

Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Freedom of Speech Legislation Amendment (Censorship) Bill 2018, the Freedom of Speech Legislation Amendment (Insult and Offend) Bill 2018, and Freedom of Speech Legislation Amendment (Security) Bill 2018.*

The Freedom of Speech Legislation Amendment (Insult and Offend) Bill 2018 proposes to repeal subsection 170(1) of the *Veterans' Entitlements Act 1986* (VEA). The additional Bills do not affect Veterans' Affairs portfolio legislation.

The Department submits that subsection 170(1) provides an important function as it assists the Veterans' Review Board to carry out its duty as a board of review. The VRB provides a vital and important role in reviewing decisions made by DVA concerning the eligibility of veterans for benefits and payments.

Subsection 170(1) provides that a person commits an offence if:

- (a) the person engages in conduct; and
- (b) the person's conduct insults another person in, or in relation to, the exercise of the other person's powers or functions under this Part.

The penalty for an offence against the subsection is imprisonment for a maximum period of 6 months.

Subsection 170(1) ensures the VRB and persons assisting the VRB by exercising powers and functions under Part 9 of the VEA are given respect when undertaking their duties. It enables the VRB and persons assisting the VRB to operate effectively and make a fair and proper determination for a veteran or their family.

The penalty imposed by an offence against subsection 170(1) recognises the seriousness of the role of the VRB and that the VRB operates in a semi-judicial manner and requires safeguards against types of behaviour that undermine the role and responsibilities of the VRB.

I note that the amendment does not amend subsections 170(2)-(5) (interrupting Board proceedings, creating a disturbance, taking part in creating a disturbance and engaging in contemptuous conduct); however, the repeal of subsection 170(1) would remove an important element of contemptuous conduct, namely the use of insulting language, from being an offence.

Australian bodies of review are protected from insulting conduct through provisions that specify offences for contempt and contemptuous behaviour. For example, subsection 63(2) of the *Administrative Appeals Tribunal Act 1975* provides that a person commits an offence if the person engages in conduct and that conduct would, if the Tribunal were a court of record, constitute a contempt of that court. The offence under this subsection is punishable by 12 months imprisonment or 60 penalty units, or both. It is accepted that insulting language constitutes contempt of court.

It is DVA's opinion that an amendment to remove these protections from the VRB will lower the acceptable standards of conduct and behaviour within a VRB review and subject the VRB members, staff and persons exercising powers and/or functions under the VEA to behaviour that undermines their active and impartial participation.