

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET ESTIMATES 2017

Attorney General's Department

Program: 1.4 Justice Services

Question No. BE17-108

Senator Lambie asked the following question on 29 May 2017:

Can the Attorney General please confirm that Class A and Class B Military Superannuation benefits which are paid to wounded, injured or ill veterans may be ceased or modified, based on the recovery of the veteran, up to the age of 55.

The Family Law Act 1975 allows an eligible person to request Commonwealth Superannuation Corporation (CSC) to provide certain information about a Member's superannuation account via a Family Law Court Form 6 declaration. Can the Attorney General please confirm that the information requested in relation to an Invalidity Military Superannuation recipient is the same as information requested in relation to a person in receipt of a lifetime benefit.

Can the Attorney General please confirm that the Superannuation Complaints Tribunal (SCT) applied the determination – Family Law (Superannuation) (Provision of Information – [Fund]) Amendment Determination 2016 as registered in the Federal Register of legislation on 15 November 2016. Has this action has ensured that an Invalidity payment has been treated in the same way as a lifetime benefit.

Can the Attorney General confirm that a Military Superannuation Invalidity payment is a pension as defined in Reg 1.06 para 9A of the Superannuation Industry (Supervision) Regulations 1994.

Can the Attorney General please confirm the following information:

- a. The number of former defence members who are currently in receipt of invalidity payments under MSBS – numbers to be provided according to Class A and Class B classification.
- b. How many reviews (on average) are conducted per year in relation to the medical status of Class A and Class B recipients
- c. How many Invalidity Reviews have been conducted since 2005
- d. How many members have had their classifications reduced as a result of these reviews
- e. How many Family Law Court Form 6 declarations have been processed through the Commonwealth Superannuation Corporation (and applicable to MSBS) since 2005.

The response to the honourable Senator's question is as follows:

Can the Attorney-General please confirm that Class A and Class B Military Superannuation benefits which are paid to wounded, injured or ill veterans may be ceased or modified, based on the recovery of the veteran, up to the age of 55.

This question should be directed to the Minister for Finance, the Hon Senator Mathias Cormann, as benefits paid by the Commonwealth Superannuation Corporation (CSC) under the Military Superannuation and Benefits Scheme (MSBS) fall within his portfolio responsibilities.

The Family Law Act 1975 allows an eligible person to request Commonwealth Superannuation Corporation (CSC) to provide certain information about a Member's superannuation account via a Family Law Court Form 6 declaration. Can the Attorney-General please confirm that the information requested in relation to an Invalidity Military Superannuation recipient is the same as information requested in relation to a person in receipt of a lifetime benefit.

Section 90MZB of the *Family Law Act 1975* provides that eligible persons can apply to the trustee of certain superannuation plans for information about the superannuation interests of a member. The application must be accompanied by a declaration, in accordance with Form 6, regarding the reasons this information is sought. A copy of the form of request is contained in the Superannuation Information Kit located on the Family Court of Australia's website (<http://www.familycourt.gov.au>).

The information provided by the Commonwealth Superannuation Corporation (CSC) in response to such requests is set out in regulations 63 and 64 of the *Family Law (Superannuation) Regulations 2001* and the *Family Law (Superannuation) (Provision of Information—Military Superannuation and Benefits Scheme) Determination 2016*.

Can the Attorney-General please confirm that the Superannuation Complaints Tribunal (SCT) applied the determination – *Family Law (Superannuation) (Provision of Information – [Fund]) Amendment Determination 2016* as registered in the Federal Register of legislation on 15 November 2016. Has this action has ensured that an Invalidity payment has been treated in the same way as a lifetime benefit.

The *Family Law (Superannuation) (Provision of Information—Military Superannuation and Benefits Scheme) Determination 2016* amends the *Family Law (Superannuation) Provision of Information – Military Superannuation and Benefits Scheme) Determination 2004* to clarify that that 2004 Determination is to be taken to have been made under both regulation 63 of the *Family Law (Superannuation) Regulations 2001*, the source of power for 'accumulation interests', and regulation 64 of the *Family Law (Superannuation) Regulations 2001*, the source of power for defined benefit interests. This was necessary to remove potential uncertainty about the power of the trustee to provide scheme specific information relating to both 'defined benefit interests' and 'accumulation interests'.

Can the Attorney-General confirm that a Military Superannuation Invalidity payment is a pension as defined in Reg 1.06 para 9A of the Superannuation Industry (Supervision) Regulations 1994.

This question should be directed to the Treasurer, the Hon Scott Morrison MP, who has portfolio responsibility for the *Superannuation Industry (Supervision) Regulations 1994*.

Can the Attorney General please confirm the following information:

- a. The number of former defence members who are currently in receipt of invalidity payments under MSBS – numbers to be provided according to Class A and Class B classification.**
- b. How many reviews (on average) are conducted per year in relation to the medical status of Class A and Class B recipients**
- c. How many Invalidity Reviews have been conducted since 2005**
- d. How many members have had their classifications reduced as a result of these reviews**
- e. How many Family Law Court Form 6 declarations have been processed through the Commonwealth Superannuation Corporation (and applicable to MSBS) since 2005.**

These questions concern the assessment and payment of benefits by the Commonwealth Superannuation Corporation (CSC) in accordance with the Military Superannuation and Benefits Scheme. These questions should be directed to the Minister for Finance, the Hon Senator Mathias Cormann, who has portfolio responsibility for CSC.