

**Senate Foreign Affairs, Defence and Trade  
Legislation Committee**

**SUBMISSION COVER SHEET**

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**Inquiry Title:** Military Rehabilitation and Compensation Bill  
2003 and Related Bill

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AUSTRALIA

## **RE: Inquiry into the Military Rehabilitation and Compensation Bill 2003 and the Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003**

Dear Sir,

Thank you for the opportunity to make a submission to the subject Inquiry. I apologise for the day late submission as I only just received on Fri 30 Jan 04 a response from MCRS regarding a formal complaint that I lodged in October 03. I felt it was important to consider this response prior to making this submission.

### **Background**

I am a reservist, and a Major in the Australian Army. I was previously a Regular Army Officer Commissioned at OCS Portsea in 1976. I served 20 years in the Royal Australian Corps of Transport (RACT) and held a wide variety of instructional, command and logistic positions. These included a number of overseas deployments and exercises, which included the U.K., Germany, N.Z., Antarctica (twice) and Africa. One specific appointment enabled me the privilege of working very closely in 1991 with Veterans of the WWII Kokoda Campaign where I interviewed and had direct contact with over 300 veterans around Australia, in Papua New Guinea and Japan (see attached General Officer Commanding Training Command Commendation).

I am a Graduate of the Australian Army Command and Staff College (1992) and have a Masters Degree from the Graduate School of Business, University of Sydney (1994). I transferred to the Emergency Reserve in 1996 and have subsequently served in a range of Staff and Specialist project related appointments. These were primarily (and currently) at Kokoda Barracks Canungra, due to its proximity to my home and civilian work base. Of most recent significance was my operational deployment to East Timor with INTERFET in 1999-2000.

Like all members of the Army, reserve or regular, I have always been told that the Army is committed to the care and rehabilitation of members injured whilst on duty. This is told to the greenest recruit and constantly reinforced through publications such as the newspaper "Army" and other information provided to members.

In this regard it is worth noting that the expectation of current members of the Defence Forces is no different to that of veterans of past conflicts. I also understand that this is also the basis of the first Repatriation Act in WWI. Noting also that a "can do" culture in the Army and that attitude in soldier's results in a tendency not to report injuries and not pursue help or assistance till too late.

I recently returned once again to the Active Reserve (Aug 03) for up to 100 days Reserve Service as a Project Officer for Command and Staff Wing at Headquarters Regional Training Centre (HQ RTC). Regrettably, on Friday 19 Sep 03 I sustained a serious injury (ruptured Achilles Tendon) during an organised sport activity at the base whilst on duty. This resulted in transfer by Army

ambulance from Canungra to the Military Hospital at Enoggera. It should be noted in 26 years of both Regular and Reserve service I had not sustained a broken bone or an injury of this nature, apart from occasional Rugby injuries, which have had a long-term impact. However, I have never before suffered an injury of this immediate traumatic nature i.e. hospitalisation and total incapacity.

I was totally unfamiliar with the MCRS and Military Hospital system in general. However, I had noted earlier accounts by Kokoda Veterans of difficulties experienced with Veterans Affairs and also my superiors cautioned me with regards to "stepping outside" the military system.

Therefore, I took every step possible, as I had been advised; to find out my entitlements and complete all associated paperwork BEFORE discharge from hospital. This I believed was duly done, but not until the following week did it become apparent the disconnect between the hospital system and the support services under MCRS.

I underwent surgery the following Tuesday to repair the ruptured Achilles Tendon. As I had been taken direct to a hospital in Brisbane, as opposed to a local Hospital (Gold Coast) where I could have made ready alternate arrangements for my business and have access to my family, Therefore, there was an imperative to seek discharge from Brisbane as soon as best able to minimise the impact on my business and reduce the travel time and inconvenience for my family.

From the outset, the incident and my hospitalisation had immediate and serious impact on my work and day-to-day conduct of my business/community commitments. This included the necessity to cancel a trip to Perth booked and paid for departure the next day (Sat 20 Sep 03) as well as the cancellation of all commitments and appointments arranged for the Perth trip. Subsequent to this immediate impact on my personal and business circumstances, I could not meet a commitment my Rotary Club to attend a trip to Tonga the next month to assist in reconstruction of a school as well as a scheduled business trip to Sydney in October.

Two days after surgery the MCRS Representative on-site at the hospital interviewed me and advised me of my entitlements and what support services I could anticipate on discharge. In consultation with my Army superiors, the Registrar, Surgeon and the MCRS staff at the hospital a joint decision was made to take discharge from the hospital that Friday. The alternative was to remain in Brisbane for up to 8 weeks. This however was untenable due to the dislocation from both family and my civilian home office where at least answering services, email and other basic administrative matters as a self employed person could be undertaken.

## **Situation**

I was discharged from hospital on Fri 28 Sep 03 on the understanding and advice that certain services and medical support would be provided. I was totally incapacitated, in a cast and on medication for the pain as detailed and described by the Medical Certificate that supported the MCRS advice and services that I had requested.

It is regrettable that from the Monday after discharge I began suffering difficulties with MCRS staff. From the outset paperwork was either misplaced or had not been actioned, the staff responsible were absent or not available. I have records of conversations for the entire months of Sep and Oct reflecting the time consumed in pursuing the right person and having to "negotiate" entitlements and or clarify requirements.

The final straw was on 30 Oct 03 when I was returned the entire set of receipts for Meals On Wheels and household cleaning from one particular Delegate, with no action taken and no reimbursement. My question, which remains unanswered, why the receipts were referred back to me (the patient) and not either direct to the service provider and or the Sub Contractor (Inergise).

This Delegate had from the outset been difficult to deal with, commencing with a refusal to give her name for the first three calls that I had made to her. The first disclosure her full name (fundamental information) was when a letter arrived signed by the particular delegate. I was also informed by the

Occupational Therapist (OT) who visited my home to assess my requirements that she knew immediately who the Delegate I was dealing with by the stress and frustration I had expressed in my discussions when we were making arrangements for her visit to my home for assessment.

It was the actions and conduct of this particular delegate, and not necessarily the other parties that prompted my next action. As a result of this Delegate's conduct and having to deal with FOUR different sections and or personnel to administer my case, I referred the matter back to my immediate superiors and submitted a formal complaint via my Chain of Command. This has been the subject of various correspondences from at least four different Delegates i.e. between the 15 and 24 Dec 03 I received FOUR letters, some up to 5 pages in length from four different signatories!! On Christmas Eve, one letter arrived from Canberra in direct response to my complaint - none of those letters had responded via the appropriate channels i.e. back through the Chain of Command.

Given the duality of my circumstances i.e. both military and civilian, I have also drawn this matter the attention of my local Member, Stephen Ciobo MP, due to his keen interest in and association with the Veteran community.

This matter is still ongoing, with the latest response from MCRS received on 30 Jan 04, which I feel was an attempt to circumvent or delay this submission. My initial response to MCRS on 6 Jan 04 indicated my intention to make a submission. The response failed in a number of areas to address or respond to points that I raised and is now a matter for further referral.

## The Issues

In relation to the Inquiry, this recent first hand experience with MCRS and the Act has highlighted to me a number of both systemic, personnel and cultural problems. It certainly behoves me to express this situation, in detail. If this is the way I am treated in the first instance, and then subsequent response from MCRS, what chance has either a young inexperienced soldier with limited education, or an aged WWII Veteran, have in engaging MCRS for support or with a complaint?

The basis for my original complaint related to the level of service being provided by MCRS and my expectations of what and how this service was being delivered. Moreover, the specific complaint related to one Delegate and a range of broader issues, the following is the essence of my concerns (there are more details provided in the original submission):

1. A SINGLE Case officer should handle one individual, NOT the individual dealing with 4 different areas of MCRS i.e. Med costs, Incapacity, Rehab and Impairment **(Noting now that I was having to deal and correspond with FOUR different MCRS Staff members). I note the new Act refers to a "single case officer"**.
2. Case Officers need to accommodate a range of individual circumstances/ categories e.g. SINGLE (living on own) vs MARRIED or living with someone. SHORT vs. LONG TERM conditions and degree of incapacity, including age and mobility. Although there has been suggestion that the legislation does not discriminate, I note that with one Delegate, her conduct and verbal exchanges, prejudice was apparent and being applied when interpreting the Legislation. The Legislation may not discriminate, however, my experience indicates certain staff may. This requires training and counseling, as well as a degree of flexibility.
3. When dealing with GRes: EMPLOYED vs. SELF EMPLOYED, there is considerable difference and there appears to be little or no accommodation for self employed i.e. when having to provide details of income, depending on the

time of year, if a Tax Return has not been completed, there are expenses involved in having an accountant/bookkeeper assemble and prepare documentation to satisfy the dept i.e. not a simple case of a PAYE employee presenting a pay slip.

There is currently NO provision to cover those costs. Similarly, for costs relating to travel cancellations because of the injury and additional interest accrued on loans and credit cards when awaiting incapacity payments and or determinations. Similarly, the Legislation does not discriminate, but the Staff certainly does, mainly due to a lack of knowledge and or personal experience with the demands of having to run a small business and be self-employed. **See also below, the section re "Incapacity Payments and Small Business."**

4. Allow more flexibility in the provision of services and the application of the Legislation e.g. if Member doesn't need Lawn Mowing Services (if living in an apartment) but does need assistance making the bed or with taking the garbage out or having the car driven so it doesn't sit for 2 months, than allow for that. This really relates to attitude and training as well as allowing for more flexibility in the legislation so Staff have more latitude and not be constrained.

Abuse of the system and protecting the taxpayer dollar was constantly quoted to me in discussions with MCRS staff. It is a fact that most servicemen and women have a "can do" attitude and if injured all they want to do is to get back to work. This is an attitude that usually remains with them for life.

It is my understanding that offenders are in the minority and are usually caught. **Vigilance in protecting the system must not be perverted to the extent that it is at the expense of the genuine need of an individual.** If it is made too hard, people will walk away from the system.

Therefore, the consequences are, the true deficiencies in support services are not reported, the actual cost shifted onto the broader community e.g. Medicare, the families of the suffering servicemen incur the wrath, and may ultimately lead to an individual, and or family breakdown.

It begs the question: Is saving a few hundred or thousand dollars really worth all of that?

Ironically, budget minded staff and those attempting to reduce costs will believe that they are doing a good job by not incurring expenses which have effectively been masked or hidden as those in need no longer have the time nor energy to "fight the system" i.e. walk away. Or is that the intent?

Compounding this, there appears to be a perception held by some people in both Departments (DVA and Defence) that anyone going to MCRS and or Veterans Affairs is a malingerer and or "having a go at the system." **This attitude has to be rooted out of both Departments and a more mature and understanding culture needs to be inculcated.** A Veteran and or soldier who has put their life in harms way, who have served and or defended the nation, will quite rightfully feel resentful and angry towards Public Servants and or Senior Staff Officers who have done neither. Yet, have the right and authority to determine their treatment and rehabilitation for injuries sustained whilst on duty. Particularly galling, when it comes from those who have not been put in harms way.

I must reiterate, that if it were not for the attitude and conduct of the one Delegate and the area of her responsibility, I would not have submitted any formal complaint. The majority of Staff and MCRS support that I have received was supportive and understanding of my circumstances, albeit that it took some persuasion and convincing.

It was unfortunate, that the areas that have created the most angst and a flurry of paperwork, were of a relatively minor and inexpensive nature i.e. Household Services and Meals On Wheels

However, my complaint has bought into sharp focus MCRS Staff at the highest levels failure to come to grips with or acknowledge the larger contributing issues.

I will continue to pursue this matter till there is a satisfactory outcome, which relates specifically to my rehabilitation and full recovery so that I may return to work. Something that appears to have

been lost by certain Delegates vigorous but notably uninformed pursuit of the application of legislation i.e. not to provide a service and support for that rehabilitation, at the individual's expense.

### **Incapacity Payments and Small Business**

In the case of Reservists, a significant number are Small Business/Self Employed operators with needs and support requirements that are quite distinct from the Employed person. It is apparent that there is absolutely no comprehension by MCRS, WHATSOEVER, of the needs and circumstances of a small businessperson injured whilst on Reserve Service.

In my case, I came home from hospital primarily to recover from the injury.

Just as importantly, to prevent further "injury" to my business e.g. loss of contacts, contracts and opportunities. Let alone drifting into the shadow of bankruptcy or insolvent trading ever looming when cash flow dries up for the sole trader.

As I operate from home, the fax machine, answering service and emails still needed to be attended to e.g. there had been no opportunity from the time of the accident to even change the message on the work answering service to explain my absence nor redirect calls. No staff to do that, let alone, making arrangements for my P.O. Box to be cleared on a daily basis and of course regular banking (you can only do so much on the internet).

I had to rely on Rotary Club to assist me by driving me once a week to do this and keeping the wheels turning on my otherwise redundant car for 2 months. There was no provision from MCRS for this type of service, need or support. This is further compounded by being single and not having a partner (business or otherwise) to assist in basic administrative duties normally undertaken by a sole trader i.e. there is no provision to compensate for a temporary employee to do mail nor banking runs.

As an example, the expense of a mail redirection from the normal post office to home location was not deemed as an acceptable expense, although the postal address for the business has remained unchanged for nine years. A temporary postal redirection was treated as a "personal decision" not business related.

I note that MCRS is seeking recovery in excess of \$2k in incapacity payments, mainly because I was in receipt of GRes pay for some of the period.

The dichotomy now, is because I did some Reserve work, it is deemed by MCRS that I was therefore able to perform my civilian duties.

The two reasons I actually performed any GRes duties were:

1. It became apparent some 4 weeks after the accident that I was not going to get the incapacity payments for loss of business/income that I initially expected. The information I was told to provide and the subsequent further requirements of the Dept meant that I was faced with a delay of a total of some 9 weeks before any sign of relief or incapacity payments.

This was due to:

- a. The information finally provided to my accountant by MCRS was going to take at least 2 weeks (which was going to cost me and no provision for refund) to respond to and another 2 weeks for MCRS to consider. 4 more weeks on top of 4 weeks already passed.
- b. Extra charges, late interest excess fees, defaults proceedings etc. etc. A situation compounded by MCRS and the bureaucracy.

Remember, the accident is a neither unplanned nor forecast event. The bank and creditors drive on, no matter what.

2. I also felt a service and duty to assist in some way, given the circumstances i.e. leaving the Army and everyone in the lurch with Project I had been allotted. There was a need at the Base that I could at least fulfill in an administrative role, so it was mutually beneficial.

As it became apparent that MCRS was not going to provide neither adequate incapacity payments nor compensation in the short term, the only relief in sight for cash flow purposes was GRes sedentary work.

Therefore, it was by mutual agreement and arrangement between the MCRS Delegate who was handling this (who was excellent in his manner and efforts to accommodate my situation) and the Executive Officer at my GRes place of work and direct boss, that I commenced auditing work.

Everything was delivered and picked up, and I was able to do all the work from the couch at home, with my leg elevated.

Similarly, I was still able to administer my business, but the difference was, administering your own small business is not INCOME GENERATING.

Doing your BAS and telling clients you can't work for at least two-three months does not bring dollars in, nor keep the wolves from the door.

The cost of my time, as with any Small Business operator, is absorbed by the business. Whereas, the GRes work was paid, albeit for sedentary/admin work i.e. for my time 6 hours/day.

I have not, and still not, been compensated for losses relating to "income generating activities", in my civilian capacity e.g. fly or attend meetings for business (couldn't drive), inability to carry Master of Ceremony and Facilitating duties, conduct lectures at Bond Uni etc.

The issue of income generating activities versus administration is patently lost on the MCRS Delegate and the system.

MCRS is now seeking to claim back the money that I have earned from GRes because of the perception if I could carry out GRes admin work, then I could carry out civilian work of this nature. The key issue, it was not INCOME GENERATING. My GRes work normally supplemented my income, but on this occasion was used to fill the gap till MCRS assess my business but is being used by MCRS to cancel/negate any compensation for civilian losses.

MCRS were advised in Oct 03 that the information requested i.e. Tax Returns etc, would be provided in Mar 04 when we (the company) normally submits its return.

Because it was not a simple matter of a Pay slip from the Employer and or providing a CENRESPAY sheet, I asked if they would meet the costs for providing this information earlier as it did not fall into our business cycle i.e. other commitments. It became a stalemate and the matter is still being resolved.

It is complex, but so is the Tax System and running a small business itself.

I pay for professional advice i.e. an accountant, like the Doctor and OT. It was apparent the MCRS unqualified Delegates seem to think they have greater knowledge in these areas.

## **Recommendations**

Based on the experiences related above, I would recommend:

1. The Inquiry ensures that all aspects of the Act and Legislation never lose sight of dealing with an **individual in need**. My experience has been that the MCRS staffs think they are dealing with another Public Servant who is familiar with the system, has access to and or

knowledge of the Act and or needs to be quoted tracts and tracts of information. The sheer volume and content of all the correspondences forwarded to me illustrates clearly this situation.

2. That a Veterans Advocate be appointed and funded by the Department to represent veterans in order to deal with technical aspects of the Act as well as misconduct or flawed processes in MCRS. Alternatively,
3. The Government appropriate money to the RSL to employ in each district a number of Veterans Advocates. For those serving currently, this should be done through the Defence Community Organisation, or through the Defence Reservists Association.
4. That the needs of Reservists and the Self Employed be addressed specifically in the Act, especially for an individual who is single, with no family, nor "local" support readily available.
5. That consideration is given to move "transitional care" back into Defence for serving Regular and Reserve members to prevent members falling in between two systems.

I would be happy to appear before the Committee should that be of assistance.

Yours Sincerely,

George Friend