

The Senate

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Foreign Affairs, Defence and Trade  
Legislation Committee

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Veterans' Affairs Legislation Amendment  
(Omnibus) Bill 2017 [Provisions]

June 2017

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# Chapter 1

## Introduction

### Referral of inquiry

1.1 On 30 March 2017, the Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017 (the bill) was introduced in the House of Representatives by the Minister for Veterans' Affairs, the Hon Dan Tehan MP.<sup>1</sup>

1.2 On 30 March 2017, the Senate referred the provisions of the bill to the Senate Foreign Affairs, Defence and Trade Legislation Committee (the committee) for inquiry and report by 13 June 2017.<sup>2</sup> The key issues for consideration, as cited by the Selection of Bills Committee, are to 'consider and scrutinise the full detail and impact of the Omnibus bill'.<sup>3</sup>

### Conduct of inquiry

1.3 The committee advertised the inquiry on its website, calling for submissions by 8 May 2017. The committee also wrote directly to a range of individuals and organisations likely to have an interest in the bill, drew their attention to the inquiry and invited them to make written submissions.

1.4 The committee received eight submissions to the inquiry. These submissions are listed at Appendix 1 and are published on the committee's website.

1.5 The committee held one public hearing on 26 May 2017 in Canberra. The witnesses who appeared at the hearing are listed at Appendix 3 and the program and *Hansard* transcript are published on the committee's website.

### Purpose of the bill

1.6 The bill comprises eight Schedules that implement several amendments to veterans' legislation to clarify, improve, or streamline the operation of the law.

1.7 Schedule 1 amends the *Veterans' Entitlements Act 1986* (VEA) to modernise and align the Veterans' Review Board's (VRB) operations with those of the Administrative Appeals Tribunal following amendments made by the *Tribunals Amalgamation Act 2015*. The amendments are intended to support alternative dispute resolution processes and recent amendments to the *Military Rehabilitation and Compensation Act 2004* which provide for a single appeal path for reconsidering decisions.<sup>4</sup>

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1 The Hon Dan Tehan MP, Minister for Veterans' Affairs, *House of Representatives Hansard*, 30 March 2017, p. 12.

2 *Journals of the Senate*, No. 38, 30 March 2017, p. 1245.

3 Selection of Bills Committee, *Report No. 4 of 2017*, p. 9.

4 EM, *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017*, p. ii.

1.8 Schedule 2 amends Part XIB of the *Veterans' Entitlements Act 1986* to improve the operation of the Specialist Medical Review Council (SMRC) and streamline some of the SMRC's administrative arrangements. The proposed amendments aim to simplify the nomination and appointment process for councillors, progress whole-of-government requirements for digital transformation, enable online lodgement of claims, remove red tape in commencing reviews, and give the SMRC an ability to pay the travel costs of applicants who appear before an oral hearing of the SMRC.<sup>5</sup>

1.9 Schedule 3 repeals and replaces section 203 of the *Veterans' Entitlements Act 1986* to provide the Minister for Veterans' Affairs with the power to make agreements with foreign governments to cover the provision of benefits and payments, including rehabilitation, that are comparable to those provided by the Repatriation Commission or the Military Rehabilitation and Compensation Commission (MRCC) under the:

- *Veterans' Entitlements Act 1986*;
- *Military Rehabilitation and Compensation Act 2004*;
- *Australian Participants in British Nuclear Tests (Treatment) Act 2006*; and
- proposed *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.<sup>6</sup>

1.10 Currently, the Minister for Veterans' Affairs can only enter into arrangements with the governments of countries that are, or have been, dominions of the Crown. These amendments would enable the Minister for Veterans' Affairs to enter into arrangements with a broader range of countries.<sup>7</sup>

1.11 Schedule 4 amends the *Veterans' Entitlements Act 1986*, the *Military Rehabilitation and Compensation Act 2004* and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (if enacted) to strengthen the legislative foundation for providing certain rehabilitation assistance to eligible serving and former Defence Force members, reservists and cadets. The assistance essentially involves payments to employers under the Employer Incentive Scheme in the form of wage subsidies to encourage them to engage injured veterans who have found it difficult to compete in a tight labour market.

1.12 Schedule 5 amends subsection 409(2) of the *Military Rehabilitation and Compensation Act 2004* and subsection 151A(1) of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (if enacted) to facilitate information sharing between the MRCC and the Commonwealth Superannuation Corporation (CSC) with respect to certain service related compensation claims.

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5 EM, *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017*, p. ii.

6 EM, *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017*, p. ii.

7 The Hon Dan Tehan MP, Minister for Veterans' Affairs, *House of Representatives Hansard*, 30 March 2017, p. 12.



1.13 The proposed amendments are intended to improve the information sharing framework for incapacity and superannuation benefits between the MRCC and the CSC and reduce the time taken to process claims. Enabling the CSC to use medical information and reports held by the MRCC to determine superannuation claims would remove the need for ADF members to undergo further medical assessment where DVA already holds relevant medical evidence that could be used by the CSC to determine superannuation benefits. At present, all requests to the MRCC for information from CSC are undertaken in accordance with the *Freedom of Information Act 1982*. This process is cumbersome and time consuming, and accounts for approximately 20 per cent of all Freedom of Information requests received by the Department.<sup>8</sup>

1.14 Schedule 6 amends the *Military Rehabilitation and Compensation Act 2004* to provide for the delegation of the Minister for Veterans' Affairs' powers and functions.

1.15 Schedule 7 amends Veterans' Affairs portfolio legislation to exempt certain legislative instruments from subsection 14(2) of the *Legislation Act 2003*. The amendments would enable these legislative instruments to incorporate material contained in other non-disallowable legislative instruments or non-legislative documents as in force from time to time. The amendments would also update the language of some of the provisions under which legislative instruments are made to accord with a contemporary drafting style.<sup>9</sup>

1.16 According to the department's submission, this approach will eliminate the delay between when a legislative instrument incorporates a non-legislative written document and when new products are available to clients. For example, there is currently a delay of between three to six months for certain VEA and MRCA legislative instruments to incorporate the latest version of documents such as the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association.<sup>10</sup>

1.17 Schedule 8 repeals redundant and spent provisions administered in the Veterans' Affairs portfolio concerning benefits that are no longer payable under the portfolio Acts, and makes amendments consequential to those repeals. The Schedule would also make minor corrections to clarify existing provisions of the *Veterans' Entitlements Act 1986* and includes consequential amendments to other Acts which result from amendments that repeal redundant and spent provisions of the *Veterans' Entitlements Act 1986* and the *Military Rehabilitation and Compensation Act 2004*. Removing these redundant elements is intended to make veterans' legislation easier to interpret.

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8 EM, *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017*, p. iii.

9 The Hon Dan Tehan MP, Minister for Veterans' Affairs, *House of Representatives Hansard*, 30 March 2017, p. 12.

10 Department of Veterans' Affairs, *Submission 7*, pp. 6–7.

## Scrutiny by other committees

### *Scrutiny of Bills Committee*

1.18 The Scrutiny of Bills Committee considered the bill according to its usual process and made a number of comments in relation to the scrutiny principles outlined in Senate Standing Order 24.

1.19 The committee identified that Schedule 6 of the bill enables the Minister to delegate all of his or her administrative powers and functions under the *Military Rehabilitation and Compensation Act 2004* to a large class of persons. The committee considered that where broad delegations are provided for, an explanation as to why these are necessary should be included in the explanatory memorandum. The explanation provided in the explanatory materials states that it is proposed that the delegation of powers is to be on the basis that only the Chief Operating Officer in the department can approve instruments, however nothing in the bill would limit it in this way.<sup>11</sup>

1.20 The Scrutiny of Bills Committee sought the Minister's advice as to why it is necessary to allow these powers to be delegated to any APS employee, and whether there is scope to amend the bill to provide guidance on the limit of powers that might be delegated.

1.21 On 24 May 2017, Minister Tehan responded to the committee and advised that, in light of the concerns identified, government amendments to the bill would be proposed, subject to approvals being obtained, to appropriately limit the delegation of certain functions and powers to certain senior staff in the department, such as SES officers or equivalent.<sup>12</sup>

1.22 The Scrutiny of Bills Committee also identified concerns with Schedule 7 of the bill which enables certain legislative instruments to incorporate matters contained in other instruments or written materials as in force from time to time. This is achieved by exempting the instruments from subsection 14(2) of the *Legislation Act 2003*.

1.23 However, the Scrutiny of Bills Committee argued this method raises the risk of changes being made to the law without appropriate Parliamentary scrutiny, and creates uncertainty and inaccessibility of the law.<sup>13</sup> As it was not clear which documents are envisaged to be incorporated if these legislative instruments are exempted from the restriction, the committee sought the Minister's advice as to

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11 Scrutiny of Bills Committee, *Scrutiny Digest No. 5 of 2017*, 10 May 2017, pp. 59–60.

12 The Hon Dan Tehan MP, Minister for Veterans' Affairs, *Preliminary comments to the Scrutiny of Bills Committee*, [http://www.aph.gov.au/~media/Committees/Senate/committee/scrutiny/ministerial\\_responsiveness/comment\\_and\\_response.pdf?la=en](http://www.aph.gov.au/~media/Committees/Senate/committee/scrutiny/ministerial_responsiveness/comment_and_response.pdf?la=en) (accessed 6 June 2016). Preliminary comments are likely to be included in *Scrutiny Digest No. 6 of 2017*, which is expected to be tabled on 14 June 2017.

13 Scrutiny of Bills Committee, *Scrutiny Digest No. 5 of 2017*, 10 May 2017, pp. 61–62.

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whether the bill could include a requirement that documents be made available on the Department's website, or otherwise made accessible to the public.

1.24 On 24 May 2017, Minister Tehan responded to the committee and advised that the department is currently producing a webpage that will include details about new legislation. The site will commence with details of the bill and be online within the week. Additionally, the website would provide links to legislative instruments, including the documents incorporated by reference into those legislative instruments, ensuring that such documents would be freely available to the public.

1.25 The Minister noted that currently there are no documents incorporated by reference into the remaining legislative instruments for which an exemption to subsection 14(2) of the *Legislation Act 2003* had been sought, however the bill would ensure that any future need would not be restricted.<sup>14</sup>

#### *Parliamentary Joint Committee on Human Rights*

1.26 The Parliamentary Joint Committee on Human Rights examined the bill and considered that it did not raise any human rights concerns.<sup>15</sup>

### **Structure of report**

1.27 Chapter 2 of this report provides an overview of issues raised in evidence and contains the committee's view and recommendation.

### **Acknowledgements**

1.28 The committee thanks all contributors who assisted with the inquiry.

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14 The Hon Dan Tehan MP, Minister for Veterans' Affairs, *Preliminary comments to the Scrutiny of Bills Committee*, [http://www.aph.gov.au/~media/Committees/Senate/committee/scrutiny/ministerial\\_response/ness/comment\\_and\\_response.pdf?la=en](http://www.aph.gov.au/~media/Committees/Senate/committee/scrutiny/ministerial_response/ness/comment_and_response.pdf?la=en) (accessed 6 June 2016). Preliminary comments are likely to be included in Scrutiny Digest No. 6 of 2017, which is expected to be tabled on 14 June 2017.

15 Parliamentary Joint Committee on Human Rights, *Human Rights Scrutiny Report: Report 4 of 2017*, May 2017, p. 74.



# Chapter 2

## Issues raised in evidence

### Introduction

2.1 This chapter examines the issues raised in evidence during the committee's inquiry into the Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017 (the bill). As participants of the inquiry were supportive of the bulk of changes proposed by the bill, this chapter will focus on Schedules 1 and 5, and conclude with the committee's view and recommendation.

2.2 While the chapter focuses on evidence particular to this inquiry, it is worth noting that many of the concerns raised go to larger issues that have been forming within the Veterans' Affairs portfolio for some time. The veteran community's experience with bureaucratic barriers to entitlements and an existing general dissatisfaction with government handling of personal data has likely contributed to concerns with elements of the bill. Indeed, submitters expressed concerns that the amendments in Schedule 1 of the bill are a further erosion of veterans' rights while Schedule 5 has been viewed with some suspicion for its information sharing provisions. This chapter seeks to allay some of those concerns.

### Schedule 1

#### *Power to dismiss frivolous applications*

2.3 Following recent amendments under the Budget Savings (Omnibus) Bill 2016, the Veterans' Review Board (VRB) is now the only avenue for internal appeal of a decision. Concerns were raised by a number of submitters regarding Schedule 1 of the bill, which proposes to provide the Principal Member of the VRB with the power to 'dismiss an application for review of a decision if he or she is satisfied that the application is frivolous, vexatious, misconceived or lacking in substance', as well as introduce the option to delegate this power.<sup>1</sup>

2.4 For example, it was argued by Mr Brian Briggs, National Military Compensation Expert, Slater and Gordon Lawyers, in his submission that the amendments contained in Schedule 1 could potentially interfere with the basic right to a fair hearing by denying applicants the opportunity to present their case before the board for deliberation.<sup>2</sup> Mr Briggs contended that the bill's amendments reduce the ability of the VRB to achieve its objective of maintaining a fair mechanism of review

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1 For example: Commonwealth Ombudsman, *Submission 1*; Slater and Gordon Lawyers, *Submission 2*; Returned and Services League of Australia, *Submission 6*.

2 *International Covenant on Civil and Political Rights*, New York, 16 December 1966, entry into force 13 November 1980, [1980] ATS 23, Part III, Article 14—However, whether administrative review proceedings constitute a 'suit at law' is not fully settled.

and—with an expected increase in the board's workload—would also place applications at risk of being dismissed to save time.<sup>3</sup>

2.5 Although Mr Briggs acknowledged the experience of members of the VRB, he highlighted that even the Administrative Appeals Tribunal (AAT) had wrongly dismissed genuine claims in the past. To introduce similar powers to the VRB would increase the risk that genuine claims could be erroneously dismissed. Mr Briggs pointed out that for many applicants, the Department of Veterans' Affairs (DVA) compensation application process is already a difficult experience—applicants seeking appeal of a summarily dismissed application by the VRB would be required to spend additional time and resources to have the decision reviewed by the AAT:

This can have a significant detrimental impact on applicants; in addition to the costs spent on application to the VRB, the applicant must potentially bear the costs of an appeal process through the AAT. According to figures from the Department of Veterans' Affairs, this can easily compound the average cost of the initial VRB hearing of approximately \$1,450 with the average costs of an AAT case—whether it proceeds to a hearing or not—of between \$2,600 and \$14,620. This can be a stressful and lengthy process, and potentially dangerous to applicants already experiencing enormous hardship.<sup>4</sup>

2.6 By way of comparison, Mr Briggs drew attention to the *Safety, Rehabilitation and Compensation Act 1988* which does not enable applications brought by Commonwealth public servants to be summarily dismissed. He pointed out that the proposed amendments contained in Schedule 1 could be interpreted as a further attack on veterans, arguing:

In an environment where claimants frustrated with their experience with the claims process are already taking their own lives, to widen the Board's powers to dismiss claims is...a potentially fatal move.<sup>5</sup>

2.7 Similarly, the Returned and Services League of Australia (RSL) submission contended that a lone decision of a Principal Member is likely to be perceived by the community as less independent and impartial than a decision by a panel of three members. The RSL also highlighted that whilst a small number of claims are frivolous, the majority of applications are not:

[A]lmost all veterans who approach RSL DefenceCare for assistance want to lodge a claim with the DVA as they believe that an injury or illness they have *is* or *maybe* connected to their military service. A few openly admit they are not sure if their injury or illness is connected to service or that the connection is tenuous at best, but most of these accept the DVA or VRB's decision if it is in the negative. Many are grateful for the opportunity to see if they qualify for assistance from the DVA...The panel affords them the chance to be heard by three individuals in contrast to the one delegate at the

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3 Slater and Gordon Lawyers, *Submission 2*, p. 2.

4 Slater and Gordon Lawyers, *Submission 2*, p. 4.

5 Slater and Gordon Lawyers, *Submission 2*, p. 6.

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DVA. In our experience, members of a panel often make comments during a hearing that indicate they are not in agreement about various aspects of the case.<sup>6</sup>

2.8 Mr Briggs also argued against aligning the VRB's grounds for summary dismissal with those that apply to the AAT and other review bodies:

While it is arguably appropriate that these review bodies possessing a broad jurisdictional case have summary dismissal powers at their disposal, appeals to the Veterans' Review Board are of a niche jurisdiction and should not be considered to be in the same category.<sup>7</sup>

2.9 Indeed, Mr Briggs argued that the proposed delegation powers in Schedule 1 could potentially allow the Principal Member to delegate the dismissal power to a Registrar or Senior Member who could be ill-equipped to identify whether a claim has merit.<sup>8</sup> Similarly, the Commonwealth Ombudsman submission suggested that the VRB consider limiting the option to delegate the proposed dismissal power to senior level officers.<sup>9</sup>

2.10 In addition to arguments around whether or not the proposed powers in Schedule 1 should be granted, concerns were raised as to how the dismissal powers would actually operate. For example, submitters noted that there is no requirement for the Principal Member to provide reasons for a dismissal or notify relevant parties within a reasonable amount of time. It was argued that instruction on the form, content, and timing of dismissal notifications should be included in the bill.<sup>10</sup> In a similar vein, Mr Briggs also contended that there is ambiguity around *when* the board would be able to dismiss a claim, arguing that:

The proposed amendment makes it is entirely unclear whether the Principal Member can dismiss an application upon receiving it, or more fairly, whether this order can only be made once the claimant has had the opportunity to make their case at a hearing.<sup>11</sup>

### ***Support for Schedule 1***

2.11 A number of submitters were supportive of the bill's intent to improve services to veterans.<sup>12</sup> It was argued that by formalising provisions to deal with applications unlikely to succeed, the proposed amendments in Schedule 1 would

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6 Returned and Services League of Australia, *Submission 6*, p. 5.

7 Slater and Gordon Lawyers, *Submission 2*, p. 2.

8 Slater and Gordon Lawyers, *Submission 2*, p. 4.

9 Commonwealth Ombudsman, *Submission 1*, p. 4.

10 For example: Alliance of Defence Service Organisations, *Submission 3*, pp. 9–13; Slater and Gordon Lawyers, *Submission 2*, p. 5.

11 Slater and Gordon Lawyers, *Submission 2*, p. 5.

12 For example: Commonwealth Ombudsman, *Submission 1*; Alliance of Defence Service Organisations, *Submission 3*; Department of Defence, *Submission 5*; Department of Veterans' Affairs, *Submission 7*.

manage the board's resources more efficiently. It was also pointed out that the power to dismiss frivolous or vexatious application would only be used in the rarest of cases and abuse of the power would be prevented through the right of appeal to the AAT.

2.12 Indeed, the Alliance of Defence Service Organisations (ADSO) submission argued that, 'vexatious, frivolous, and hopeless appeals come at a cost to the Australian taxpayer and to the detriment of veteran applicants through costly and time-consuming appeals of this nature'.<sup>13</sup> The ADSO contended that while the VRB continued to operate on a merits review basis, the alignment of the objectives of the VRB and AAT would only enhance the consistency and administration of the legislation.

2.13 In response to concerns raised by submitters as to the operation of the proposed dismissal power, the Principal Member of the VRB, Mr Doug Humphreys OAM, provided written clarification to the committee to explain his position on the matter and help allay fears in the community.

2.14 Firstly, Mr Humphreys reassured members that the law on the area of 'frivolous and vexatious' is well settled and has a very high threshold, and that the proposed dismissal power would only be used in the rarest of circumstances.<sup>14</sup>

2.15 In terms of an expected increase in workload, Mr Humphreys pointed out that the board's workload had in fact decreased when compared to the same time last year:

To date, the VRB has not experienced a significant increase in in appeals following the introduction of the Single Appeal Pathway. As at the end of April 2017, new appeals at the VRB totalled 2227, which compares to 2324 appeals in April 2016. Given that applicants have more than 12 months to lodge a MRCA appeal with the VRB, the single appeal pathway may not start to impact on the VRB's level of appeals until well into 2017–18.<sup>15</sup>

2.16 With regards to concerns that the Principal Member would have the option to delegate the power, Mr Humphreys wrote:

I can assure the Committee that I will not delegate the power to other Board Members or Registrars. This would be set out in the VRB's General Practice Direction, which is publicly accessible. The Practice Direction would also clearly set out that adequate notice of any preliminary hearing would be required to be given to the applicant, any hearing would be required to afford full procedural fairness, including the opportunity to address the Board on the issue.

2.17 Concerns that Schedule 1 does not contain any requirement for the Principal Member to provide reasons for the dismissal were also addressed:

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13 Alliance of Defence Service Organisations, *Submission 3*, p. 5.

14 Veterans' Review Board, *Submission 8*, pp. 1–2.

15 Doug Humphreys OAM, Principal Member, Veterans' Review Board, additional information received 25 May 2017, p. 1.



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[A]s with all VRB decisions, a full and comprehensive set of reasons would need to be provided if the power were exercised, in accordance with section 140 of the VEA, which provides that the Board must give a copy of its decision to each party to the review.<sup>16</sup>

2.18 Mr Humphreys also shed light on when an application could be dismissed, explaining that:

The VRB's General Practice Direction would set out that in the circumstances where the VRB was considering exercising its power to dismiss an application, this would only be done following a preliminary hearing. Parties would be given full notice of any preliminary hearing and they would be invited to provide any submissions addressing the issue, preferably in writing. At the preliminary hearing itself, an applicant would also be afforded full procedural fairness, by being given an opportunity to address the Board orally on the issue, in addition to any written submissions.<sup>17</sup>

2.19 The Principal Legal Advisor of DVA, Ms Carolyn Spiers, also assisted to address some of the concerns raised by submitters. For example, in response to Mr Briggs' concerns that claimants would potentially be burdened with additional costs and stress by having to take their case to the AAT, Ms Spiers argued:

First of all, taking a veterans' matter to the Administrative Appeals Tribunal is exempt from filing fees and all of that, so they would not have the cost of that. The tribunal allows people to be self-represented, and I suspect the people we are talking about are likely to be the more was self-represented people who are used to those environments. The other issue would be that there is nothing stopping the board and the tribunal sitting down—the two registrars—and actually having a discussion about being able to streamline those sorts of cases so that they get an early hearing at the AAT.<sup>18</sup>

2.20 During the hearing, Ms Spiers provided the committee with a list of bodies that currently possess the power to dismiss frivolous or vexatious claims. There are over 20 on the list, including the Administrative Appeals Tribunal, Australian Competition and Consumer Commission, Australian Communications and Media Authority, Fair Work Commission, Office of the Australian Information Commissioner, and Office of the Commonwealth Ombudsman.<sup>19</sup>

2.21 Indeed, Ms Spiers pointed out that the introduction of the single appeal pathway may have actually increased appeal options for some individuals:

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16 Veterans' Review Board, *Submission 8*, p. 2.

17 Doug Humphreys OAM, Principal Member, Veterans' Review Board, additional information received 25 May 2017, p. 3.

18 Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, p. 22.

19 Department of Veterans' Affairs, *List of bodies that can dismiss frivolous and vexatious* (tabled 26 May 2017).

There has never been legal representation at the board, ever, and the single appeal pathway does not remove that. It, in fact, gives those people that only had one level of external merits review, the AAT, another level so they actually have two now: the VRB and the AAT. So I think it is actually broadening the scope, not lessening the scope.<sup>20</sup>

2.22 During the hearing, officers of the department took the opportunity to reassure the committee that the VRB's power would only be exercised in an application-specific rather than applicant-specific way and that an individual's right to review would not be impacted by cases they may have brought before.<sup>21</sup>

2.23 During the hearing, Mr Noel McLaughlin, Chairman, ADSO advised that if the bill was amended to include clear definitions, his organisation would be in support of the proposed amendments.<sup>22</sup> His colleague, Colonel David Jamison, AM (Retired), National Spokesman, ADSO, explained:

[W]e believe the terms 'frivolous', 'vexatious' and 'misconceived' should be defined in the act and such definitions should relate back to definitions that come out of case law. We emphasise that this is a legislative issue that we are pursuing—it has nothing to do with the performance of either the members of the board or its performance over the years.<sup>23</sup>

2.24 During discussions on the expected increase to the VRB's workload, Mr McLaughlin recommended that the board reintroduce the two-year period in which applicants can bring an appeal before the board—with an extension of three months allowed on appeal to the board—via its General Practice Direction:

The process then is: if you do not bring it before the board, your appeal is dismissed. It does not mean that is the end of the world; you are just put to the back of the queue, you resubmit and start again... We think that the two-year window is more reasonable in all the circumstances for the board to exercise its powers and functions in this regard...<sup>24</sup>

2.25 However, when committee members questioned the department on whether it could review the two-year process, Ms Spiers provided the following clarification:

There is a separate power of the Veterans' Review Board—a strike-out power. That is when there is inactivity on the appeal for over two years. I think that is what is being referred to. But this bill does not impact on that at all. That power still sits there. There is a procedural fairness process built

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20 Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, p. 23.

21 Ms Edel Kairouz, Assistant Secretary, Rehabilitation, Case Escalation and MRCA Review, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, pp. 21–22.

22 Mr Noel McLaughlin, Chairman, Alliance of Defence Service Organisations, *Proof Committee Hansard*, 26 May 2017, p. 4.

23 Colonel David Jamison, AM (Retired), National Spokesman, Alliance of Defence Service Organisations, *Proof Committee Hansard*, 26 May 2017, p. 1.

24 Mr Noel McLaughlin, Chairman, Alliance of Defence Service Organisations, *Proof Committee Hansard*, 26 May 2017, p. 3.

into that as well, in that the individual is encouraged to progress their claim. But, if there has been absolutely no activity for two years, the head of the VRB can—reluctantly—strike out that matter for want of action.<sup>25</sup>

## Schedule 5

### *Information sharing*

2.26 Submitters raised a number of privacy concerns with the amendments proposed in Schedule 5. Specifically, the amendments which would allow the Commonwealth Superannuation Corporation (CSC) to obtain medical and other information from the Military Rehabilitation and Compensation Commission (MRCC) in order to conduct superannuation investigations were the subject of criticism.<sup>26</sup>

2.27 According to submitters, there is some confusion within the Defence community as to what type of information is being shared, for what purposes, and to whom. These concerns are magnified by scepticism around how personal data is stored and shared on government systems. Following the Centrelink debt recovery scheme and Australian Taxation Office system failures, it would appear that the community's distrust of government handling of data has been aggravated.<sup>27</sup>

2.28 The Office of the Australian Information Commissioner submission pointed out that it can be difficult for current or former ADF members to understand how their personal information is being handled. For example, it noted that whilst the CSC is prohibited from using or disclosing information for purposes other than a purpose relating to the performance or function of the CSC-related legislation, 'the range of functions undertaken by the CSC and breadth of CSC legislation may mean that the full extent of those purposes is unclear'.<sup>28</sup>

2.29 Indeed, the ADSO submission speculated whether information sharing between the MRCC and the CSC would be a general requirement for access to superannuation entitlements or whether it would be specific to veterans who are medically discharged and entitled to access superannuation on the grounds of disability.<sup>29</sup>

2.30 The ADSO also expressed concern that increased information sharing between agencies could potentially prejudice entitlements to superannuation payments.<sup>30</sup>

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25 Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, p. 23.

26 For example: Alliance of Defence Service Organisations, *Submission 3*; Office of the Australian Information Commissioner, *Submission 4*; Returned and Services League of Australia, *Submission 6*.

27 Alliance of Defence Service Organisations, *Submission 3*, pp. 9–13.

28 Office of the Australian Information Commissioner, *Submission 4*, pp. 1–2.

29 Alliance of Defence Service Organisations, *Submission 3*, p. 10.

30 Alliance of Defence Service Organisations, *Submission 3*, pp. 9–13.

2.31 Submitters drew comparisons with the recently enacted *Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Act 2017* arguing that similar criminal sanctions to those imposed on the Secretary of DVA should be included in this bill.<sup>31</sup> Under that legislation, the Secretary is required to comply with certain safeguards before public interest disclosure of information about a case or class of cases. If the Secretary does not comply with the requirements before disclosing personal information, he or she commits an offence punishable by 60 penalty units.<sup>32</sup>

2.32 Many submitters encouraged the department to promote greater transparency by undertaking a Privacy Impact Assessment (PIA) of Schedule 5 of the bill. It was argued that a PIA would go some way toward allaying fears in the community by explaining to individuals why the sharing of information is necessary, what information would be shared, and how personal information would be handled.<sup>33</sup>

### ***Support for Schedule 5***

2.33 In support of the changes, the department argued that the proposed amendments contained in Schedule 5 would reduce the need for individuals to attend unnecessary medical assessments and retell their story multiple times. The changes are expected to improve access to care and support, and be of particular benefit to those with mental health conditions. It was argued that the changes would ultimately be of most benefit to recipients by enabling quicker determinations.<sup>34</sup>

2.34 Other submitters also highlighted the expected benefits of the Schedule 5 provisions, arguing that increased information sharing would reduce existing complexity in the system, help to minimise errors, and speed up delivery times for clients.<sup>35</sup>

2.35 At the public hearing, the Chief Executive Officer of the CSC, Mr Peter Carrigy-Ryan, reassured the committee that there is currently a range of protections in place which ensure his organisation engages in secure information sharing practices:

All of our information is personnel-in-confidence and is subject to all of the Commonwealth government security requirements. We have obligations under each piece of legislation and all of the privacy principles, as well as obligations under our superannuation licensing regime, to make sure that the highest level of protection is provided to members' information and members' data. I am not aware of any incident—that I can remember—in

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31 Alliance of Defence Service Organisations, *Submission 3*, p. 10.

32 *Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Act 2017*, s. 409A, 151B, 131A.

33 For example: Alliance of Defence Service Organisations, *Submission 3*; Office of the Australian Information Commissioner, *Submission 4*; Returned and Services League of Australia, *Submission 6*.

34 Department of Veterans' Affairs, *Submission 7*, p. 5.

35 For example: Commonwealth Ombudsman, *Submission 1*; Department of Defence, *Submission 5*; Department of Veterans' Affairs, *Submission 7*.

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recent years involving a breach of that privacy in relation to any of the military cases that we are assessing.<sup>36</sup>

2.36 During the hearing, the committee brought to the attention of CSC officers the Commonwealth Ombudsman's submission which raised concerns that delays in information sharing between the CSC and DVA had resulted in debts being raised many years afterwards. Following the hearing, the committee received written reassurance from Mr Carrigy-Ryan that the CSC had been working with the department to mitigate similar potential delays and errors:

CSC...are aware that debts can arise because of the interrelationship between CSC and DVA payments, and tax legislation. To address these issues, the CSC agreed with DVA to flag when CSC is paying a person. This initiates a process within DVA to consider if DVA has an interest in any of the funds CSC is about to release. DVA entitlements are means tested, CSC pensions are not.<sup>37</sup>

2.37 Officers of the department advised the committee that consideration had already been given to the privacy concerns raised by submitters, and an independent Privacy Impact Assessment had been commissioned:

I can confirm with this committee that I have instructed the Australian Government Solicitor to undertake that independent PIA of schedule 5. We instructed them earlier this week, so I am planning to have that PIA available to me, hopefully, sometime later next week. Then obviously we would be looking at making that available publicly.<sup>38</sup>

2.38 Ms Spiers also advised the committee that the department was continuing to improve its communication with the veteran community and, to that effect, had begun to update its website to include brief explanations on potential changes to veterans' legislation. Although the webpage currently only contains one bill, the service would continue to expand:

We have also produced short and non-bureaucratic—if I can put it that way—summaries of the eight measures from the omnibus bill, which allows people to download those pages. I spoke to the ex-service members that were here in this committee as they walked out the door. I was telling them that we will give them the link. They are going to disseminate that link across their network. It will allow people to download. There is a broad summary of the bill and the specific details of each of the measures. They can be printed off. There is also an email address on the website...It is [www.dva.gov.au/about-dva/legislation](http://www.dva.gov.au/about-dva/legislation). The format of it is a very short overview of DVA's legislation on the first page, and then it references any new bills that DVA might have...We clearly need to do a little more work

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36 Mr Carrigy-Ryan, Chief Executive Officer, Commonwealth Superannuation Corporation, *Proof Committee Hansard*, 26 May 2017, p. 13.

37 Mr Peter Carrigy-Ryan, Chief Executive Officer, Commonwealth Superannuation Corporation, additional information received 30 May 2017, p. 2.

38 Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, p. 19.

and put some more bills there, but the purpose of it was to ensure that at least we had the omnibus details up and running...<sup>39</sup>

### **Committee View**

2.39 While the committee acknowledges submitters' concerns regarding Schedules 1 and 5 of the bill, it has been reassured by evidence received from the Principal Member of the Veterans' Review Board, and from officers of the Commonwealth Superannuation Corporation and the Department of Veterans' Affairs in response to those concerns. It should be noted that a majority of submitters supported most of the bill's proposed amendments, and that two out of the three most pressing concerns discussed during the committee's public hearing have already been addressed by the relevant agency.

2.40 With regards to Schedule 1, the committee is of the opinion that all of the concerns raised by submitters have been adequately addressed by the Principal Member of the VRB, Mr Humphreys. The committee is confident that the board would appropriately exercise the proposed power to dismiss frivolous and vexatious applications. The committee notes and agrees with the evidence given by Mr Humphreys' that there would be no delegation of the proposed dismissal power. The committee considers that formalisation of such a provision would improve the agency's efficiency, and would bring the agency into alignment with other review bodies who have had access to similar powers for some time without cause for concern.

2.41 The committee notes the suggestion by representatives of the Alliance of Defence Service Organisations that the bill should be amended to include clear definitions of the words 'frivolous' and 'vexatious' as derived from case law, however, it agrees with the Principal Member that the law on the area of 'frivolous and vexatious' is well settled and already has a high threshold.

2.42 Turning to Schedule 5, the committee acknowledges submitters' concerns regarding potential impacts to privacy; however it is reassured that the department has listened to the community on this matter and worked to promptly address the issue by commissioning an independent Privacy Impact Assessment from the Australian Government Solicitor. The committee looks forward to the results of the PIA being made publically available and disseminated to the community. The committee expects that the proposed information sharing amendments will ultimately be of benefit to veterans and their families by enabling the CSC to conduct faster superannuation benefits assessments as well as prevent the need for veterans to undergo unnecessary medical examinations where the MRCC already holds the relevant information. The committee is satisfied that the interference to privacy is reasonable and agrees that the amendments will result in better access to care and support for veterans.

2.43 The committee commends the bill to the Senate.

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39 Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, *Proof Committee Hansard*, 26 May 2017, p. 19.

**Recommendation 1**

**2.44 The committee recommends that the bill be passed.**

**Senator Chris Back  
Chair**





## **Additional comments by Labor Senators**

1.1 Labor Senators agree with the Committee's assessment of the concerns about schedule one and schedule five, noting the work the Department and the Principle Member of the Veterans Review Board (VRB) has undertaken to address these concerns.

1.2 The majority of concerns in relation to this Bill have been resolved; however, Labor Senators still hold some reservations about the use of the 'no reasonable prospect of success' as a basis on which to dismiss an application for review at the VRB stage. While we understand this is to align the general principles of the VRB with the Administrative Appeals Tribunal (AAT), we would note that the VRB has always sought to be a conciliatory review process as opposed to the more formal processes within the AAT. That being said, Labor Senators are reassured by the opportunity for the applicant to present at a preliminary hearing prior to a case being dismissed under any of the conditions listed in subsection 155(8) (8A).

1.3 In addition, Labor Senators note that the Principle Member of the Veterans' Review Board has assured the Committee that the power to dismiss claims under this provision will not be delegated to any other member of the board, however note this has not been included in the proposed legislation.

1.4 In relation to schedule five, given the concerns of the veteran and ex-service community, Labor Senators are pleased to see the Department have commissioned an Independent Privacy Assessment to review this impact of these changes. Labor Senators call on the Department to release the outcomes of this assessment as soon as practical.

1.5 Labor Senators also agree with the Committee's assessment of the broader concerns in the veterans' community in relation to the Department and the Government's handling of personal data. This has been a reoccurring theme in recent Senate Inquiries with regards to the Department of Veterans' Affairs.

1.6 Noting that concerns about inadequate consultation has been an ongoing issue for the Department, with many in the veterans community stating they do not believe they have been properly consulted on a range of issues, Labor Senators are pleased that the Department will be reviewing its consultation processes.

1.7 Labor Senators encourage the Department to conduct this review promptly and consider all avenues of communication to ensure that those who may be impacted by future changes to legislation or administration are afforded the opportunity to meaningfully engage in the process and provide essential input.

**Senator Alex Gallacher**  
**Deputy Chair**

**Senator Claire Moore**



## Dissenting report by Senator Jacqui Lambie

1.1 Senator Jacqui Lambie, of the State of Tasmania, dissents in part from the Committee's recommendation with respect to Schedule 1 of the *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017 [Provisions]* which would grant a single member of the Veterans' Review Board ("VRB"), that being the Principal Member, the power to dismiss frivolous applications by amending the *Veterans' Entitlement Act 1986* ("VEA 1986") with proposed section 155(8A).

1.2 A party to review of a veterans' entitlement appeal, pursuant to section 147(2)(a) of the *VEA 1986*, may "appear in person, or be represented at the party's own expense by a person ***other than a legal practitioner . . .***"<sup>1</sup> (***Emphasis added.***) Conversely, a party to review of a veterans' entitlement appeal in the Administrative Appeals Tribunal ("AAT") Veterans' Appeals Division is permitted to be represented by a legal practitioner.<sup>2</sup> In this regard, the common law doctrines of procedural fairness and natural justice would disfavour adopting the AAT's model for summary dismissal, by a single board member versus a panel of three,<sup>3</sup> because veterans are not permitted to be represented by legal counsel at VRB hearings.

1.3 Since 2010, DVA's own reviews of Ex-Service Organisations ("ESO") advocacy services indicates that there are issues with the adequacy of non-lawyer advocacy services available to the veterans' community appearing before the VRB. Indeed, "some ESOs have reported difficulty in attracting, training and retaining a sufficient number of advocates, welfare and pension officers to act on behalf of DVA beneficiaries and claimants and to deal with increasingly complex legislation."<sup>4</sup> Nearly one year ago, on 30 June 2016, the DVA-Training and Information Program ("TIP"), which trained layman advocates, was scrapped by DVA for implementation of a different model yet to be proven effective.<sup>5</sup>

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<sup>1</sup> "Legal practitioner" is read as including a reference to any person who: holds a degree of Bachelor of Laws, Master of Laws or Doctor of Laws or Bachelor of Legal Studies; or is otherwise qualified for admission as a barrister, solicitor, or barrister and solicitor, of the High Court or of the Supreme Court of a State or Territory. See section 147(3) *VEA 1986*. While there is no bar for a "legal practitioner" to assist a veteran in preliminary matters at the VRB, it can be said that s147(2)(a) *VEA 1986* has served as a deterrent to a veteran seeking a legal practitioner's assistance even with preliminary matters and thus the veteran either relies upon a lay advocate or is self-represented in both preliminary matters and the hearing.

<sup>2</sup> See section 32 of the *Administrative Appeals Tribunal Act 1975*. Thus, procedure in the AAT's Veterans' Appeals Division affords applicants an opportunity for full consideration and resolution of the matters when counsel is acting as an advocate.

<sup>3</sup> The composition of the VRB, for the exercise of its powers of review, consists of traditionally three members: (1) a Principal Member or Senior Members; a (2) Service Member; and (3) one other member or various combinations that would provide a panel of three. See section 141 *VEA 1986*.

<sup>4</sup> See [DVA Review of DVA-Funded ESO Advocacy and Welfare Services Final Report dated December 2010](#) at p. 9.

<sup>5</sup> See DVA website ["Advocacy Training and Development Program" webpage \(retrieved 10 June 2017\)](#); [Training and Information Program \(TIP\) webpage \(retrieved 10 June 2017\)](#) and [DVA Training and Information Program webpage \(retrieved 10 June 2017\)](#).

1.4 Given the fact that there are issues with the adequacy and availability of layman advocacy services for veterans together with the fact that a legal practitioner is barred from appearing before the VRB by operation of section 147(2)(a) of the *VEA 1986* a self-represented veteran's right to review should not be further impeded by granting a single member of the VRB the power to summarily dismiss a veteran's application prior to an opportunity to be heard by a three-member panel at a hearing.

1.5 The Returned & Services League of Australia (RSL) noted that "many [veterans] are grateful for the opportunity to see if they qualify for assistance from DVA . . . [a] panel affords them the chance to be heard by three individuals in contrast to one delegate . . ." <sup>6</sup>

1.6 Some veterans are vulnerable as evidenced by this Committee's recent inquiry into the mental health of Australian Defence Force serving personnel.<sup>7</sup> In light of this vulnerability the granting of powers to summarily dismiss a veterans' appeal, particularly by a single member of the VRB, should not be permitted unless the veteran is first afforded a hearing before a three-member VRB board panel.<sup>8</sup>

1.7 Mr Brian Briggs, a national expert in veterans' entitlement law and military compensation, opined that it is inadequate to allow summary dismissal by the Principal Member of the VRB citing Federal Court cases as examples of incorrectly dismissed applications to the AAT.<sup>9</sup>

1.8 The Alliance of Defence Service Organisations ("ADSO"), the Principal Member of the VRB<sup>10</sup> and the DVA Principal Legal Advisor (collectively the "proponents") fail to address common law doctrines of procedural fairness and natural justice, in granting special powers to the VRB Principal Member, to summarily dismiss an application where a self-represented veteran applicant has no right to legal representation at a hearing before such body and where there are known issues with the adequacy of layman veterans' advocates. Self-represented

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<sup>6</sup> Returned & Services League of Australia, Submission 6 at p. 5.

<sup>7</sup> See generally report on Mental health of Australian Defence Force members and veterans, Senate FADT References Committee, March 2016.

<sup>8</sup> For example, a self-represented veteran applicant at the VRB may have a diminished mental capacity due to PTSD, depression, anxiety disorder, drug or alcohol dependency or some other medical condition that impairs brain function and which may be service related. In that case, the self-represented veteran may not have been able to adequately state his or her case on the DVA claim's forms. But given the chance to attend a VRB hearing where three panel members are able to question the self-represented veteran, may enable the veteran to more fully present a successful application to the VRB instead of his or her case being summarily dismissed by the Principal Member prior to any hearing.

<sup>9</sup> Slater and Gordon Lawyers, Submission 2 at p. 6.

<sup>10</sup> Assurances by Mr Doug Humphreys, the current VRB Principal Member, to this Committee that he will only use the power in the rarest of cases and that he will not delegate the power to other Board Members or Registrars is a hollow argument and misses the point. (See VRB, Submission 8 at p. 2.) The 45<sup>th</sup> Parliament would not, *per se* be granting such power directly to Mr Humphreys, rather if this Parliament was to enact the proposed section 155(8A) it would be granting such power to whomever is the Principal Member of the VRB. Mr Humphreys will not be the Principal Member of the VRB *in perpetuity* and there is no fortune telling of how a future Principal Member will exercise such power if it was granted by this Parliament.

veterans should continue to enjoy the right to a hearing without the fear of a single VRB member summarily dismissing their case.

1.9 The DVA Principal Legal Advisor's attempt to argue that this Committee should support summary dismissal power of a veteran's appeal, by a single VRB member, in providing a list of bodies that currently possess the power to dismiss frivolous or vexatious claims fails because none of those bodies ban legal practitioners in representing<sup>11</sup> applicants or appellants.<sup>12</sup>

1.10 In the 33<sup>rd</sup> Parliament, during the second reading of the *Repatriation Legislation Amendment Bill 1984*, which created the VRB, it was noted by the late Senator Arthur Gietzelt, who served as the 29<sup>th</sup> Minister for Veterans' Affairs, that:

"[A]t the VRB a claimant will have the opportunity of an oral hearing. Country people will be given the option of a telephone conference hookup. A claimant will also have the right to be represented by a lay advocate if desired. Only if a claimant fails to advise of his or her intention to attend or be represented at a hearing will the review proceed in his or her absence."<sup>13</sup>

1.11 Thus, for this 45th Parliament to now consider granting powers to a single VRB member to summarily dismiss a veterans' appeal prior to a hearing is contrary to the 33rd Parliament's intent on the very creation of the VRB which was to afford a veteran the opportunity to be heard by way of an oral hearing. This Committee, in its haste to report out the Bill, fails to reconcile the lack of need for such change in procedure versus decades of long standing precedent and the historical reasons for the creation of the VRB. In doing so, it assists in eroding a veteran's right to a fair hearing.

1.12 The granting of such powers to a single VRB member to summarily dismiss a veteran's case would be a significant deviation from 30-plus years of veterans' entitlement law practice as explained above. Statistical data gleaned from the VRB annual reports does not support the proposition that there has been such a drastic increase in caseload at the VRB necessitating the Principal Member being given such extraordinary power to summarily dismiss a veteran's application in order to effectively manage the annual caseload of the VRB. To the contrary, the VRB caseload has significantly decreased over the last decade.<sup>14</sup> Thus, there is no need to deviate from decades of practice in affording a self-represented veteran a hearing by a panel of three VRB members especially since there has been a long trend in decreased caseloads.

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<sup>11</sup> The Social Services and Child Support Division of the AAT may grant leave for a person to be represented. See section 32(2) – (4) of the *Administrative Appeals Tribunal Act 1975*.

<sup>12</sup> Department of Veterans' Affairs. *List of bodies that can dismiss frivolous and vexatious* (tabled 26 May 2017).

<sup>13</sup> [Remarks of Senator Gietzelt, Hansard, 29 May 1984 at p. 2048.](#)

<sup>14</sup> See generally [VRB annual reports ranging from years 1999 to 2016](#). For example, in [reporting year 2015-16](#) there were 2,804 applications lodged with the VRB. A decade ago, in [reporting year 2005-06](#) there were 4,497 lodged applications. This shows that there were 1,693 fewer cases lodged in the most recent reporting year compared to a decade ago

1.13 The Committee is misled by the representations of the proponents, as explained above, in recommending the granting of summary dismissal powers thereby potentially thwarting three decades of deeply rooted common law doctrines of procedural fairness and natural justice in VRB proceedings to those who have served in uniform in defence of our nation. Further, this new power may serve to harm self-represented vulnerable veteran applicants at the VRB in the event that an application, with merit, is summarily dismissed in error by the single member of the VRB. So, there is no doubt, Mr Briggs cited clear examples of cases where the use of summary dismissal was in error.<sup>15</sup>

1.14 There can be no alignment of the VRB's operations with those of the AAT with respect to procedures for summary dismissal as the proponents would have this Committee believe without there being unintended consequences for vulnerable self-represented veteran applicants. The proponents sidestep these issues in their submissions and in testimony before this Committee. The risk of unintended consequences to those vulnerable self-represented veterans is far too great for this Parliament to grant special summary dismissal power. There is no compelling need for a change in the law.

1.15 Senator Lambie concurs, in part, with the remainder of the Committee's report.

### **Recommendation 1**

1.16 Omit proposed section 155(8A) to *VEA 1986* from the *Veterans' Affairs Legislation Amendment (Omnibus) Bill 2017 [Provisions]*.

**Jacqui Lambie**  
**Senator for Tasmania**

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<sup>15</sup> Slater and Gordon Lawyers, Submission 2 at p. 6.

# **Appendix 1**

## **Submissions**

1. Commonwealth Ombudsman
2. Slater and Gordon Lawyers
3. Alliance of Defence Service Organisations
4. Office of the Australian Information Commissioner
5. Department of Defence
6. Returned and Services League of Australia
7. Department of Veterans' Affairs
8. Veterans' Review Board





## **Appendix 2**

### **Tabled documents and additional information**

#### **Tabled documents**

1. Alliance of Defence Service Organisations - Example of relevant court cases discussed by Mr Noel McLaughlin during the committee's public hearing, tabled at public hearing held on 26 May 2017
2. Alliance of Defence Service Organisations - Canberra Times article 'Justin Gleeson warns vulnerable need to be guarded from excessive state power' by Megan Gorrey, discussed by Mr Noel McLaughlin during the committee's public hearing, tabled at public hearing held 26 May 2017
3. Department of Veterans' Affairs - Opening statement, Ms Lisa Foreman, First Assistant Secretary, Rehabilitation and Support, tabled at public hearing held 26 May 2017
4. Department of Veterans' Affairs - Explanatory information on the bill available on the department's website, tabled at public hearing held 26 May 2017
5. Department of Veterans' Affairs - List of bodies that can dismiss frivolous and vexatious, tabled at public hearing 26 May 2017
6. Department of Veterans' Affairs - Schedule 1 dates for incorporated documents, tabled at public hearing 26 May 2017

#### **Additional information**

1. Additional information provided by Mr Doug Humphreys, Principal member, Veterans' Review Board, provided to the committee on 25 May 2017 in response to written questions provided to the board
2. Additional information provided by Ms Carolyn Spiers, Principal Legal Advisor, Department of Veterans' Affairs, correcting evidence given at a public hearing held 26 May 2017
3. Additional information received from Mr Peter Carrigy-Ryan, CEO, Commonwealth Superannuation Corporation, provided the committee on 30 May 2017 in response to request for more information on access to exit benefits. Attachments 1 to 8:
4. Fact Sheet 1: About to Leave ADF - Defence Force Retirement & Death Benefits Scheme

5. Fact Sheet 2: Invalidity Benefits - Defence Force Retirement & Death Benefits Scheme
6. Fact Sheet 3: Redundancy Benefits - Defence Force Retirement & Death Benefits Scheme
7. Fact Sheet 4: Retirement Benefits - Defence Force Retirement & Death Benefits Scheme
8. Fact Sheet 5: About to Leave ADF - Military Superannuation & Benefits Scheme
9. Fact Sheet 6: Early access to your superannuation benefits - Military Superannuation & Benefits Scheme
10. Fact Sheet 7: Invalidity Benefits: the classification process - Military Superannuation & Benefits Scheme
11. Fact Sheet 8: Invalidity Benefits - Military Superannuation & Benefits Scheme

# **Appendix 3**

## **Public hearings**

**Friday 26 May 2017**

### **Returned and Services League of Australia**

Ms Georgie Macris, Chief Executive Officer

Mr Robert Dick, National President

### **Alliance of Defence Service Organisations**

Colonel David Jamison AM (Retd), National Spokesman

Mr Noel McLaughlin, Chairman, Royal Australian Armoured Corps Corporation

### **Slater and Gordon Lawyers**

Mr Brian Briggs, National Military Compensation Expert

### **Commonwealth Superannuation Corporation**

Mr Peter Carrigy-Ryan, CEO

Ms Bronwyn McNaughton, General Manager, Corporate

### **Department of Veterans' Affairs**

Ms Lisa Foreman, First Assistant Secretary, Rehabilitation and Support

Ms Edel Kairouz, Assistant Secretary, Rehabilitation, Case Escalation and MRCA Review

Ms Julie Wickens, Acting Director, Policy Development

Ms Carolyn Spiers, Principal Legal Advisor

Mr Michael Downey, Senior Legislation Officer

Ms Louise Cairns, Legislation Liaison Officer

Ms Jane Henderson, Director, Determining System Policy

