

Veterans' Affairs Legislation Amendment (Mental Health and Other Measures) Bill 2014

Portfolio: Veterans' Affairs

Introduced: House of Representatives, 27 March 2014

Purpose

1.525 The Veterans' Affairs Legislation Amendment (Mental Health and Other Measures) Bill 2014 (the bill) seeks to enable the expansion of mental health services for veterans and members of the Defence Force and their families, and make changes to the operation of the Veterans' Review Board.

1.526 The bill will amend the *Veterans' Entitlements Act 1986* to:

- expand non-liability health care to include certain mental health conditions and alcohol and substance use disorders (Schedule 1);
- expand eligibility for the Veterans and Veterans Families Counselling Service from 1 July 2014 (Schedule 2);
- provide that the seniors supplement is paid automatically following short periods of overseas travel (Schedule 3); and
- make a technical amendment (Schedule 5).

1.527 The bill will amend the *Military Rehabilitation and Compensation Act 2004* to:

- expand the circumstances in which an eligible young person is taken to be wholly dependent on a Defence Force member (Schedule 6); and
- enable the Chief Executive Officer of Comcare to be nominated for appointment to the Military Rehabilitation and Compensation Commission (Schedule 7).

1.528 The bill will also amend both the *Veterans' Entitlements Act 1986* and the *Military Rehabilitation and Compensation Act 2004* (the Acts) in relation to the operation of the Veterans' Review Board (the Board), including changes to dispute resolution processes, case management powers, and administrative business procedures of the Board (Schedule 4).

Background

1.529 The committee reported on the bill in its *Sixth Report of the 44th Parliament*.

1.530 The bill was subsequently passed by both Houses and received Royal Assent on 30 June 2014.

Committee view on compatibility

Right to freedom of opinion and expression

Contempt of board offences

1.531 The committee therefore requests the advice of the Minister for Veterans' Affairs as to the compatibility of new section 170 with the right to freedom of opinion and expression, and particularly:

- whether the measure is rationally connected to its stated objective; and
- whether the measure is proportionate to achieving that objective.

Right to freedom of assembly

Contempt of Board offences

1.532 The committee therefore requests the advice of the Minister for Veterans' Affairs as to the compatibility of new subsections 170(3) and 170(4) with the right to freedom of assembly, and particularly:

- whether the measures are rationally connected to their apparent objective; and
- whether the measures are proportionate to achieving that objective.

Minister's response

As background, it is noted that the amendments to the contempt provisions of the Veterans Review Board (the Board) were in response to the Report of the Strategic Review of Small and Medium Agencies in the Attorney General's portfolio (the Skehill Review) recommendations proposing consistency between the statutory frameworks of Tribunals. To achieve this consistency, the contempt provisions of the *Administrative Appeals Tribunal Act 1975* have been replicated in the *Veterans Entitlements Act 1986*.

The objective of the new provisions is for the Board to be able to conduct its business without disruption in a fair and equitable manner. It is noted that the Report states this objective as 'the protection of the Board and its hearings'. The proposed limitations are likely to be effective in achieving this objective because the existence of these provisions will act as a deterrent to inappropriate behaviour that would disrupt the Board and its hearings. Therefore, the proposed limitations are rationally connected to the objective.

As to the question of proportionality, it is noted that on occasion the Board operates from non-secure, non-government premises, and protections are required to ensure the safety and proper function of the Board and its members. However, the Board would not use these provisions lightly. It would require an extreme event to warrant consideration of applying the contempt provisions and the decision to

prosecute would be undertaken by the Commonwealth Director of Public Prosecutions on referral from the police.

Further, in relation to the concerns raised about the nature of the penalties for the proposed offences, it should be noted that section 48 of the *Crimes Act 1914* provides for the imposition of a pecuniary penalty instead of, or in addition to, a penalty of imprisonment.

Committee response

1.533 The committee thanks the Minister for Veterans' Affairs for his response. The committee notes that the minister's response does not address the specific issues raised by the committee in relation to the potential overreach of the contempt provisions.¹ The committee therefore continues to have concerns about the human rights compatibility of proposed new subsections 170 (3) and (4), and therefore seeks the minister's advice as the proportionality of the contempt provisions (including, for example, what safeguards are in place to ensure the provisions are in practice applied cautiously).

1 Parliamentary Joint Committee on Human Rights, *Sixth Report of the 44th Parliament*, 14 May 2014, pp 35-37.