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Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Bill 2016

I write this submission because of the urgency this legislation has been pushed into Parliament, the concerns raise fears, and alarm that the government is again looking at further reductions to veterans and their family entitlements.

The apparent urgency surrounding the enactment of the DRCA appears ill advised and erring on the side of recklessness. There is little reason for legislation such as the DRCA to be of an urgent nature as to not give ESOs time to absorb the impact this will have on our veterans who have served in the Australian Defence Force.

In considering submissions in regards to veterans and ex-service personnel on a recent related inquiry into suicide by veterans and ex-service personnel highlights an inherent problem within the current legislations that affect veteran's entitlements and rehabilitation.

The new DRCA Bill was introduced to the Ex-Service Organisations (ESO) late 2016 prior to it being rushed into Parliament. Whilst there have been discussions about the new DRCA Bill, there are a lot of technicalities that need to be addressed through robust consultation at both State and National levels with ESO. One of the biggest concerns the veteran's community have with the DRCA Bill, is the Department of Veterans' Affairs (DVA) states it will be a stand-alone legislation.

This Bill will give the power to revoke, vary or amend legislation as the Minister of Veterans' Affairs sees fit to enact later. What this does to veterans who have an entitlement of dual eligibility under the current SRCA Act 1988 it takes away that entitlement where veterans if this claims succeeds it will only entitle those who have this dual entitlement to make claim under the one Act.

I eluded to the fact in my submission to Veterans' suicide in the Australian Defence Force that the impact of this legislation could in my opinion contribute to further suicides not only in MRCA 2004 legislation but also the VEA 1986 legislation as one of the major components of DRCA is to get rid of the dual eligibility clause for Peacetime Service on and after 7 December 1972 to 6 April 1994.

There has been significant health studies provided that would clearly highlight that the current cohorts would have a higher rate of mental issues due to multiple deployments post 1990, the warning signs have been there but due to neglect and the downsizing of the DVA we find that the individuals that are affected are those that have suffered as a consequence of their service and that are still currently fighting to have these service related conditions accepted without jumping through so many hoops.

My main concern with what is before Parliament, is we need to be asking the questions before it is legislated, why, rest assured as MRCA 2004 has already proved to those under the legislation that it is purely a Rehabilitation legislation and the intent is to keep service people in the workforce regardless of the extent of the injury or disease.

In my opinion DRCA serves one purpose and that is to give the powers to the Minister of Veterans' Affairs, it will take away the Comcare clause Section 72 where it states the Comcare shall be guided by equity, good conscience and the substantial merits of the case, without regard to technicalities. It would also provide the Minister to make decisions based on the Henry VIII clause in other words:

“This would give unfettered power that the Bill confers is encapsulated in the Henry VIII clause mentioned in the Explanatory Memorandum (s121B). Henry VIII clause delegates legislative power to a person who makes regulations, effectively permitting them to modify the application of a primary statute”.

In my opinion this Bill should be retracted from Parliament and further consultation with the Ex-Service Organisations so we don't make the same mistake as we did when the MRCA was introduced in 2004. A feasibility study should be conducted to determine the effects on those that would be affected by the DRCA legislation. We want to save our veterans I believe that by introducing this piece of legislation without it going through its natural cause will only contribute to further suicides within the ADF for those transitioning out because of offsetting factors that may be associated with the new Act that is currently before Parliament.

I would not support the current DRCA Bill before Parliament based on my findings that I have mentioned in this submission and it would only appease the wider Veteran and Defence Communities if further consultations took place and more effort was put into place informing the Ex-Service Community of the governments intent of introducing this DRCA Bill before Parliament.

Regards

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Advocate Submission

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