Veterans under both Acts.

We hold strongly to the view that just treatment of Veterans' claims ought not to depend on their ability to meet the costs of access to the ordinary processes that are put in place to deal with those claims.

At the level of the AAT, in the context of an open, legally constituted tribunal, an adversarial model for reconsideration of a claim is encountered by the Veteran for the first time he finds himself opposed by a party possessed of resources so far in excess of his own as to render pursuit of his claim akin to the struggle of David against Goliath.

Without a reasonable prospect of recovery of costs for a successful action at the AAT, a significant proportion of Veterans are unable to proceed, and thereby are, in effect denied justice. Justice, we contend, is at the very heart of the obligation owed by the nation to Veteran's injured by their service.

The Defence Force Welfare Association requests that the Committee insist that removal of that part of S359 which refers to S357 be included in the Bill, and that it recommend insertion of provisions to the same effect as S357 in the Veterans' Entitlements Act.

As before in our original Submission, if there is a need for any clarification of matters raised in this **Supplementary Submission**, I would be most happy to provide this either verbally or in writing as the Committees sees appropriate.

Yours Sincerely

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