



DEFENCE FORCE WELFARE ASSOCIATION

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**The Committee Secretary
Senate Foreign Affairs, Defence and Trade Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600**

SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE INQUIRY INTO AUSTRALIAN VETERANS' RECOGNITION (PUTTING VETERANS AND THEIR FAMILIES FIRST) BILL 2019

Introduction

The Defence Force Welfare Association (DFWA) welcomes the opportunity to make a submission to the Senate Foreign Affairs, Defence and Trade Legislation Committee's inquiry into the Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019. The Bill is of specific interest to the Association because it has long advocated that the unique nature of military service should be properly recognised, that families should be included in any recognition process, and that the 'uniqueness' concept should be formally enshrined by way of legislation in an Australian Military or Defence Veterans Covenant.

As the intent of the subject Bill is to give affect to these important issues, DFWA supports the essence of it, albeit with some minor suggested amendments to both its wording and that of the Covenant itself. The aim of these amendments is to emphasise a little better that the Bill is after all one about the demands of military service and its uniqueness, and about the Covenant that flows from the unique nature of that service. Even the title of the Bill should somehow reflect these important elements.

More to follow in the paragraphs below! But as even the 244-page Defence Annual Report 2016 – 17 singularly omitted any reference to arguably one of the most important topics it should have discussed, namely the **'Unique Nature of Military Service'**, a little background first up seems appropriate. After all, the concept should universally underpin not only all legislation affecting veterans but underpin the ADF's ethos as well.

Unique Nature of Military Service

The unique nature of military service concept is one that long ago displaced the notion of military service being merely a 'Profession of Arms'. Today, literally all legislation affecting ADF members debated in Parliament by all sides of politics now reference military service as being 'unique'. That uniqueness is now also regularly referenced at all Defence Force Remuneration Tribunal hearings, and Workplace Remuneration determinations take into consideration the unique nature concept.

As a firm example of the acceptance of the concept politically, it was a strong factor driving the then new Australian Defence Force Superannuation Bill 2015 for ADF members that replaced the dated Military Superannuation and Benefits Scheme (MSBS). In his Second Reading Speech, the then relevant Assistant Defence Minister noted *inter alia* four times in the space of a short address to the House as follows:

*'In recognising the **unique nature of military service**, the Government has agreed to a single employer contribution rate of 16.4 per cent, which is a generous rate well above community standards';*

*'ADF Super recognises **the unique nature of military service** and importantly, provides greater flexibility for individuals in how they manage their finances at various stages of their working life';*

*'Due to the **unique nature of military service**, it is often difficult for ADF members to obtain death and invalidity cover at a reasonable cost under group insurance arrangements'; and*

*'ADF Cover recognises the **unique nature of military service** and offers important protection for ADF members and their family consistent with that provided under the current MSBS'.*

No wonder the strong emphasis on giving recognition to military service by not only the Government but by policy makers on all side of politics. Recent years have born witness to a pronounced shift in assumptions and attitudes underpinning the way military service is viewed. Policy makers are increasingly attracted to the idea that soldiers, sailors and airmen should be adequately compensated by salary and allowances for their service both during service and after it has ceased.

Military service by some sections of the community may have once been mistakenly seen as comparable to other forms of service, such as Emergency Services, involving risk and danger. Critically, none are required to forego their inalienable human rights, recognized in the Universal Declaration of Human Rights namely, life, liberty and the security of the person (Article 3). Australia is a signatory of the Declaration, adopted by the General Assembly of the UN in 1948

In volunteering for military service and joining an ADF arm of it, a member must accept the surrender of his/her basic rights under Article 3. Without recourse, this places his/her life, liberty and security of person in the hands of the Nation State. While this surrender is not unconditional, though *in extremis*, it is absolute. The Nation State, for its part, accepts the obligation to preserve, as far as is consistent with the achievement of any military mission, the physical and spiritual wellbeing of such individuals who place themselves at its disposal. This obligation must invariably extend beyond the period of service itself, to the physical and psychological consequences of that service.

In no other calling, occupation or profession has the Nation State the power to accept or demand the surrender of these rights. Military service in this fundamental respect is unique, and the obligations placed on the Nation State are inescapable, as it is enduring.

These issues are at the centre of DFWA's purpose, which is to foster the best interests and welfare of all members of the ADF and their families in any matter likely to affect them during or after their period of service.

Acceptance of an Australian Defence Veterans Covenant

DFWA has long maintained that a natural logical consequence that flows from accepting the 'Unique Nature of Military Service' concept is that there should be a formal commitment between the Nation and it ADF members. That commitment must be mutual, reciprocal and enduring.

Uniquely, ADF members commit to service in the defence of their Nation and, if faced with mortal danger, there is a general recognition that loss of life is a possibility. In return, the Nation has an obligation to commit to caring for and supporting those, namely veterans who, during or as a result of their service, are injured or suffer from disease.

The Nation is also obliged to commits to the care and support of the families of those killed during operations, or who somehow sacrifice their life as a result of their service.

DFWA notes that this commitment is strongly rooted in the Nation's history dating back almost 100 years. The then Prime Minister, Billy Hughes, unambiguously stated the Commonwealth's obligation to care for those of its citizens it commits to the danger or the trauma of war. That obligation has not diminished over time. Indeed, the issues that have spurred a number of recent Inquiries, not the least being the one into '**Suicide by Veterans and Ex-Service Personnel**' and its March 2016 counterpart, demonstrate that the need remains as great as ever.

Even the Defence Annual Report 2016 - 17, while making no mention of the unique nature of military service, firmly commits the ADF to promoting and advocating for the health and wellbeing of its serving members and their families generally, including the wellbeing of those who once served.

DFWA's promotion of a **Military Covenant**¹, now evolved into the Defence Veterans Covenant, is grounded with the same rationale that grounds the beneficial intent of ADF and veterans' related legislation, including the reverse onus of proof applied to Statements of Principles (SOPs) for operational and warlike service. A Defence Veterans Covenant should extend the Commonwealth's legislated commitment into a formally enshrined national commitment to serving ADF members.

DFWA notes that support for a Military Covenant has existed in the Senate² since 2014. Titles aside, it believes the Covenant will help promote greater awareness and understanding within the general community of the demands placed on ADF members, as well as the community's expectations of the ethos and standards demanded of them. It would also place on public record the Nation's enduring obligations to those who serve and have served in the ADF, and to equally record their obligations to the Nation.

¹ A Covenant, in its most general sense, is a solemn promise to engage in or refrain from a specified action; in this case, specific relationship. The mutual commitments enshrined in ADSO's proposed Covenant follow:

The Australian Defence Force (ADF) was formed to defend Australia and protect its people and its interests. The service men and women who make up the ADF are Australian citizens who, while serving, must forego basic Human Rights enjoyed by other citizens.

They must comply with the additional legal and disciplinary requirements of Military employment. When necessary this will include taking up arms against Australia's enemies and defeating them in battle using lethal force.

They will be called upon to make personal sacrifices – including the possibility of the ultimate sacrifice - and in every sense to act honourably in the service of the Australian people.

In return, Members of the Australian Defence Force must be able to expect, from the Commonwealth Government on behalf of their fellow Australians, fair treatment, to be valued and respected as individuals, and that they (and their families) will be sustained and rewarded by commensurate terms and conditions of service. They further expect that those who are injured in service to the Nation and the families of those who die as a result of their service will be suitably cared for and sustained.

This mutual obligation forms the Covenant between the Nation, the ADF and each individual member of the ADF. It forms an unbreakable common bond of identity, loyalty and responsibility from which the "ANZAC Spirit" has emerged that has sustained the ADF in conflicts throughout its history.

² In 2014 Senator James Mc Grath spoke in the Senate, unequivocally supporting the establishment and ratification of a Military Covenant, stating *inter alia*: "It is my hope that all federal political parties, including my own, will subsequently incorporate the concept and principles of the Australian Defence covenant within their respective legislative agendas. It is high time that we gave back to this extraordinary group of Australians".

Now there is no consolidated record of either set of responsibilities. The upshot is that promoting the well being of service personnel and veterans alike to the general community relies only on Government advertising and sympathetic media stories. In an increasingly multi-cultural society, the public's support for service in the ADF or support of the veterans' community after such service should not be taken for granted. A foundational document such as a Covenant that is simple and straightforward is required to develop and maintain community support into the future.

Proposed Amendments

As stated in the introduction, DFWA supports the essence of the Bill but wishes to propose several relatively minor amendments to both its wording and that of the Covenant itself. The aim of these amendments is to emphasise a little better that the Bill is after all one about the demands of military service and its uniqueness, and about the Covenant that flows from the unique nature of that service.

1. Title of the Bill

The current title of the Bill neither reflects that it is about 'Defence Veterans' nor that its crux is a 'Covenant'. Suggested new title is: **Australian Defence Veterans' Covenant Recognition (Putting Veterans and their Families First) Bill 2019**. Furthermore, the front cover of the Bill should make mention of the 'Unique Nature of Military Service'. Suggested expanded wording for what the Act provides is: **A Bill for an Act to provide for the recognition of the unique nature of military service, veterans, and for related purposes**

2. Table of Contents and Other Text

Amend 'Contents' and other relevant sections of the Bill to reflect that the Covenant is an **'Australian Defence Veterans Covenant'**.

3. General Recognition – Part 2

Under the General Recognition paragraph 5, add a sub-para (3) to read as follows: **'The Commonwealth acknowledges that veterans, their families and veterans' widows will not be disadvantaged relative to any other section of the community'**.

Again under the General Recognition paragraph 5, amend the text of sub-para (4) after the words **'....to access appropriate housing,.....'**, add the words **'to have access to justice,'**

4. Beneficial Interpretation of Legislation – Part 2

Under the Beneficial Interpretation of Legislation paragraph 7, add a sub-sub para (1) (d) to read as follows: **'Any other Act which provides a benefit or service to veterans and their families'**.

Also add a sub para (3) to the section to read as follows: **'The Commonwealth is committed to decision-makers interpreting that legislation is a way which promotes the spirit of the acknowledgements in section 5 and the Covenant set out in Schedule 1.'**

5. Cooperation – Part 2

Under the Cooperation paragraph 8, amend the text to read as follows: **'The Commonwealth is committed to working cooperatively with veterans, their families and ex-service organisations to address the unique issues facing veterans and their families in the spirit of the Covenant set out in Schedule 1'**.

6. Part 4 – Other Matters

In paragraph 10, sub-para (1) add the word '**additional**' after '...gives rise to...'.

7. Schedule 1 – Australian Defence Veterans Covenant

Consider amending the title to '**Australian Military Covenant**' since the intent of the legislation through the concept of the unique nature of military service is for recognition to be inclusive of not only veterans but of those still serving in military uniform.

Thereafter, the opening two lines of the Covenant should read '**We, the people of Australia, respect and give thanks to all who serve or have served in our defence force and their families**'. The words '**serve or**' have been added.

Summary

The Defence Force Welfare Association is an Australia-wide organisation established in 1959 to specifically foster the best interests and welfare of all members of the ADF and their families in any matter likely to not only affect them during their period of service but afterwards as well.

Thus, personnel issues, particularly as they relate to still serving members, are very much at the forefront of the Association's activities. That includes the following:

- Advocating improved conditions of service for ADF members;
- Providing advocacy services on behalf of serving personnel (and retirees) who may have a claim on the Government under Commonwealth legislation covering superannuation, compensation and veterans' entitlements; and
- Representing the interests of ADF serving members as a recognized intervener at the DFRT. DFWA is also the Defence Employees Representative on the Public Safety Industry Advisory Committee of Government Skills Australia.

DFWA is strictly politically neutral and has a deliberate policy of remaining outside the Defence policy debate, except where it may affect the wellbeing of serving ADF personnel.

Against this background and mindful of its principal roles, DFWA welcomes the opportunity to make a submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Legislation Committee into the Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019.

At the discretion of the Committee, I offer myself to appear personally before it at any time and answer any questions about the issues contained in this Submission, or other questions that may be deemed appropriate

Yours Sincerely

Kel Ryan
National President
Defence Force Welfare Association