



Australian Government
Department of Veterans' Affairs
OFFICE OF THE SECRETARY

Ms Lyn Beverley
Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Beverley

Thank you for your letter of 29 May 2018, inviting the Department of Veterans' Affairs to make a written submission in relation to the Senate Foreign Affairs, Defence and Trade Legislation Committee's (the Committee) inquiry into the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 2) Bill 2018* (the Bill).

I would like to thank the Committee for the opportunity to make a written submission and I am pleased to provide the Committee with general information about the Bill.

Should other issues about the Bill be raised and the Committee would like further information, I would be very happy to provide the Committee with further advice.

My submission follows as an attachment to this letter.

Yours sincerely

Liz Cosson AM CSC
Secretary

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Encl

GNABRA BUILDING
21 GENGE STREET
CANBERRA CITY ACT 2601

GPO BOX 9998
CANBERRA ACT 2601
AUSTRALIA

TELEPHONE (02) 6289 6736
FACSIMILE (02) 6289 6257
INTERNET www.dva.gov.au

Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry into the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 2) Bill 2018*

Submission provided by the Department of Veterans' Affairs

Executive Summary

The *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 2) Bill 2018* (the Bill) has six Schedules and would implement several new initiatives to deliver a range of services to veterans and their families to give them the support and services they need.

The Department of Veterans' Affairs' (DVA) veteran-centric reform program is a comprehensive transformational reform. The reforms will provide the veteran community with a greater standard of service through reform of DVA's culture, operating model, business processes and systems.

This Bill supports that reform by improving and expanding the services available to veterans and their dependants making it easier for them to obtain the benefits to which they are entitled. The measures in this Bill put veterans and their families first, and demonstrates that DVA is listening to feedback from the veteran community.

Explanation about the Schedules in the Bill

1. Compensation for incapacity for work for former members

The amendments proposed in Schedule 1 of the Bill would help veterans who are studying full time as part of their rehabilitation plan. To encourage and support veterans to get back into the workforce and remove any financial barriers to participating in DVA's rehabilitation program, the amendments would provide former Australian Defence Force (ADF) members with incapacity payments at 100 per cent of their normal weekly earnings where they are studying full time as part of their DVA rehabilitation plan.

Incapacity payments are compensation payments paid for a loss of normal earnings suffered as a result of a service-related physical or mental health condition. Under the current legislation, incapacity payments "stepdown" to 75 per cent (or a higher percentage depending on weekly hours worked) of normal earnings after a period of 45 weeks.

While receiving these payments, a veteran may also be participating in a DVA rehabilitation plan. Many rehabilitation plans have a return to work focus and some include participation in an approved study program, such as vocational or tertiary level study. The basis for these study programs is to equip veterans with the skills and attributes necessary, or enhance those already held, to assist them in securing ongoing sustainable employment after their ADF service.

Veterans are naturally concerned about their ongoing financial security. To ensure that veterans can focus on their study and not be concerned about financial matters, the amendments would allow those veterans studying full time as part of their rehabilitation plan to receive payments based on their pre-injury earnings while they continue to study.

2. Veteran Suicide Prevention pilot

Reducing suicide in the veteran community is a key priority for DVA. Consistent with this focus, DVA is committed to improving veterans' mental health. Suicide is an issue that affects many Australians, and the ex-serving community is not immune. The 2017 National Mental Health Commission's review of suicide prevention services reinforces that suicide prevention is a complex issue that requires a multi-faceted service response.

DVA takes this issue seriously and is working to ensure that members of the ex-serving community experiencing mental health issues can access the support they need. Schedule 2 of the Bill would establish the Veteran Suicide Prevention pilot to provide mental health support for veterans who have been hospitalised after attempted suicide, suicide ideation or who may be at increased risk of suicide because of their mental health or other factors. The Veteran Suicide Prevention pilot would target a small subset of veterans with complex mental and social health needs.

The Foreign Affairs, Defence and Trade References Committee report, *The Constant Battle: Suicide by Veterans* recommended (at 3.97) that the Government develop and implement specific suicide prevention programs targeted at those veterans identified in at-risk groups. These amendments, as well as those made by Schedule 3 of the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Act 2018* (Coordinated Veterans' Care mental health pilot – which targets veterans with mild to moderate anxiety or depression and physical health problems), would address this recommendation.

The Pilot would deliver a 'step down' service that takes into account factors that may lead to suicide, such as primary health, financial stress, housing and employment. The Veteran Suicide Prevention pilot would provide intensive services to ensure veterans are accessing treatment and provide support to reduce the risk of suicide and enhance the quality of life for participating veterans.

This measure would not only provide intensive support for up to 100 veterans who have complex mental health challenges, but its evaluation will also inform future policy direction for veterans' mental health services. The amendments are required because, for the purposes of the pilot, the services will only be available in certain locations.

3. Compensation for member's death for wholly dependent partners

Schedule 3 would give wholly dependent partners ("partners") more time to choose the manner in which compensation is received in respect of their partner's death (whether as a lump sum, ongoing periodic payments or a combination of both). The proposed amendments would give partners, during what is a very difficult time, two years rather than the current six months to decide how they would like to receive their compensation.

This measure demonstrates this Government is listening and is putting the veteran community at the centre of decision making so partners and their families can take the time they need to make this important financial decision.

In its report of 20 March 2017 into the *Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Bill 2016*, the Senate Foreign Affairs, Defence and Trade Legislation Committee recommended that DVA review its consultation and engagement practices to:

- receive informed critical feedback on proposed legislative amendments;
- rapidly respond to concerns raised in the veteran community; and
- increase the understanding of proposed legislation changes in the veteran community.

Since that report, DVA has held two legislation workshops for ex-service organisations as part of an improved consultation process. The purpose of the workshops was to facilitate regular discussion and consultation about DVA's legislation and for the defence and ex-service communities to let DVA know their legislative reform ideas. Further information about the legislation workshops can be accessed at: <https://www.dva.gov.au/about-dva/legislation/legislation-workshop>. DVA also maintains a webpage about DVA Bills before the Parliament and other Ministers' Bills of relevance to DVA: <https://www.dva.gov.au/about-dva/legislation/status-current-dva-bills-parliament>.

The issue of the length of time partners have to make their compensation choice decision was raised at the inaugural legislation workshop on 9 November 2017, and has also arisen during other consultations with ex-service organisations. These amendments would address concerns raised by ex-service organisations that six months is not long enough to make the important decision about how to receive compensation, particularly during a difficult period.

Partners of deceased members who have been granted compensation following a member's death under the *Military Rehabilitation and Compensation Act 2004* (MRCA) are eligible to receive periodic payments for life, or may convert 25 per cent, 50 per cent, 75 per cent or 100 per cent of the weekly payment amount to its lifetime equivalent as a lump sum.

Currently, under the MRCA, partners have six months to decide whether they would like to receive their compensation as a weekly payment, or convert the whole or part of the payment into a lump sum.

Where the Military Rehabilitation and Compensation Commission (MRCC) is satisfied that there are special circumstances justifying an extension of time in which to make the choice, a longer period than six months may be granted. Generally, a request by a partner to extend the timeframe within which to make a decision under subsection 236(3) of the MRCA will be granted by the MRCC. However, it does require a partner to write to the MRCC and apply to have their election period extended.

No changes to subsection 236(4) of the MRCA are proposed. This would mean that, where the MRCC is satisfied that special circumstances exist, the MRCC could further extend this time period beyond two years. This may be the case where there are complicated family law issues to be resolved, for example.

4. Veterans' Children Education Scheme

Schedule 4 would extend the Long Tan Bursary to the grandchildren of an Australian Vietnam veteran, who has operational service in Vietnam. The Long Tan Bursary is part of the Veterans' Children Education Scheme and is currently limited to eligible *children* of an Australian Vietnam Veteran.

The Long Tan Bursary was established in 2000 in response to one of the recommendations of the *Morbidity of Vietnam Veterans* study of 1998 and 1999. The purpose of the scheme is to help the children of Vietnam veterans establish themselves in post-secondary study, where they may have suffered as a result of their parent's service.

The proposed amendments would extend the eligibility of the Long Tan Bursary Scheme so that an eligible grandchild of an Australian Vietnam veteran who has operational service in Vietnam, may apply for and be granted a Long Tan Bursary to enable them to undertake post-secondary education. This would ensure that the scheme could continue to provide support to the families of Vietnam veterans, while recognising that many of those families are now of an age where their grandchildren, rather than their children, are studying.

The children of Vietnam veterans will remain eligible and their applications for Long Tan Bursaries will be given first priority during the assessment process. This honours the original intent of the scheme.

Service on submarine special operations

In 2010 the Government reclassified service on a submarine on a Submarine Special Operation (SSO) during the period 1 January 1978 – 31 December 1992 (relevant period) as operational and qualifying service for the purposes of the *Veterans' Entitlements Act 1986*.

Schedule 5 would deem a submariner's service on a submarine at any time between 1 January 1978 and 31 December 1992 as operational service, if the submariner has served on a SSO during that period.

A deeming provision would enable all submarine service during this period, by persons who have served on SSO, to be treated as operational service. This provision would address the difficulties that result from the classified nature of these operations in determining whether an injury sustained or disease contracted by a submariner is related to service on a special operation.

This measure would give full effect to the intent of the Clarke Review and will benefit those veterans and their widowers to be able to access the benefits to which they are entitled. The amendments would ensure that the classified nature of information about SSO does not hinder access by these personnel to the benefits and entitlements available to those with operational service. In addition, this means submariners who are deemed to have operational service would have their claims assessed against the more generous provisions that apply to operational service rather than those that apply to peacetime service.

5. Claims for compensation

Schedule 6 would make it easier for veterans with MRCA coverage to make a claim for compensation, by enabling such a claim to be made orally. This amendment supports the veteran-centric reforms being made by DVA and will lead to improvements for veterans.

Currently, a claim for compensation must be made in writing and is distinct from a claim for liability. In many cases, compensation is claimed concurrently with liability by a veteran indicating on the liability claim form that he or she is also seeking a certain kind of compensation. However, in some cases, a veteran may lodge a claim for liability without any concurrent indication in writing that he or she is also seeking to claim compensation. In such cases, under current arrangements, veterans are required to lodge any subsequent claim for compensation in writing.

The amendments would mean a veteran could just advise their MRCC delegate during a telephone call, for example, that they want to make a claim for compensation and their oral statement would be treated as a valid claim under the Act. For those veterans who wish to do so, they would be able to continue to make a written claim for compensation. This is all about making it easier for veterans to engage with DVA. The Government has listened to the concerns and frustrations of veterans and their families and is committed to putting them first.