



Australian Government

Department of Veterans' Affairs

OFFICE OF THE SECRETARY
PRESIDENT REPATRIATION COMMISSION

Committee Secretary
Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Thank you for your letter dated 14 February 2019 and subsequent email of 4 March 2019 in relation to the *Australian Veterans' Recognition (Putting Veterans' and their Families First) Bill 2019* (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 information about the Bill and consultation undertaken to develop the measures in the Bill. As requested, my submission also responds to the issues raised in the seven submissions to date uploaded to the Inquiry website.

The Department of Veterans' Affairs has consulted with Defence regarding this submission. The Chief of the Defence Force and the Secretary of Defence strongly support the intention of the Bill and any measures that substantively recognise the unique nature of military service, and the impact on veterans and on their families.

My submission follows as an attachment to this letter. Should any 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.

Yours sincerely,

Liz Cosson
Secretary
Department of Veterans' Affairs

8 March 2019

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Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry into the *Australian Veterans' Recognition (Putting Veterans' and their Families First) Bill 2019*

Submission provided by the Department of Veterans' Affairs

Executive Summary

The *Australian Veterans' Recognition (Putting Veterans' and their Families First) Bill 2019* (the Bill) would implement the Government decision announced on 27 October 2019, to enshrine in law an Australian Defence Veteran Covenant (the Covenant). The Department of Veterans Affairs (DVA) is very honoured that the Australian Defence Veterans' Covenant will be the first Covenant legislated by Parliament on behalf of its citizens to recognise and acknowledge the unique nature of military service and the sacrifice made by veterans and their families in service to our nation.

This Bill will also allow the Commonwealth to provide general recognition for veterans given their military service and their families who support them. This is an important part of the Department of Veterans Affairs (DVA) reform program to put veterans and their families first. As part of this reform, the Bill includes a specific clause emphasising that when DVA decision makers are considering claims by veterans and their families, that such decisions are made in a way that benefits veterans and their families.

The Bill would also allow the Commonwealth to provide artefacts to veterans and their families to recognise their military service and the demands made upon, and sacrifices made by, families of veterans.

Development of Clause 6 – Schedule 1 - The Covenant

The idea of a 'Covenant' was initiated by the ex-service community and discussed with the Department on a number of occasions throughout 2018. Following this, DVA worked closely with the ex-service community to develop the Covenant. Extensive consultation occurred via the National Consultative Framework, primarily through the Ex-Service Organisation Round Table (ESORT). DVA formed a working group, nominated by ESORT, which included the Australian Defence Services Organisation, the Defence Force Welfare Association, the National President of the Returned Services League, Legacy Australia and younger veteran representatives, the War Widows Guild. These stakeholders were actively involved in developing the wording of the Covenant in Schedule 1 of the Bill.

The development of the Covenant also included ongoing consultation with Commonwealth State and Territory Officials with the responsibility for veteran matters. We also consulted with our international colleagues, who were present in Sydney for the International Ministerial 5-Eyes Conference on Veterans' Issues and with the Veterans' Ministers Round Table, to coincide with the Invictus Games in October 2018. The Bill and the Covenant now provides a framework that aligns itself with other Commonwealth nations such as the United Kingdom and Canada, who have established similar measures for their veteran communities.

Consultation following introduction of the Bill

During February 2019, the Deputy President of the Repatriation Commission personally called ESORT stakeholders and spoke with them about the Bill and informed them of this inquiry. This was followed up with an email from the Secretary (Attachment A).

The response from the ex-service organisations regarding the Bill was overwhelmingly positive. The stakeholders welcomed the opportunity for the public to recognise the sacrifices they have made and the demands placed on their family in relation to their military service.

Explanation about other measures in the Bill

Clause 5

As noted in the Explanatory Memorandum for the Bill, Clause 5 acknowledges that veterans may require additional support as they transition back into the civilian community. This may be for a short period or longer term depending upon the circumstances. The areas of support referred to in the clause – health, employment, housing, community participation - reflect the indicators to determine economic and social well-being.

Clause 7

Clause 7 of the Bill includes an overarching statement regarding the beneficial purpose of veteran legislation that supports the ongoing transformation and continued improvement and cultural change to put veterans and their families first. Strictly, the concept of legislative provisions being “beneficial” is a concept of statutory interpretation namely, where a provision is ambiguous in its terms it should be given a beneficial interpretation.

Australia has long embraced the idea that those that have served on behalf of their nation have certain entitlements, which should be readily accessible where they are eligible. This provision, while not creating new statutory rights for veterans, sets the tone for decision makers in determining eligibility and entitlements. While the legal requirements for eligibility and entitlements need to be met, DVA has in the past been criticised for requiring more evidence than is necessary and for not accepting evidence that is acceptable in other areas of Commonwealth administration.

The Clause exhorts decision makers to provide decisions in a timely manner but to ensure that their decision are fair, just and consistent such as to promote confidence in the decision making process.

Much of the decision making process is governed by the long standing requirements of lawful decision making but this Clause emphasises the beneficial nature of veterans' entitlements legislation and the Parliament's intention that decision makers should work with veterans to determine their claims in a positive manner whenever this is lawfully possible.

Clause 9

This Clause will allow the Commonwealth to issue pins, card or other artefacts to current or former members of the Australian Defence Force and their families in recognition of the military service of these veterans and the demands placed on, and the sacrifices made by, the families of veterans. These matters similarly were the subject of consultation with the ESORT throughout 2018.

Response to Submissions 1 to 9

DVA has reviewed the submissions uploaded and available on the Committee website on 8 March 2019 (Numbers 1-9) and welcomes the interest shown in veterans affairs, including from the wider community. DVA notes that the genesis of a 'Covenant' started within the veteran community and in that context, DVA consulted Ex-Service Organisations. The definition of 'veteran' used in the Bill was considered by ESORT and Veterans' Minister Roundtable stakeholders. DVA did not specifically direct these discussions to organisations representing non-Defence personnel who may have worked for the Australian Government overseas in the national interest. DVA submits that any amendments to the definition of 'veterans' in the Bill, at this time, to recognise non-Defence personnel could be considered in the future. Any such consideration fundamentally alters the object and purpose of the Bill and would require Government consideration, and consultation far beyond the traditional stakeholders and clients known to DVA.

In relation to the submissions (particularly 1 and 8) to add further clauses relating to families, DVA can assure the Committee that consultation occurred with the Air Force Association, as noted in their Submission 8, and with the Defence Families Welfare Association (DFWA), the official government advisory body which represents and advocates for families of current serving ADF members. Following this and noting the support in Submission 9 from Defence Families of Australia, DVA considers that recognition of families is, at this time, appropriately covered when clause 5 is read in its entirety.

Submissions regarding eligibility, benefits and entitlements; rights and obligations, are issues that DVA considers should be dealt with in a separate forum, particularly noting the Bill is intended to recognise and acknowledge military service and the sacrifice demanded of those who commit to defend our nation. This includes the issue of current eligibility for the Veteran Card, which is outside of the scope of this Bill. However, it is the intention that clause 9 of the Bill would address any concerns regarding eligibility for reservists to be issued a card, similar to the Veteran Card, in recognition of their service.

DVA is very pleased to see the Air Force Association 'supports strongly and without qualification the proposed Australian Defence Veteran' Covenant' (Submission 8), which is the focal point of the Bill, namely to recognise and acknowledge the unique nature of military service and the sacrifice made by veterans and their families in service to our nation.