



6 June 2013

Dr. Kathleen Dermody
Committee Secretary
Senate Committee, Foreign Affairs, Defence and Trade
Legislation
Parliament House
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Dear Secretariat

Re: Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Bill 2013 [Provisions]

Further to Slater & Gordon's submission dated the 24th April, 2013, we wish to draw to the attention of the Committee the review undertaken by Peter Hanks SC of the *Safety, Rehabilitation and Compensation Act 1988* (SRCA)(the Hanks review report). The Hanks review report has been publicly released by DEEWR and addresses important concerns regarding the operation of the Comcare scheme.

Issues are raised in the Hanks review report about the lack of mandatory decision making timeframes applicable to Comcare employers. These issues are canvassed at pages 161-163 of the Hanks review report and the relevant recommendations (extracted below) are found at page 163.

We note that the Comcare scheme deals with a number of public sector employers and self-insured licensees. We submit that given all veterans' and military compensation claims are handled by the one agency, namely the Department of Veterans' Affairs, it should be straightforward for a single agency to adhere to mandatory time frames. Further, if the scheme is being well administered, the measure should save administrative and legal costs as disputes in relation to claims will be resolved more efficiently as a result of timely decision making.

Mr. Hanks also notes that mandatory time frames are a feature of State and Territory statutory compensation schemes.

We re-iterate our concerns that the Department of Veterans' Affairs all too often fails to meet voluntary time frames for decision making. This in turns leads to delays in the resolution of claims and creates unnecessary stress and hardship for injured Veterans'.

We highlighted this in paragraph 1.1 of our submission to the Committee, attached for your ease of reference.

Extracts from the Hanks Review Report

“Recommendation 9.2

I recommend that the SRC Act be amended to require employers to forward claims received to the determining authority within three days.

Recommendation 9.3

I recommend that the SRC Act be amended to include statutory timeframes for the determination of claims and that, on a failure to meet those timeframes, the claim be deemed to be rejected. The determining authority must determine the claim:

- (a) within 30 days for injury;*
- (b) within 60 days for disease; or*
- (c) if provisional liability is being met as a result of a previously lodged injury notification, by the end of the provisional liability period, whichever is the longer”.*

The Hanks review draws a link between timely decision making, early intervention and rehabilitation. We submit that mandatory time frames are necessary to ensure the proper administration of any compensation scheme, and that a failure to have enforceable time frames only serves the bureaucracy, not the injured person.

We re-iterate our previous contentions about the importance of clear and enforceable time frames and recommend that the Bill be amended in accordance with our previous submissions. We believe that this is likely to be supported by all other submitters, with the possible exception of the Department of Veterans' Affairs.

Please do not hesitate to contact me on 07 31373915 if I can be of any further assistance to the Committee.

Yours faithfully

Brian Briggs
Practice Group Leader
SLATER & GORDON

cc. Minister for Veterans' Affairs, the Hon. Warren Snowden
Shadow Minister for Veterans' Affairs, the Hon. Michael Ronaldson
Senator Eggleston, Committee Chair

Extract from Slater & Gordon submission to the Committee dated 24th April 2013

1. Matters not addressed by the Bill

1.1 Time frames for making decisions should be included in the legislation in line with other Compensation schemes.

We submit that the Department and the Military and Rehabilitation and Compensation Commission, like all large organisations, are susceptible to administrative challenges in the handling of individual claims.

Despite the best will of the many people involved, and despite the *Service Charter*, claims, correspondence and even whole files continue to be lost in the system, causing delay and frustration for injured and ill personnel. This system is one of the few compensation schemes that does not include time frames for responding to claims or making key decisions. Whilst the Service Charter is important, it is largely symbolic because it is not enforceable by a claimant.

The first recommendation in our submission of June 2009 was that the system would be improved for claimants if time frames were inserted in the MRCA and the SRCA modelled on those in the Seafarers Act. We recommend as follows:-

- Decisions in relation to acceptance or refusal of liability for claims (within 30 days of the claim or 30 days after receipt of information requested by the decision-maker);
- Decisions in relation to compensation (30 days); and
- Re-consideration of original determination (30 days).

If a decision is not made within the specified time frame, the claim should be deemed to have been rejected and the claimant able to apply for re-consideration or review.

To complement these timeframes, DVA should meet requests to provide medical records, within 14 days.