

Veteran's Affairs Legislation Amendment (2015 Budget) Bill 2015

I wish to make a submission in regard to this amendments, in particular Schedule two

Let me introduce myself

My name is John P Smith OAM, JP (Qual) and I have been a member of the Returned & Services' League of Australia (RSL) for about thirty years and the Vietnam Veterans Association of Australia (VVAA) for approximately twenty three years. During this period I have been the VVAA representative on a number of National and State DVA forums. I first qualified as a Pension officer during 1994 and then qualified as a Level three Advocate during 1996 and I am still practising today. I was a member of the Qld Training and Consultative group and TIP for some ten years.

Briefly my understanding of the Legislation

SRCA

Under the *Safety Rehabilitation and Compensation Act 1988*, the VRB does not have jurisdiction to review decisions. The avenue of appeal remains to request reconsideration and if still unsatisfied then a further appeal to the AAT.

VEA

Under the *Veterans' Entitlements Act 1986*, where the VRB has jurisdiction, the first level of appeal of a primary decision is an internal review under section 31 of the VEA. If a veteran is dissatisfied with the outcome of the internal review then an appeal to the VRB under s136 of the VEA is allowed. When an application for review by the VRB is lodged then DVA would carry out a review under s.31. However, it is rare for a decision to be varied at this stage and the matter usually proceeds to the VRB for hearing. If a veteran remains dissatisfied with the outcome at the VRB, then an appeal to the AAT can be made.

MRCA

Under the *Military Rehabilitation and Compensation Act 2004*, the first step of appeal for a veteran is reconsideration by the MRCC under the MRCA. The veteran may also apply for a review by the VRB if the reconsideration is unsuccessful. Once again where an application is lodged for a review by the VRB then reconsideration would be carried out. The introduction of this system was applauded by the ESO community because it gave all veterans the same rights under all three Acts.

Submission

You say that this amendment will remove the lawyers from the system. However, according to my knowledge lawyers do not get involved until a matter is referred to the AAT or higher.

I believe that this amendment plans to remove the right of a Veteran to apply for a reconsideration of their claim under the MRCA. If this amendment is approved, then veterans under the MRCA are being discriminated against due to the fact that they will not have the same rights as veterans under the VEA. You say that ESOs are aware of this and support the amendment. I am sorry to say that I have not found one member of the ESO community who is in favour of this.

I submit that the amendment to Schedule two of the MRCA should allow for (i) internal review by the Military Rehabilitation and Compensation Commission; (ii) an external review before the VRB; and (iii) further review before the AAT. In addition, it is my contention that access to legal aid at the AAT should be allowed in the same manner as it is under the VEA.

This three-tiered system under the MRCA will replicate that currently available under the VEA and is the preferred outcome among those members of the ex-service community with whom I interact. Importantly, this three-tiered system will also ensure equity for all concerned.

For the sake of consistency and equity, I submit that the VRB should be given jurisdiction to hear appeals of primary decisions concerning veterans made under the SRCA and that reviews of VRB decisions under the SRCA be allowed at the AAT.

Yours Sincerely

John P Smith, OAM, JP (Qual)
Level three advocate
Member of RSL and VVAA