



Australian Government

Department of Veterans' Affairs

Submission to the

**SENATE STANDING COMMITTEE ON
FINANCE AND PUBLIC ADMINISTRATION**

References Committee

**Inquiry into the operation and appropriateness
of the superannuation and pension schemes for
current and former members of the Australian
Defence Force (ADF)**

March 2025

Senate Standing Committee inquiry into the operation and appropriateness of the superannuation and pension
schemes for current and former members of the Australian Defence Force (ADF)

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1. Introduction

The Department of Veterans' Affairs (DVA) welcomes the opportunity to make a submission to the Senate Finance and Public Administration References Committee (the Committee) inquiry into the operation and appropriateness of the superannuation and pension schemes for current and former members of the Australian Defence Force (ADF).

2. Background

Military superannuation legislation and policy is the portfolio responsibility of the Department of Defence, with the Commonwealth Superannuation Corporation (CSC) administering relevant schemes. Since 2016, ADF members have been able to have their superannuation credited to a fund of their choosing, not only those provided by the CSC.

DVA does not administer any superannuation schemes. However, the interaction between the DVA compensation system, the military superannuation system and the taxation system is a known cause of confusion and distress for some veterans. DVA does provide a range of financial assistance to current and former members of the ADF to enhance and support their wellbeing and ensure they are self-sufficient in their post-service life. Some compensation payments paid by DVA are reduced (also known as "offset") by the Commonwealth funded portion of superannuation a veteran receives through both the CSC or from their private superannuation fund.

Offsetting is prescribed in self-executing legislative provisions. There is no discretion to not apply offsetting and merits review is not available in relation to the application of offsetting provisions. Offsetting provisions are not unique to DVA portfolio legislation, and similar legislative arrangements are found across Commonwealth legislation.

The key principle in superannuation offsetting are to provide for a fair and equitable payment treatment across the system for all recipients and to ensure that the Commonwealth is not making duplicate income maintenance payments through compensation and superannuation arrangements. As some compensation payments and Commonwealth superannuation payments contain a similar component for economic loss, offsetting ensures that the veteran is not compensated twice for the same loss and therefore receiving more than they would if they remained in employment.

It is important to recognise that for compensation purposes it is only the Commonwealth-funded component of superannuation that is offset against compensation. The portion that is funded by the veteran's own contributions is retained by them and not offset in the calculation of any compensation payable.

This approach is supported by the 2019 Productivity Commission (PC) Inquiry Report *A Better Way to Support Veterans*, which found (Finding 13.1) the principle of not providing two sources of income replacement to the same veteran is sound and that there is no case for changing the current offsetting arrangements between government-funded superannuation payments and incapacity payments.

This PC Inquiry also went on to recommend (Recommendation 13.2) that DVA and CSC should work closely to streamline the administration of superannuation invalidity pensions and move to a single 'front door' for invalidity pensions and veteran compensation. DVA and CSC continue to work closely to support an effective operation of the system. The passage of the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025* (the VETS Act) represents significant progress toward the simplification and harmonisation of compensation arrangements and legislation, however

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military superannuation arrangements and tax is an area where DVA has identified that further work to simplify legislative and administrative arrangements could be undertaken.

In the Veterans' Legislation Reform Consultation Pathway released in 2023, the Government stated further consideration may be given to the PC Inquiry Recommendation 13.2 to streamline the interactions between veterans' entitlement payments and superannuation invalidity pension for veterans.

DVA welcomes the opportunity to consider further opportunities for legislative or administrative simplification in the delivery of veteran's entitlements. Any proposed changes would need to be considered more fully to understand any consequences and the impact on veterans. Further consultation with CSC would also be required to progress any work in relation to this issue.

3. DVA payments and superannuation

3.1. Incapacity payments

Incapacity payments under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) and *Military Rehabilitation and Compensation Act 2004* (MRCA) are economic loss compensation payments made to veterans with an inability, or reduced ability, to work because of a service injury or disease.

Incapacity payments are generally required to be reduced (offset) dollar for dollar by the Commonwealth-funded portion of any invalidity or retirement superannuation pension or lump sum received. As Commonwealth superannuation payments may be directed to any retirement savings account of the person's choice, it is not essential that the Commonwealth administers the scheme - only that contributions are being made by the Commonwealth.

Where a veteran has multiple periods of ADF service, resulting in multiple superannuation payments, only the superannuation payment derived from the same period of service as that giving rise to the incapacitating injury is used to offset incapacity payments.

If a veteran accesses superannuation for reasons other than retirement, such as severe financial hardship, this amount is not used to offset incapacity payments.

Processes are in place to ensure information sharing between DVA and the CSC so that the calculation of incapacity payments is accurate, and to ensure DVA is notified of any changes in a veteran's superannuation payments as soon as possible to minimise overpayments of compensation to veterans. Where the veteran has superannuation in a fund not managed by the CSC, DVA works with the veteran to ensure they have the information required to correctly calculate the veteran's incapacity entitlement.

DVA regularly reviews a veteran's circumstances to ensure their incapacity payments are correct. Veterans also have an obligation to notify DVA if there are changes in their circumstances that may impact their incapacity payments, including where they receive an amount of superannuation.

3.2. Special Rate Disability Pension (SRDP)

The SRDP provides an alternative form of periodic compensation (instead of incapacity payments) under the MRCA for veterans whose capacity for work has been severely restricted because of conditions due to military service.

SRDP is not automatically granted. If a veteran is assessed as being eligible, they will be offered the choice between commencing SRDP or continuing to receive incapacity payments.

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SRDP is a tax-free payment payable indefinitely, whereas incapacity payments generally cease in line with the age pension age. Once a veterans become eligible for SRDP, even if they choose not to receive the SRDP payment, they will receive a Veteran Gold Card for life which provides treatment for all medical conditions within Australia. The DRCA does not have an equivalent payment to SRDP.

Where a veteran is receiving Commonwealth-funded superannuation, the weekly SRDP amount is reduced by 60 cents for each dollar of Commonwealth-funded superannuation received. This lesser rate of offset is because of the tax-free status of SRDP. As a veteran is not paid the full amount of superannuation due to taxation, offsetting the full amount of superannuation would amount to a further 'tax' on SRDP.

3.3. Income support

Under the *Veterans' Entitlements Act 1986* (VEA), DVA provides the service pension to eligible veterans. The service pension provides regular income for veterans with qualifying service and can be granted on the grounds of age or invalidity. The partner service pension is the payment made to eligible partners, former partners and widow(er)s of these veterans. The service pension is means-tested, meaning that the amount an eligible recipient receives is dependent on the value of their income and assets, their homeownership status and if they are a member of a couple.

As the service pension is an income support payment, rather than compensation, the income and assets tests treatment of superannuation is different. The DVA assessment of a veteran's, and their partner's, superannuation assets depends on whether the superannuation assets are in the accumulation phase or drawdown phase, and the persons age. For income support purposes, DVA assesses the income from superannuation based on the income stream schedule provided by the superannuation scheme.

Where a veteran is eligible for the SRDP and service pension, the amount of superannuation that is used in reducing the SRDP is not counted as income for income testing purposes for the service pension.

3.4. Retrospective reclassification

Retrospective payment of superannuation as a result of a reclassification of a veteran's discharge from 'administrative' or 'voluntary' to 'medical' grounds, where the veteran has been receiving incapacity payments for the same period, necessitates a recalculation of past incapacity payments and taxation. These recalculations of entitlements in these instances are complex. The process can span many years and have taxation implications for veterans.

DVA, the CSC and the Australian Taxation Office (ATO) have a process in place to manage the recalculation and recovery of any debt that occurs from a retrospective decision. This includes communication between CSC and DVA at the time the decision is made, allowing DVA to determine whether an overpayment has occurred.

Both the MRCA and the DRCA contain legislative provisions that allow DVA to recover overpaid incapacity payments directly from a veterans Commonwealth superannuation entitlement. CSC holds the arrears amount owing to the veteran to allow DVA to recover the gross overpayment from the after-tax arrears amount. This avoids the veteran having to manage the repayment of the overpayment directly. Any remaining arrears is then paid to the veteran.

Where the after-tax arrears amount is not sufficient to cover the full DVA overpayment, DVA is required to recover the amount from the veteran. Where the veteran agrees, DVA

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can issue amended payment summaries for the impacted financial years, prior to recovery of the overpayment, to allow the recalculation of taxation by the ATO so that the refunded taxation can be used to further reduce the DVA overpayment. This aims to give the veteran earlier access to amounts relevant to resolving the overpayment as quickly as possible. Any remaining overpayment following these processes will be recovered directly from the veteran.

The increasing challenge for DVA

Retrospective reclassification is an area of significant complexity, growing concern and workload for DVA. DVA has observed a significant and sustained increase in the number of instances of retrospective classification requiring an adjustment to DVA entitlements since 2017.

Retrospective incapacity calculations cover multiple years and are a complex forensic accounting task, which includes consideration of historic pay scales in the ADF and taxation arrangements in order to adjust veteran entitlements. While the aim of these processes is to limit the administrative burden on veterans, and the extent to which they will need to deal with three different agencies in resolving the taxation implications and recovery of any debt, at an increasing scale this has resulted in a considerable administrative burden on DVA.

The scale and complexity are contributing factors in the time taken to resolve these matters. Consequently veterans are often aggrieved that a windfall gain in terms of superannuation entitlements is then recovered in the form of a significant debt owed to DVA, and ongoing incapacity payments are reduced dollar for dollar by DVA through adjustments to ongoing incapacity payment entitlements. This eventually results in a tax refund for veterans, due to the different tax treatment between incapacity payments, which are taxed as income, and the concessional taxation treatment for superannuation. However, veterans must wait a significant amount of time before they are informed of the eventual outcomes of this process.

The complexity and resource requirement has become particularly apparent a time when DVA has deployed significant departmental resources to address the wider historic claims backlog.

3.5. Communication and engagement with the veteran community

DVA engages in regular communication and engagement activities to help ensure veterans are aware of their eligibility for entitlements, and the factors that determine the level of any compensation paid to them.

In March 2024, DVA established a Veteran Superannuation and Offsetting Working Group, which operates under the auspices of, and includes representatives from, two key DVA veteran engagement fora: the Ex-Service Organisation Round Table (ESORT) and the Younger Veterans – Contemporary Needs Forum (YVF). The purpose of this group is to consider the application of tax and other related legislation on veteran's benefits, to ensure the implications of payment offsetting arrangements is well understood by the veteran community. Representatives from the Department of Defence, the CSC and the ATO have also been invited to attend working group meetings to support discussion of cross-portfolio matters.

DVA also seeks to ensure veterans are informed of the impact of Commonwealth superannuation on their DVA payments throughout the claim process and while they receive ongoing payments. Claim forms, the DVA website, and articles in VetAffairs, our free newspaper for the veteran community, all seek to inform the veteran community of the

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impact of any superannuation they receive on their DVA payments, and their obligation to advise DVA of any change to their circumstances.

Veterans can speak to the DVA staff member managing their payment if they are unsure of the impact of an amount they receive from their superannuation. Serving members can also talk to DVA Veteran Support Officer (VSO), who provide a national service with a permanent presence at 14 Defence bases within Australia and conduct outreach services to over 45 other bases on a monthly basis. VSOs provide personalised support and education to current serving veterans and families about their eligibility to access DVA benefits. Officers also educate transitioning members about their potential benefits with CSC and provide points of contact within CSC to enable them to begin their military superannuation claims.

4. Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025

On 13 February 2025, the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 (VETS Act)* was passed by the Australian Parliament. This will mean that from 1 July 2026 all compensation and rehabilitation claims will be determined under the new and improved MRCA.

The VETS Act does not change the treatment of superannuation for incapacity and SRDP purposes. It also maintains the requirement to offset Commonwealth-funded amounts received and reaffirms this approach through its application to the new Additional Disablement Amount (ADA), which will come into effect from 1 July 2026. The ADA is similar to the Extreme Disablement Adjustment benefit currently available under the VEA. This payment is intended as a 'safety net' under the MRCA for veterans who are over pension age and who have a high degree of impairment due to service-caused injuries or illness. A veteran cannot receive both ADA and SRDP, and the ADA will be subject to the same offsetting arrangements that exist for the SRDP under the MRCA.

The VETS Act does not amend any provisions relating to income support payments under the VEA.

5. Conclusion

While DVA does not administer the superannuation schemes for ADF members and former members, the payments received from these schemes directly impact the compensation and income support that DVA provides to veterans. Any change to the operation of these schemes may impact the financial support DVA provides to veterans. DVA trusts that the information provided in this submission will assist the Committee in its deliberations.