

Department of Premier and Cabinet

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Senator M Bishop
Chair
Senate Foreign Affairs, Defence and Trade – Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Senator Bishop

I refer to the inquiry into the provisions of the Australian Civilian Corps Bill 2010.
Please find attached a submission from the Department of Premier and Cabinet to the inquiry.

Thank you for the opportunity to comment.

Yours sincerely

Rhys Edwards
Secretary

17 November 2010

Australian Civilian Corps Bill

Submission by the Tasmanian Department of Premier and Cabinet

November 2010

Introduction:

Tasmanian Government agencies support this worthy initiative and will provide assistance to advance its development and implementation. The main area for comment relates to the release arrangements for Tasmanian State Service (TSS) employees.

Previously, where the Tasmanian Government has provided for the release of employees (including police personnel) for Australian Government (AusAID) relief or support operations overseas via a secondment arrangement, such arrangements have been made expediently and allowed for the direction of these persons to be under the control of Australian Government officials or designated people.

This type of secondment arrangement has enabled the seconded employees to be released for deployment without any required changes to legislation.

However, clause 26 of the Bill provides that employers may grant unpaid leave to individuals for the purpose of becoming an Australian Civilian Corps (ACC) employee for a fixed term.

This arrangement has a number of implications for TSS employees and their entitlements in two specific areas – superannuation and long service leave.

Superannuation:

There are four different superannuation schemes that TSS employees may be a member of and each has different procedural and legislative requirements. There would be a range of implications regarding entitlement, contribution arrangements, retirement plans and arrangements where leave-without-pay (LWP) would be prohibitive to the employee. The employee contributions in some cases, dependent on the scheme, could continue. However, there are limitations regarding employer (Commonwealth) contribution arrangements.

If the employee was on LWP, the employee would need to roll over their employer contributions at the time of completing ACC activities and, in some cases, it is not possible for certain superannuation funds to release the funds to the superannuation organisations that operate in Tasmania for employees of the government, stated owned companies (SOCs) or government business enterprises (GBEs). There is also the issue of the possible loss of the employee's incapacity cover.

Long Service Leave (LSL):

There are two Acts in Tasmania providing LSL arrangements for TSS employees and employees of GBEs or SOCs. Differences are noted between these two Acts regarding entitlements, but primarily relate to eligibility and continuity of service.

TSS employees who are on LWP for more than 20 days will not have that period counted towards the length of their employment for the purposes of accruing their LSL entitlement. Legislative amendments would be required to provide for ACC participants to have their active ACC period counted towards the length of employment for the purposes of both Acts.

In this situation, the State Government would be responsible for the cost of LSL accrued while the employee is participating in ACC activities. Arrangements and consideration would then be required for reimbursement of these costs by the Commonwealth.

These issues could be circumvented if the arrangement was one of 'secondment' to the Commonwealth as an ACC employee. In this instance, there would be no need to amend Tasmanian LSL legislation.

Other issues:

While Section 24 of the Bill indicates that existing ACC employees may be seconded to a body or organisation, it does not provide for the secondment of individuals from Australian employers for the purpose of becoming an ACC employee.

It is also noted that the peak national fire fighting services bodies are presently finalising nationally agreed protocols for managing interstate and international deployments of their employees including protection of existing employment entitlements.

Conclusion:

Tasmanian Government agencies expect that a TSS employee who participates in the ACC should not suffer any unintended detriment to their substantive entitlements or benefits as a result of that participation. Removing barriers to participation will encourage TSS employees to contribute their valuable assistance through the scheme.