



11th September 2015

Committee Secretariat
Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

**Senate Committee Inquiry
The Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015**

General

1. The amendments to Schedule 2 of the Bill will create a single appeal path for the review of original determinations made under the *Military Rehabilitation and Compensation Act 2004*.
2. As there have been no Terms of Reference issued for this inquiry, Legacy Australia understands that the focus of the inquiry is on:
 - a. Clause 2 page 2 (table item 3) omit the table item, and
 - b. Schedule 2, page 8 (line 1) to page 9 (Line 9) to be opposed

Legacy Australia Inc.

3. Since World War I Legacy has maintained a proud history as an independent, voluntary organisation dedicated to the care and support of the families of veterans. Legacy Australia Incorporated is the national co-ordinating body for the forty-nine Legacy Clubs within Australia and a club in London. Today Legacy is the major not for profit (NFP) provider of support, advocacy and assistance to the families of Australian Defence Force (ADF) veterans and members who have given their lives or health in service of our country.
4. The 49 Legacy Clubs in Australia maintain a network of volunteer pensions officers and professional para-legal advocates who assist widows, partners and dependants of deceased veterans and ADF members to obtain entitlements under veterans' legislation.

The Review of Military Rehabilitation and Compensation Arrangements

5. A Legacy representative, along with other ESO representatives, participated in a subcommittee advising the Steering Committee and Project Team and other Legacy pensions personnel took part in the extensive DVA consultative process; the last being a series of consultative meetings in 2013-14 to consider the amendments to the *MRCA 2004* (the Act) incorporated in *The Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015* currently before Parliament.

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Caring for the families of those who served their country

6. Although Legacy's focus was on the entitlements under the Act for the widows, partners and dependants of deceased veterans and deceased members of the ADF, improvements that benefit veterans, serving and former members of the ADF are also fully supported as these inevitably flow on to their dependants.
7. Legacy is at a loss to understand why the previous Government, now in opposition, is delaying/opposing amendments to the Act that it supported in the "Government Response to Recommendations from the Report of the Review of Military Compensation Arrangements" released in May 2012 by the then Minister For Veterans' Affairs, the Honourable Warren Snowdon MP.

Refining the Review Process to a Single Pathway

8. Amongst the raft of amendments which were generally seen to be improvements and of benefit to veterans and members of the ADF, the single review pathway proposal was extensively discussed and debated. It was not seen as a stand-alone amendment and was considered, along with the improvements to the Veterans' Review Board (VRB) practise procedures, as an improvement to the review process.
9. It should be noted that, although the process is commonly referred to as an Appeal Process, it is really a Review process. If an applicant is not satisfied with the initial decision made by a delegate of Repatriation Commission, he or she has the right for the decision to be reviewed. The applicant is asking for a merit based review of the decision. This is an important distinction. The applicant, under the beneficial nature of veterans' law, has the case presented on the merit of the case without the complication and possibility of interminable arguments on the interpretation of the law as may happen with the involvement of lawyers.
10. The proposed single review pathway is regarded as a simplified procedure which will give MRCA applicants the same advantage as a VEA applicant, i.e. the chance to have their case reviewed on its merits by the VRB consisting of three members including a Services Member, who has extensive ADF service including war or warlike service. With the recent improvements to the VRB practice procedures, the VRB continues to be a unique tribunal offering procedural fairness to ADF serving members and to the ex-service community, including dependants.
11. The single review pathway does not deny the applicant the right to appeal to the AAT; this remains and the applicant can be represented by a lawyer. Cost recovery is an issue and it is understood that this is an issue involving possible amendments to other than veterans' legislation and this may need to be addressed by interdepartmental discussion and action. In the meantime Legal Aid is available to eligible persons.

Conclusion

12. Although the single review pathway is not perfect and there are issues involved with recovery of costs at the AAT, the extensive consultative process under taken by the previous Labor Government, the current Government and the DVA has produced a series of amendments to the *MRCA 2004* which are sensible.
13. Legacy Australia Inc. fully supports the passage of *The Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015* through the Senate.

David Gray
Chairman
Legacy Australia Inc.