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Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019

The Air Force Association (AFA) Ltd is grateful for the opportunity to make this submission on behalf of its 7,500 Members across all States and Territories. Incepted by veterans of the Australian Flying Corps (AFC) after WWI, the association broadened its membership after WWII by adding veterans of the Royal Australian Air Force (RAAF). In 2018, the (then) Association took its first step in transforming its State-based structure into a truly national entity.

From its genesis, the Association's focus has been the care and support of those ex-AFC and RAAF Members and their families that have suffered injury, illness or death as a result of their service. AFA Ltd is strengthening this capability through creation of a national advocacy service, including a crisis response capability. AFA Ltd is also a foundation member of the Alliance of Defence Service Organisations (ADSO) and is deeply engaged in drafting and coordinating submissions to the wide range of current inquiries into veteran and family support.

One of our National Directors was invited to input to Departmental Officers during their deliberations on the purpose and nature of this Bill. Tabling of the Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019 and its referral to the Senate Foreign Affairs, Defence and Trade Legislation Committee have therefore come at an auspicious time for AFA Ltd.

AFA Ltd wishes to advise the following responses to the Bill's provisions:

Clause 3, Object of the Act

AFA Ltd notes that, despite the title of the Bill – Veterans and Families First – the object does not reflect the profound effects on the family of the Member's service and

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the strategic importance of the family's support. The Committee will be aware that Member's voluntarily surrender basic human rights on enlistment, and submit themselves to additional legal regimes including the international laws of armed conflict. The family is affected by not only these realities, but also by disruption to friendships and children's schooling through postings and, in too many cases illness brought into the family by the Member's exposure to exotic diseases or toxic materials. The consequences of these factors persist into post-ADF life. We therefore propose the following amendment to the Object:

The object of this Act is to acknowledge the unique nature of military service and the sacrifice demanded of those who commit to defend our nation **and the family that makes that commitment possible.**

We note that our proposed additional object is consistent with and supports Clause 5(2).

Clause 5. General Recognition

AFA Ltd supports strongly and without qualification the current sub-clauses 5(1) to 5(4). We are particularly grateful for inclusion in sub-clause 5(3) and sub-clause 5(5) of commitments to 'access to justice', 'respect for dignity', 'enhance self-esteem'.

Our strong support notwithstanding, we submit the following suggested amendments to reinforce and ensure the comprehensiveness of the Commonwealth's commitments:

- a. **New sub-clause 5(2):** We adjudge that the final four words of the current sub-clause 5(5) are so critical that they should be the subject of a sub-clause in their own right. We are also concerned that, as currently drafted and positioned in the sub-clause, the phrase is tantamount to an afterthought. We therefore propose:
 - i. the insertion of a new sub-clause 5(2) as follows:
'5(2) The Commonwealth respects them for their military service.'
 - ii. insertion of 'and' following '...self-esteem,' and before '...is sensitive',
 - iii. deletion of the phrase 'and respects their military service' from the current sub-clause 5(5), and
 - iv. renumbering the existing clauses.
- b. **Current sub-clauses 5(3) and 5(6):** We note that the concept of wellbeing comprises six interacting subsets; viz:
 - i. **Psychological Wellbeing.** The ability to practice stress-management techniques, be resilient, and generate the emotions that lead to good feelings.
 - ii. **Physical Wellbeing.** The ability to improve the functioning of the body through safe and sound housing, healthy eating and good exercise habits.

- iii. **Social Wellbeing.** The ability to communicate, develop meaningful relationships with others, and maintain a support network that helps overcome loneliness.
- iv. **Societal Wellbeing.** The ability to actively participate in a thriving community, culture, and environment.
- v. **Workplace Wellbeing.** The ability to pursue interests, values, and purpose in order to gain meaning, happiness, and enrichment professionally.
- vi. **Financial Well-Being.** Financial wellbeing is not correlated with income but includes the financial resilience to cope with crises and ability to manage available money so that the other elements of wellbeing are accessible.¹

We note that the current sub-clauses 5(3) and 5(6) use terms that are analogous to the six subsets; however, the discussion at b.i. to b.vi. above indicates that some of the finer nuances of wellbeing are not addressed. We also note that there is a level of duplication in the sub-clause 5(6). We therefore propose that the current sub-clause 5(3) be amended by transposing elements of sub-clause 5(6). We propose that the current sub-clause 5(3) read as follows:

‘The Commonwealth acknowledges that, after the end of their military service, veterans may require support mechanisms to enjoy **robust wellbeing, including** good health through nutrition and exercise, participation in employment and training, financial wellbeing and sustainability, access to appropriate housing, access to justice, social wellbeing, community engagement and participation in civic affairs, and opportunities for cultural enrichment.’

- c. **Current sub-clause 5(6):** We note the aim of rehabilitation in *MRCA 2004*, s38 is as follows:

‘The aim of rehabilitation is to maximise the potential to restore a person who has an impairment, or an incapacity for service or work, as a result of an injury or disease to at least the same physical and psychological state, and at least the same social, vocational and educational status, as he or she had before the injury or disease.’

Given the crucial importance of rehabilitation in contemporary veterans’ support, we propose that sub-clause 5(6) be amended to encompass the aim of rehabilitation as follows:

‘The Commonwealth acknowledges that veterans who have an impairment or an incapacity for work as a result of a service-related injury or disease should be supported so as to maximise their potential to attain at least the

¹ Adapted from: <http://advicestransition.org.uk/wp-content/uploads/2015/05/Taylor-Jenkins-et-al-2009.-Financial-capability-and-wellbeing-Evidence-from-the-BHPS-118.pdf>

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same physical and psychological state, and at least the same social, vocational and educational status, as they had before the injury or disease.'

Clause 6. Australian Defence Veterans' Covenant

AFA Ltd supports strongly and without qualification the proposed Australian Defence Veterans' Covenant at Schedule 1.

Clause 7. Beneficial interpretation of legislation

AFA Ltd supports strongly the Commonwealth commitment at sub-clauses 7(1) and 7(2). Our support notwithstanding, we are concerned that Clause 7 is restricted to the current veterans' legislation. We therefore propose the following:

- a. Insertion of new sub-sub-clause 7(1)(d):
'successor legislation to the aforementioned Acts;'
- b. Renumbering the current sub-sub-clause 7(1)(d) to 7(1)(e).

Clause 8. Cooperation

AFA Ltd supports strongly the Commonwealth commitment at Clause 8.

Clause 9. Issue of pins, cards and other artefacts

AFA Ltd supports the Commonwealth commitment at Clause 9.

Clause 10. Part 2 does not create or give rise to rights or obligations

While AFA Ltd understands the legal rationale for the provision at sub-clause 10(1), we must advise here our profound concern that this provision nullifies the commitments that the Commonwealth intends entering into in - especially - Clause 5.

We note by way of comparison that Canada and New Zealand's companion legislation are far more robust:

- a. Canadian *Veterans' Wellbeing Act 2005*, s2.1, provides that:

*The purpose of this Act is to recognize and fulfil the obligation of the people and Government of Canada to show just and due appreciation to members and veterans for their service to Canada. This obligation includes providing services, assistance and compensation to members and veterans who have been injured or have died as a result of military service and extends to their spouses or common-law partners or survivors and orphans. This Act **shall** be liberally interpreted so that the recognized obligation may be fulfilled (our emphasis).*

- b. New Zealand's *Veterans Support Act 2014*, s10, *General Principles*, provides that:

*Every person who performs any function or exercises any power under this Act **must** do so...in acknowledgement, on behalf of the community, of the responsibility for the injury, illness, or death of veterans as a result of them being placed in harm's way in the service of New Zealand (our emphasis).*

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AFA Ltd encourages the Committee to weigh the merits of a robust commitment such as that in the Canadian and New Zealand veterans' legislation, against the nullification of Commonwealth commitments, the possibility of litigation and, more seriously, the undermining of ADF Members' commitment to the Nation's defence when they realise that the legislation commits legislatively to nothing.

In conclusion, AFA Ltd is sincerely grateful that the Australian Parliament has undertaken to reinforce legislatively the commitment that began with the efforts of Senator Millen in 1917.²

Yours faithfully,

Carl Schiller, OAM, CSM
National President

4 March 2019

² *'I have put before the honourable senators a proposition representing the duty we owe to these returned soldiers, and whether it is going to cost more or less for the discharge of that duty, we have to shoulder it.'*

Senator Millen, Second Reading Speech Australian Soldiers' Repatriation Bill 1917