

**From:** s 47F  
**To:** ~~xxx~~  
**Cc:** s 47F  
**Subject:** Dept Secretary ~~xxx~~; Minister for Veterans Affairs Matt Keogh MP  
**Date:** Friday, 21 October 2022 1:35:21 PM

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DVA

DISABLED VETERANS of AUSTRALIA NETWORK  
... 'Some never wholly return'

Commonwealth treats of the earnings and retirement funds of the wives and partners of TPI Disabled Veterans as a handy 'Milch Cow' While Department of Veterans' Affairs ignore what is staring them in the face , abuse of the ethos of Repatriation .

The situation is of the ALPs making where under the Hawke Govt. the VEA 1986 imposed a welfare model on the Invalidity Service Pension (ISP) . The matter of wrongly ascribing a means test to the ISP exposed in the 2019 KPMG study into TPI Compensation .

Yesterday I posted to 'DVA Entitlements' (a veteran's webpage) part one of the letter to Minister Keogh. In the first twelve hours there has been over 120 likes and fifty odd comments and the Shadow Minister is taking an interest I am told.

[DVA Entitlements | Yesterday Secretary Liz Cosson demanded respect from contributors to this page when dealing with her department staff | Facebook](#)

All the best s 47F

**s 47F**

s 47F 22.09.2022

Disabled Veterans of Australia Network  
PO Box 698  
Applecross WA 6953

**s 47F**

**s 47F**

DISABLED VETERANS of AUSTRALIA NETWORK

'Some never wholly return'

*"The Commonwealth penalises my family for my wife working, having her own earnings, and saving for her own retirement. They garnishee her income and her saved for superannuation to reduce my Veterans Disability Compensation. She was still at school when I went to Vietnam for those two years. I am the one who suffers loss of earnings on my own account now Government make me a burden on my family."*

*"You can either remain single and be paid your full Veterans TPI compensation or you can be married and have two fifths of your Veterans TPI compensation withheld. You **cannot** have full compensation and have the*

*love, care and the companionship of another human being that comes with marriage .”* **s 47F** to ‘Royal Commission into Defence and Veterans Suicide’ .

To:

Hon Matt Keogh MP. Minister for Veteran’s Affairs & Defence Personnel  
House of Representative  
Parliament House  
Canberra ACT 2600  
Dear ~~Minister~~ Matt

## DEPARTMENT of VETERANS’ AFFAIRS WITHHOLDS COMPENSATION FROM OUR RETURNED DISABLED DIGGERS

Thank you for meeting me on 8<sup>th</sup> July last at the Commonwealth Offices, Perth to discuss the above matter . We write now to enquire of progress you have made since our meeting of the bringing an end to the withholding of payment compensating for War Caused Disability Losses incurred in service to the Australia People.

### **To reprise our conversation**

The ‘TPI Payment’ is legislated as Disabled Veterans compensation for “**suffering a loss of salary or wages, or of earnings on his or her own account.**” # Currently the payment is \$39,560 per annum. The ‘Full-time adult average weekly total earnings’ (FTAAWTE) after tax is \$78,564 per annum. The TPI Payment as compensation for lost earnings for full time employment is neither fit for purpose nor aligns with its legislative description .

To resolve the disparity between the Compensation paid and Average Earnings your department adds the ‘Invalidity Service Pension’ (ISP) of \$27,750 per annum to the TPI Payment resulting in a total Compensation Payment of \$63,310 per annum, equivalent to 83 per cent of the after tax FTAAWTE.

The difficulty for the families of our TPI Disabled is that your department attributes a means-tested welfare model to the ISP component of the Compensation. This means-test is applied to the income and assets, not just of the Disabled Veteran but if married of the earnings and in retirement the saved superannuation fund of their wife/partner. Your department thus operates a Compensation system not established upon the Insured losses of the individual Veteran in their own right but upon their marital status. This results in single TPI Disabled are compensated at \$63,310 annually while married TPI Disabled are compensated with as little as \$39,560 annually for suffering the same losses. To illustrate the departments misconception of Loss Compensation (as fund by KPMG) it would reinstate the full ISP of \$27,750 annually if the married couple were to divorce, thus, returning the TPI Veteran to full Compensation of \$63,310 pa. i.e., there would be no change in the level of Veterans Disability for Assessed and Accepted Medical Condition or of their “suffering loss of earnings.” The only change would be in their marital status.

### **KPMG Review into TPI Compensation**

In 2019 DVA commissioned the International Accountancy and Compliance Company KPMG to Review the Compensation paid to TPI Disabled . The Review,\* published in November of that year made findings of underpayment of compensation against the department . KPMG found there was no precedent in the Australian Insurance Loss Industry for reducing Compensation for losses based upon the wealth or want of the injured party or the wealth or want of a third party. KPMG found the ISP was Compensation for losses incurred and not means tested Welfare . KPMG findings reprinted verbatim:

- “The Service Pension is also considered an income replacement benefit for TPI Veterans (i.e., compensation).”

Page III

- “The table illustrates that the Service Pension is also considered an income replacement benefit i.e., compensation.” Page V
- “Service Pension: This benefit is considered ‘Income Replacement’”. Page 32
- “First Principals Approach … Common principals underlying compensation. Maintain a lifestyle that aligns with their pre-impairment lifestyle… Insurance benefits are not means tested.” Page's 25/26
- “Means testing of insurance benefits dose not commonly occur.” Page 28
- “The Service Pension should operate to avoid the possibility of members having to rely on charity.”

Page 79

**Restrictions DVA placed on Terms of Reference of KPMG Review**

"The scope did not extend to." KPMG Page iii.

- Providing policy recommendations to DVA."
  - Rather the focus will be on providing **structural information to DVA to assist it in assessing the validity or otherwise of the Disabled Veterans of Australia Networks proposals.**
  - Interviewing TPI Veterans to understand their views regarding adequacy of benefits.
  - Interviewing the Disabled Veterans of Australia Network.
  - Comparing total and permanent benefits received under VEA and the other two applicable Acts. (**Note. The Repatriation system comes under three Acts, VEA, MCRA & DRCA. The latter two unlike the VEA provide equitable compensation for TPI Veterans unrestricted by marital status discrimination.)**

It is difficult to understand why the government department dedicated to the wellbeing of Veterans denies KPMG the right to seek information from those directly impacted by policy.

DVA management spent \$200,000 of public funds on the KPMG Review which made these findings of underpaying TPI veterans and wrongly classifying the ISP as a welfare payment when it is a compensation for insured losses. To date neither the department or government have corrected these anomalies or given explanation to the public who paid for the review or to our veterans as to why these matters have gone without redress.

The late Senator Kimberley Kitching in a FADTRC Hearing of May 2021 mentioned of the withholding of TPI Veterans Compensation being 'Wage Theft'.

### **Gender Discrimination in ISP means testing**

Partners of TPI Veterans are predominantly female. Therefore, the burden of replacing the withheld compensation disproportionately falls on the female gender. This discrimination on grounds of gender disadvantages the female partner and is contrary to Commonwealth and State anti-discrimination legislation. The ISP means testing against a third party by garnishing wife's earnings is a disincentive to workplace participation robbing the Australian economy of skilled and experienced workers.

*"The Sex Discrimination Act 1984 - unlawful to discriminate against a person on the ground of sex, marital or relationship status, gender identity, sexual orientation".*

State and Territory 'Equal Opportunity' legislation reinforces the understanding that discrimination on grounds of marital status and gender is unlawful. This of using the wife's earnings, superannuation or savings as a means tested 'consequential loss' reducing or cancel the TPI Veterans ISP is discrimination.

### **Human Rights Abuse in ISP means testing**

The human right of a citizen to marry another is enshrined in our national and international 'Human Rights' conventions. The imposition of a '**de facto marriage tax**' by the Commonwealth in the form of withdrawing compensation from the married TPI Veteran compared to a single TPI Veteran by up to two fifths of their previous compensation is an impediment to entering marriage. A merciless impediment creating great difficulty for the Disabled TPI Veteran to enter a loving relationship with another, 'it doesn't make him a good catch.' For the wife to replace the previous Commonwealth compensation she must work longer hours to not just make up the withdrawn ISP amount but also to pay for the additional income tax that is attendant to extra earnings or additional saved funds in retirement.

Australian Human Rights Commission. Right to marry and found a family.

*"Right to Respect for the Family." "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State." ICCPR Article 23.1*

*"There shall be no restriction upon or derogation from any of the fundamental human rights recognised or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom or the pretext that the present Covenant does not recognise such rights or that it recognises them to a lesser*

*extent.*" ICCPR Article 5.

### **Impact of Means Testing on Family and Veterans Mental Health**

The Commonwealth's policy of means testing the ISP, reducing compensation by assessing it against the wives' earnings and saved for retirement superannuation, has a needless detrimental effect upon family resources and well-being. Many TPI Veterans are in their second marriage where the wife has children and grandchildren unrelated to the veteran. The wife naturally seeks to spend her earnings and retirement savings on them. However, in marrying a TPI Veteran she is forced to use her funds to support and care for him. For a former Defence member ready to place duty and responsibility to others before themselves, now being denied the ability to stand on his own feet or meaningfully contribute to family finances exaggerates existing mental health disorders, contributing to feelings of shame, worthlessness, and loss of dignity. Indignity and worthlessness are prime contributing factors leading to suicide. 'Mum has to Support Him' is not a pleasant thing to hear from stepchildren and creates tension.

"We shouldn't see people taking their lives.

We need to understand what the causes are.

We need to understand what can be done to make things better". Matt Keogh Veterans Minister 11.08.2022

### **In Brief**

Singled TPI Disabled Veterans are compensated for their losses with \$78,564 per annum. Married TPI Disabled Veterans whose wife has earnings or retirement superannuation are compensated for the very same losses with \$39,560 per annum. While Divorced TPI Disabled Veterans are compensated for their losses restored to \$78,564 per annum.

Our Nations politicians commit our Defence Members to War and Conflict in the name of the people of Australians so that they may live in peace and prosperity. The promise in Repatriation is that the financial burden of death and disability will be shared by those who benefit the peace and prosperity, all Australians so that that burden is not left with individual families to '*carry the can.*'

Australians deserve an explanation from the Commonwealth as to why it shirks its responsibility, avoids paying its debts, contributes to the rate of suicide and allows this harmful policy to remain after KPMG has exposed it.

### **Minister to reiterate my opening question.**

We write now to enquire of progress you have made since our meeting of the bringing an end to the withholding of payment compensating for War Caused Disability Losses incurred in service to the Australia People.

NB. We **do not** seek an increase in the current payments. We seek the removal of the discrimination of classifying our Compensation as Welfare

**s 47F** 22.09.2022

Disabled Veterans of Australia Network

PO Box 698

Applecross WA 6953

**s 47F**

**s 47F**

### **Sources**

[Summary of pension rates, limits, and allowances Department of Veterans' Affairs](#)

[Average Weekly Earnings Australian Bureau of Statistics](#)

[Simple tax calculator Australian Taxation Office](#).

[Rights and freedoms Australian Human Rights Commission](#) .

[Income test Department of Veterans' Affairs \(dva.gov.au\)](#) .

Michael Marmot Professor of Epidemiology at University College London, Status Syndrome: how your place on the social gradient directly affects your health (2004).

[The Facts About Women and Super - Women in Super](#) .

\*[KPMG Review of TPI Benefits 2019 \(dva.gov.au\)](#)

# VEA 1986 Compilation 6<sup>th</sup> August 2022. Division 4—Rates of pensions payable to veterans . 24 Special rate of pension (TPI Payment) (e) because the veteran is so prevented from undertaking his or her last paid work, the veteran is suffering a loss of salary or wages, or of earnings **on his or her own account**, that he or she would not be suffering if he or she were free from that incapacity.

A MAN WHO IS GOOD ENOUGH TO SHED HIS BLOOD FOR HIS COUNTRY IS GOOD ENOUGH TO BE GIVEN A FAIR DEAL AFTERWORDS

Theodore Roosevelt

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Email sent using Optus Webmail

**From:** **s 47F**  
**Sent:** Friday, 4 November 2022 10:31 AM  
**To:** PCCONSULTATION2022  
**Subject:** Consultation on Royal Commission Legislative Reform  
**Attachments:** Annexure\_1\_RSL\_Harmonisation.pdf

To whom it may concern

Please find attached feedback from RSL Australia regarding consultation on the Royal Commission into Defence and Veteran Suicide's recommendation for legislative reform.

For any questions, concerns, or follow up please do not hesitate to contact **s 47F** – Policy & Advocacy Officer  
RSL Australia – on **s 47F** or at **s 47F**

Please let me know if you need anything further from the organisation on this.

Kind regards  
**s 47F**



### **s 47F**

Policy & Advocacy Officer



**RSL NSW**

Suite 11.02, Level 11, 175 Pitt St Sydney NSW 2000



**s 47F**



Direct:

Office:

Mobile:



[www.rslnsw.org.au](http://www.rslnsw.org.au)



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11 November at 11am



# **RSL AUSTRALIA**

## **ROYAL COMMISSION INTO DEFENCE AND VETERAN SUICIDE**

HARMONISATION OF LEGISLATION

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## Introduction

1. The RSL strongly supports the need for harmonisation of veterans' entitlements legislation. Our experience in providing claims advocacy services for veterans means the organisation is very aware of the unintended consequences of the complex array of legislation administered by the Department of Veterans Affairs (DVA).
2. The RSL is equally aware that Ex-Service Organisations (ESOs) in the past have resisted any change to the legislation that could potentially have a negative effect on compensation outcomes. While this position has been taken with the best intentions (including by the RSL), there is overwhelming evidence something needs to change.
3. We must work together pragmatically to achieve an outcome that preserves benefits for veterans overall, but also achieves the goal of developing a simplified, 'user-friendly' system to provide timely assistance to those veterans in need.
4. The RSL urges the Government to involve ESOs in the consultation process to pursue this harmonisation. The RSL is keen to play a leading role in this.
5. The RSL supports the Royal Commission's call for the five recommendations made by the Productivity Commission to be given urgent attention.
6. Some of these recommendations require such complex legal consideration that we cannot provide the answers in this document – but we will provide our suggestions for the way forward. We will also provide our thoughts on 'quick fixes' that could be implemented quickly.
7. The RSL would also like to note that harmonisation of legislation must be the first step in a move towards greater harmonisation of the veterans' entitlements system. There is a need for a more holistic view towards reform of the system.

## Legislative reform and DVA policy

8. On 11 August 2022, the Royal Commission into Defence and Veteran Suicide handed down its Interim Report. Recommendation 1 of the report identified an urgent need for legislative reform of veteran compensation and rehabilitation processes.
9. The Royal Commission noted that Australia's veteran compensation and rehabilitation legislative system is so complicated that it adversely affects the mental health of some veterans.
10. In its Interim Report, the Royal Commission strongly recommended urgent action be taken by the Federal Government and DVA to simplify and harmonise the existing compensation and rehabilitation legislation.
11. The recommendation gave a date of 23 December 2022 for the Government and DVA to consider the way forward.
12. The recommendation states:

### **Royal Commission Recommendation 1: Simplify and harmonise veteran compensation and rehabilitation legislation**

The Australian Government should develop and implement legislation to simplify and harmonise the framework for veterans' compensation, rehabilitation, and other entitlements. To this end:

By no later than 23 December 2022, the Australian Government should:

- (a) accept or reject recommendations made by the Productivity Commission in its report, A Better Way to Support Veterans, that relate to reforming the legislative framework
- (b) if it rejects Productivity Commission recommendations 8.1, 8.4, 13.1, 14.1 and 19.1, adopt alternatives that will achieve similar or better levels of harmonisation and simplification of the legislative framework, and
- (c) identify and decide all other policy questions relevant to designing a harmonised and simplified legislative framework.

By no later than 22 December 2023, the Australian Government should complete drafting of the legislation.

By no later than early 2024, the Australian Government should present to the Parliament, and seek passage of, its Bill for the proposed framework.

If the legislation is passed, the Australian Government should, by no later than 1 July 2024, begin the process of implementing and transitioning to the new legislative framework.

If the legislation is passed, the Australian Government should ensure that, by no later than 1 July 2025, the new legislation has fully commenced and is fully operational. (This does not preclude setting later deadlines for any choices that might need to be made by veterans.)

The Australian Government should allocate to the Department of Veterans' Affairs (DVA), the Office of Parliamentary Counsel and other relevant agencies adequate resources to design, prepare, draft, and implement the proposed legislation within the timeframes above, and to administer the new legislation once it has commenced. The allocation of these resources to DVA should not be offset by reductions in other resourcing of DVA.

## Productivity Commission Findings – RSL Analysis

13. The Royal Commission's Recommendation 1 refers to five previous recommendations made in the Productivity Commission's 2019 report, *A Better Way to Support Veterans*. In the following section, the RSL will review these five recommendations, commenting on the Productivity Commission's proposals, and proposing possible actions for implementation.

### **Recommendation 8.1 - Harmonise the Initial Liability process**

- Making the heads of liability and the broader liability provisions identical under the *Veterans' Entitlements Act 1986* (VEA), the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) and the *Military Rehabilitation and Compensation Act 2004* (MRCA)
- Applying the Statements of Principles to all DRCA claims and making them binding, as under the MRCA and VEA

#### Comments

14. The RSL **agrees** with this recommendation.
15. The differences in heads of liability across the three Acts have been a source of confusion since DVA took over the administration of the SRCA (now DRCA) in 1999. This complexity and confusion were compounded with the introduction of the MRCA in 2004.
16. The current Statement of Principles (SOPs) should be retained and applied to DRCA liability claims. The SOPs have been applied as legislative instruments since their introduction in 1994, being used in the VEA decision making process since then. In 2004, the use of SOPs was extended to MRCA.
17. A review of the Repatriation Medical Authority and the Specialist Medical Review Council was conducted by Professor Dennis Pearce, Professor of Law, Australian National University and Professor D'Arcy Holman, Professor of Public Health, University of Western Australia in 1997. Their findings were released in 1998.
18. Professor Pearce concluded that the 1994 amendments to the Veterans' Entitlements Act (the VEA), which established the Repatriation Medical Authority (the RMA) and the Specialist Medical Review Council (the SMRC), had resulted in:
  - a more equitable system for the compensation of veterans
  - the system being more efficient and non-adversarial than previous
19. Improvements recommended by Professor Pearce addressed the following areas:
  - The transparency of RMA decision making
  - The basis upon which Statements of Principles (SOPs) are made
  - The quality and accessibility of SOPs
  - The basis upon which a formal review of a SOP can be sought
  - The functions of the SMRC

- The relationship between the Department and veterans
20. The RMA has regularly reviewed existing SOPs and included new SOPs where it is considered appropriate. The RMA also have an established process where reviews of SOPs can be requested.
21. The RSL agrees the SOPs have provided a more equitable and transparent process.
22. Under the existing process where SOPs are applied under the VEA and MRCA, but not under DRCA, any veteran who lodges a liability claim under DRCA and one of the other Acts can be confronted with confusing and often very frustrating outcomes. That is, a condition stemming from the same incident may be accepted under one Act, but not the other. This is an unnecessary complexity that should be removed as soon as possible.

#### **Recommendation 8.4 - Move MRCA to a single standard of proof**

'The Australian Government should remove the distinction between types of service when determining causality between a veteran's condition and their service under the *Military Rehabilitation and Compensation Act 2004* (MRCA). This should include:

- amending the MRCA to adopt the reasonable hypothesis Statement of Principles for all initial liability claims
- requesting that the Australian Law Reform Commission conduct a review into simplifying the legislation and moving to a single decision-making process for all MRCA claims, preferably based on the reasonable hypothesis process.'

#### Comments

23. The RSL **agrees in part** with this recommendation.
24. This recommendation was made only in relation to MRCA claims. The same standard of proof (Reasonable Hypothesis) should be applied across all current (or harmonised) Acts. To do otherwise would embed a further level of difference and confusion across the Acts.
25. The review of the Repatriation Medical Authority (the RMA) and the Specialist Medical Review Council (the SMRC) (referred to above) found that the Reasonable Hypothesis standard, as applied in the SOP factors, is a 'generous' decision-making process.
26. In the interests of simplification and consistency and in keeping with 'beneficial legislation' approach applied to veterans' benefits, the RSL urges that the one standard of proof be applied in relation to the application of SOPs across the three Acts.
27. Extending s196B(2) of the VEA to cover all service across all 'harmonised' Acts would not only simplify the decision process for both claimants and DVA delegates, but would also reduce the research burden on the Repatriation Medical Authority during their process of reviewing existing SOPs or creating new ones.

## **Recommendation 13.1 - Harmonise the DRCA with the MRCA**

The Australian Government should harmonise the compensation available through the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) with that available through the *Military Rehabilitation and Compensation Act 2004*. This should include harmonising the processes for assessing permanent impairment, incapacity, and benefits for dependants, as well as the range of allowances and supplements.

Existing recipients of DRCA permanent impairment compensation and benefits for dependants should not have their permanent impairment entitlements recalculated. Access to the Gold Card should not be extended to those eligible for benefits under the DRCA.

### **Comments**

28. The RSL **agrees in** part with this recommendation.
29. This will be an extraordinarily complex legal process, during which the possibility of limited negative consequences for some veterans needs to be carefully considered and weighed according to the overall benefit of simplifying the process.
30. The RSL agrees with the Productivity Commission's comment that existing recipients of DRCA permanent impairment compensation and benefits for dependants should not have their permanent impairment entitlements recalculated.
31. Harmonisation would need to commence from a point in time, with existing benefits of all Acts preserved. Changes should commence from a point in time and only apply to claims that are lodged after that date.
32. Appeals in relation to decisions made prior to the implementation date would need to be considered under the legislation which was applicable at the time of the primary decision.
33. While transitional legislation in relation to compensation offsetting would be very complex and would require careful legal consideration to ensure veterans were not disadvantaged, the general principle of not being compensated twice for the same incapacity should be retained.
34. The RSL recommends that:
  - The benefits of applying the Statement of Principles across both Acts for liability claims has been discussed above
  - There may be an occasional negative impact where a DRCA claimant could achieve a more beneficial outcome by obtaining the opinion of an independent medical expert when considering the causation of a condition
  - GARP M could be used to calculate Permanent Impairment under the VEA, MRCA and DRCA (or any harmonised legislation), rather than applying the current Permanent Impairment Guide for DRCA assessments
  - Adopting a similar methodology for assessing permanent impairment payments would achieve consistency and clarity, however, the detrimental effects on DRCA assessments would have to be carefully considered

- The current application of *Canute v Comcare (2006) HCA47*: [discrete injuries to be assessed separately] and *Fellowes v Military Rehabilitation and Compensation Commission (2009) HCA 39* : [separate injuries resulting in separate impairments are assessed separately, even when under the same table in the Approved Guide] means that DRCA can be significantly more beneficial with regard to compensation payments
  - DRCA and MRCA Incapacity Payments should be aligned with the MRCA provisions. There is existing alignment between DRCA and MRCA Incapacity payments, rehabilitation, and other benefits
  - Access to Education Benefits for eligible children of veterans whose current entitlement is under DRCA should be extended. The RSL notes the Productivity Commission's recommendation that education benefits provided by DVA should cease at age 16. This is a practical approach to a situation, where similar benefits are provided under other jurisdictions
  - Similarly, the widows of DRCA veterans whose death is accepted as service related should be entitled to War Widow benefits, with the option to choose a pension or a lump sum payment
  - Adopting a 'Streamline Conditions' approach across claims for identified conditions across claims which are now considered under MRCA.
  - Adopting the same appeals process for DRCA appellants as is currently available to VEA and MRCA appellants. The benefits of the current VRB dispute resolution processes have been clearly demonstrated and is superior to the adversarial approach taken in relation to DRCA appeals to the AAT
35. The RSL **does not agree** with the Productivity Commission's recommended that access to the Gold Card should not be extended to current DRCA veterans. To achieve harmonisation, any new legislation should ensure all categories of veterans are treated equally in relation to all aspects of benefit entitlements.
36. It is inevitable that further differences between the Acts will be identified as work towards harmonisation progresses.
37. The RSL urges DVA to include the ESOs in workshops where these legal issues are being considered.

### **Recommendation 14.1 - A single rate of permanent impairment compensation**

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the requirement that veterans with impairments relating to warlike and non-warlike service receive different rates of permanent impairment compensation from those with peacetime service.

The Department of Veterans' Affairs should amend tables 23.1 and 23.2 of the Guide to Determining Impairment and Compensation to specify one rate of compensation to apply to veterans with warlike, non-warlike and peacetime service. This should be achieved via a transition path, with the compensation factors merging to a single rate over the course of about 10 years.

Prior to setting the single rate the Australian Government will need to balance the lifetime fiscal implications of the change with the benefits needed by veterans, as well as the transitional arrangements that will be necessary to implement a single rate.

#### **Comments**

38. The RSL **agrees** with this recommendation.
39. When MRCA was introduced, there was considerable discussion about the merits of having two-tiered compensation levels, determined by the type of service being experienced by the veteran when the incident or accident occurred.
40. This approach is inconsistent with both the VEA and DRCA. The reasoning behind the two-tiered approach is understood, but in the interests of simplicity and consistency, the Productivity Commission recommendation should be considered.

## **Recommendation 19.1 – Two schemes for veteran support**

The Australian Government should create two schemes for veteran support – the current *Veterans' Entitlements Act 1986* (VEA) with some modifications ('scheme 1') and a modified *Military Rehabilitation and Compensation Act 2004* (MRCA) that incorporates the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) ('scheme 2'). *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) ('scheme 2').

### **Comments**

41. The RSL **agrees** with this recommendation.
42. The suggestions made by the Productivity Commission are complex and will be difficult to legislate. However, reducing and simplifying existing processes, with a view to eventually phasing out the VEA and working solely under a harmonised MRCA/DRCA system, has merit.
43. As with previous comments, the RSL urges the Government to consult widely with ESOs before proceeding with this change.

## Quick Wins

44. Further recommendation made by the Productivity Commission should be considered for ‘quick wins’ that can each make an immediate impact.
45. There should be significant benefit in removing or consolidating some of the Allowances which are inconsistent across the Acts.
46. The RSL holds the view that all the recommendations listed below should receive prompt consideration. If these issues are resolved, it will make the overall process of harmonising the Acts less complex.

### **Recommendation 15.3 - Consolidate supplements into underlying payments**

To help simplify the system, smaller payments should be consolidated where possible or removed where there is no clear rationale for them.

The Australian Government should remove the DRCA Supplement, MRCA Supplement and Veteran Supplement, and increase clients’ payments by an amount equivalent to the removed supplement.

The Australian Government should remove the Energy Supplement attached to Department of Veterans’ Affairs’ impairment compensation, but other payments should remain consistent with broader Energy Supplement eligibility.

### **Recommendation 15.4 - Remove and pay out smaller payments**

To streamline and simplify outdated payments made to only a few clients, they should be paid out and removed. The Australian Government should amend the *Veterans’ Entitlements Act 1986* to remove the recreation transport allowance, the clothing allowance and the decoration allowance and pay out those currently receiving the allowances with an age adjusted lump sum.

### **Recommendation 15.5 - Harmonise attendant and household services**

The Australian Government should amend the *Veterans’ Entitlements Act 1986* (VEA) to remove the attendant allowance and provide the same household and attendant services that are available under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

Current recipients of the VEA allowance should be automatically put on the same rate under the new attendant services program. Any further changes or claims would follow the same needs-based assessment and review as under the MRCA.

### **Recommendation 15.6 - Harmonise vehicle assistance**

The Australian Government should amend the *Veterans’ Entitlements Act 1986* Vehicle Assistance Scheme and section 39(1)(d) (the relevant vehicle modification section) in the Safety, Rehabilitation and Compensation (Defence related Claims) Act 1988 so that they reflect the *Military Rehabilitation and Compensation Act 2004* Motor Vehicle Compensation Scheme.

## Further Consideration

47. The Productivity Commission asked the question, 'Is access to compensation benefits fair and timely? In particular, are there challenges associated with the requirements in the MRCA and DRCA that impairments be permanent and stable to receive permanent impairment compensation? How could these provisions be improved?'<sup>1</sup>

### Comments

48. There is no doubt that the 'permanent and stable' component of Permanent Impairment (PI) causes significant concern for some veterans. The Veterans Payment has gone some way towards addressing this problem.
49. However, there are considerable ongoing issues regarding the assessment and payment of an interim permanent impairment amount pending the 'stabilisation' of an accepted condition.
50. The RSL believes consideration should be given to DVA adopting a new approach to Permanent Impairment, where a fortnightly pension is to be paid until the condition stabilises, at which stage the veteran is offered the option of a lump sum payment. The level of impairment should be assessed at an early stage and a pension paid to reflect that level of impairment.
51. This will ameliorate the significant cash-flow issues faced by veterans whose medical condition is such that they cannot work.
52. The veteran should be required to undertake reasonable medical treatment and rehabilitation. Once the condition had stabilised, a lump sum payment according to the stabilised impairment assessment could be offered.
53. DVA has previously opined that this process could be a disincentive for veterans to undertake rehabilitation. This view is not held by the RSL as:
- An early assessment of impairment would provide an acknowledgement of the severity of the condition and would pay fortnightly compensation accordingly
  - The level of impairment caused by the condition, and the success or otherwise of the treatment provided, could be regularly reviewed and the pension payment level reduced accordingly
  - Experience shows veterans entitled to MRCA permanent impairment payments overwhelmingly opt to receive a lump sum payment in preference to a fortnightly pension. This approach would be regarded as an incentive, rather than a disincentive to undertake rehabilitation
  - This approach is simpler than the existing poorly understood process of trying to make a realistic interim assessment, providing DVA with an excellent opportunity to examine the success of the rehabilitation program

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<sup>1</sup> Productivity Commission Issues Paper May 2018, page 16

## Conclusion

54. It is clear to anyone with any experience of Australia's veterans' entitlements legislation that there is a need for reform. But this will not be simple or without controversy.
55. Indeed, all the recommendations listed above are potentially contentious for various reasons.
56. Despite these challenges, the RSL believes there are significant long-term benefits to an approach that reduces the current complexities in dealing with multiple Acts.
57. Geopolitical uncertainty and the potential expansion of conflict or the role of the ADF in the coming years is uncertain. What is clear is that a repatriation system that is simple and responsive must be supported and developed as soon as possible.
58. The RSL looks forward to being a leader among the ESO community in having input into reviewing a process which has clearly been shown to be broken and in need of urgent repair.
59. Ex-service organisations should play a major part in this discussion and the Government also needs to refine its consultation process with these organisations to ensure they are being provided with a balanced majority view.
60. The harmonisation of legislation is the first step in the process towards a simplified, non-adversarial veterans' entitlements system. Areas of consideration for further reform include:
  - a positive set of conditions of service (COS) for the life of a Veteran
  - no prejudice based on class of veteran and/or service personnel
  - simple, yet robust, legislation
  - the implementation of enforceable performance metrics system-wide
  - a focus on quality of rehabilitation
  - the importance of the veterans' entitlements system to transition processes
  - the provision of face-to-face management of veteran health, where appropriate
  - consideration of which organisation provides related health services

**From:** [xxxxxxxx@xxxx.xxx.xx](mailto:xxxxxxxx@xxxx.xxx.xx)  
**To:** [PCCONSULTATION2022](#)  
**Cc:** [VVAA National Secretary](#)  
**Subject:** Feedback on Veterans" Legislative Reform  
**Date:** Wednesday, 9 November 2022 11:01:03 PM  
**Attachments:** [Comments to DVA on Recommendation 1 of the RCDVS 12 nov 2022.docx](#)

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The VVAA comments on recommendation 1 of the RC Interim report and in response to the Minister Keogh's Media release of 17 October 2022 is attached.

**s 47F**

National President

VVAA Inc

# ® VIETNAM VETERANS ASSOCIATION OF AUSTRALIA INC.

ABN 19 068 073 450



NATIONAL PATRON RADM Neil Ralph AO DSC RAN

## RESIDENT

**S 47F**

PO Box 56  
Mosman Park, WA, 6912  
Mobile: **S 47F**  
Email: **S 47F**

## NATIONAL SECRETARY

**S 47F**

5 Bisdee Street  
South Arm Tasmania 7022  
Mobile: **S 47F**  
Email: **S 47F**

Website: <http://www.vvaa.org.au>

## VVAA Comments on Recommendation 1 of the Royal Commission into Defence and Veteran Suicide in Response to Minister Keogh's Media Release dated 17 October 2022

We are of the view that meaningful simplification of the legislation for veterans' compensation is unlikely to occur without a prior and clear statement by the Government of its vision and long-term intentions and policies on this matter. Words such as "simplify" and "harmonise" will NOT be an adequate policy base for change without a clear statement as to what the government, and the Parliament, are prepared to do to compensate veterans for illnesses and injuries received in Defence Service.

The focus of legislation should be upon compensation, including the support of families of deceased veterans, and ongoing health care. Rehabilitation should be provided for in legislation but only as a function of medical support provided by the Department of Defence or the Department of Veterans' Affairs, and not intertwined with the payment of compensation.

Any changes to legislation need to be suitable for situations up to and including a defence emergency, (including an expansion of the Australian Defence Force) and a commitment of the ADF to combat operations, as compared to the introduction of compensation legislation to cover a specific defence emergency or combat conditions at the time of that emergency (as has occurred in the past).

The VVAA maintains that the legislation must recognize that there is a difference between the circumstances under which ADF members serve and suffer illnesses, injuries and/or wounds in peacetime as compared to when deployed on combat operations. The mere payment of in-theatre higher allowances or other financial benefits does NOT compensate for the additional trauma experienced and received under combat conditions.

Combat experience will generally leave individuals with latent future difficulties, especially in respect to mental health. The legislation should not only recognise that all who serve in the ADF are "veterans of the ADF" but that some are described as "combat veterans" or similar. This is an important mental health support, ignored currently by the Government.

The VVAA considers that there is a case to harmonise and simplify the provisions of DRCA and MRCA but considers that it is unlikely that Recommendation 1(3) of the Interim Report of the RVDS will be achieved in the time frame proposed.



"Honour the dead - but fight like hell for the living"

The VVAA urges the government to act with caution in respect to any changes proposed to the Veterans' Entitlements Act and seeks comprehensive consultation on any proposed changes to that Act.

The Interim Report of the Royal Commission implicitly recommends the adoption of Recommendation 19.1 of the Report of the Productivity Commission. This recommendation refers to two future schemes, Scheme 1 being based upon "*the current VEA with some modifications*". The VVAA is unaware of what modifications to the VEA are being proposed by either the government or DVA and looks forward to detailed advice being received on that matter.

**S 47F**

**s 47F**

National President  
Vietnam Veterans' Association of Australia Inc.  
14 November 2022

**From:** Peter McDonald <xxxxxxxx@xxxxx.xxx>  
**Sent:** Friday, 11 November 2022 2:40 PM  
**To:** PCCONSULTATION2022  
**Subject:** Consultation on Veterans' Legislation Simplification and Harmonisation  
**Attachments:** Consultation on Veterans Legislation Reform.docx

I refer to your call for feedback and submissions on this matter.

Attached please find a response prepared on behalf of our organisation. My contact details are included.

Regards

P McD  
Peter McDonald  
**National Secretary/Treasurer**  
**United Nations & Overseas Policing Association of Australia (UNOPAA)**  
[28A Dinah Parade, Keilor East, Victoria 3033](#)  
Phone: (home) 03 9337 4736 (mobile) 0418 131 352  
E-Mail: [vp14970@gmail.com](mailto:vp14970@gmail.com)



11 November 2022

## Submission - Veterans' Legislation Simplification and Harmonisation

### Purpose

This submission is made on behalf of the United Nations & Overseas Policing Association of Australia (UNOPAA) in response to the Government Call for Feedback on Veterans' Legislative reform, announced by the Minister for Veterans' Affairs on 17 October 2022 and published on the Department of Veterans' Affairs (DVA) website.

Our response is not exhaustive but made in the limited time made available for submissions. We would welcome further discussion on the issues we are raising.

### Background

UNOPAA is an Australia-wide, incorporated non -profit organisation whose membership includes serving, retired and former police officers from police forces across Australia who have served overseas with the United Nations and on other Australian peacekeeping/capacity building missions since 1964. Our members also include the widows and relatives of those members.

Persons who have served as members of Australian peacekeeping forces are included in the *Veterans Entitlement Act 1986* (VEA), and have an entitlement for full or part disability pensions and access to treatment for any injury or disease that is accepted as being caused by peacekeeping service (*Parts IV and V of the VEA*). Gold and White Cards can be applied for on this basis, as well as non-liability health care for malignant neoplasia (cancer) and pulmonary tuberculosis, and for mental health conditions under a determination made under section 88A.

Eligible peacekeeping service is listed in Schedule 3 of the VEA and has been extended by Ministerial determination, the last for service in 2006. These missions have now concluded and no Australian police are currently serving as UN peacekeepers overseas. However, Australian police have also been deployed in the past to peacekeeping in Somalia, and to order maintenance, capacity building and training roles in locations such as Bougainville, Papua New Guinea, Jordan, Pakistan and Afghanistan. These missions are not included in the VEA.

No other legislation, apart from the VEA, specifically addresses the service of Australian police as overseas peacekeepers. They were intentionally excluded from the *Military Rehabilitation and Compensation Act 2004* (MRCA), when it was enacted, on the understanding that their needs and requirements would be separately addressed. This has not occurred, leading to a number of anomalies of concern to us.

In short, this centres around equity. Australian Defence Force personnel who served in certain operational areas overseas have entitlements to treatment, to which police peacekeepers who served in the same theatres and at the same time do not. And the list of peacekeeping missions in Schedule 3 needs to be updated.

### **Productivity Commission Inquiry & Report**

In February 2019, we made a submission and gave evidence to the Productivity Inquiry Into Compensation and Rehabilitation for Veterans under the theme “What About Us?”. This highlighted the different treatment of police peacekeepers in comparison to members of the ADF, and put forward a number of proposals for change.

In its final report, “A Better Way to Support Veterans”, the Productivity Commission found that the current system was complex, inconsistent, inequitable and difficult to navigate – and made a strong case that it be simplified and harmonised across all three applicable Acts (the VEA, the MRCA, and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA)).

### **Our Issues**

The consultation being undertaken by DVA, in our view, does not adequately address the inconsistency and inequity of the VEA. Limiting its scope to the formal recommendations made by the Productivity Commission will resolve some mainly ADF issues, but is a missed opportunity for reform.

The VEA is complex. It uses a range of different definitions for similar service and legal gymnastics to achieve an aim. For example, any injuries or illnesses suffered as a member of a Peacekeeping Force (our major area of interest) are deemed to be “war-caused” under the treatment provisions, but not to have occurred in an operational area or during warlike service. As a result, military who have reached 70 years of age are eligible for Gold Cards for treatment for all injuries or diseases, but our members are not. In addition, Australian police service in warlike conditions, such as the Turkish occupation of Cyprus in 1974, is not regarded as such as it did not involve the ADF.

While the emphasis on ADF service in the three Acts is understandable, given their primary purpose, cleaning up the VEA would greatly assist its administration and not be costly to implement. In our view, it is a priority before the Productivity Commission recommendation for a two-scheme system is implemented.

### **Specific Comments**

Our specific comments on the recommendations are as follows:

#### **8.1 Harmonise the initial liability process**

Supported, noting there will be a cost involved. The change will mean that all ADF claims are assessed the same, irrespective of whether they occurred in Australia or during overseas service. Lowering the barrier is likely to result in more claims being accepted, and the distinction between service in operational and non-operational areas removed.

## **8.2 Abolish the Specialist Medical Review Council (SMRC)**

Supported, as it should provide greater flexibility in the engagement of specialist advice when Statements of Principles decisions are reviewed.

## **8.3 Move the MRCA to a Single Standard of Proof**

Supported. See also our comments under 8.1

## **10.2 Single Review Pathway**

Supported, subject to any DVA internal reconsideration of decisions being subject to time limits and the Veterans' Review Board being appropriately resourced and empowered for its modified role.

## **10.4 Review of Ongoing Role of Veterans' Review Board**

Supported. This should be required after a set period.

## **13.1 Harmonise the DRCA with the MRCA**

This falls outside our remit, as police peacekeepers are not included in either Act.

## **13.2 – 13.4 Administration of Invalidity Payments**

Again, these recommendations mainly relate to the ADF

## **14.1 – 14.10 Compensation for an Impairment**

Again, related to the MRCA and the ADF

## **15.2 – 15.6 Simplifying Additional Payments**

Supported, providing existing recipients are not disadvantaged.

## **19.1 Two Schemes for Veterans Support**

This is the most complex recommendation, as it involves the closure of the VEA to new applicants (except peacekeepers) and the transition of claimants, except those with current or accepted claims, to a modified MRCA . Veterans under 55 currently covered by the VEA could also choose to move to the MRCA.

As we have stated, we believe the VEA should be greatly simplified during this process. Careful consideration should also be given to any other (non ADF) groups, in addition to police peacekeepers, who might be affected by the move to two schemes - such as WW2 mariners, military personnel from other Commonwealth countries or others not fitting within the ambit of the DRCA or the MRCA.

We would also point out the statement by the Productivity Commission at page 831 of their final report:

*"Veterans without a current or accepted claim at the implementation date should be covered under scheme 2 going forward. This would speed up the transition towards scheme 2. There would be one exception to this. As noted by the United Nations and Overseas Policing Association of Australia, police peacekeepers have access under the VEA but not under the MRCA or the DRCA. That means police peacekeepers who have not yet made a claim would retain their eligibility to make a claim under the VEA if they were previously eligible to do so."*

### **In Conclusion**

We look forward to further contact as the consultation continues, including discussion on the matters we have raised.

Prepared by:

**Peter McDonald**

National Secretary/Treasurer

**United Nations & Overseas Policing Association of Australia Inc. (UNOPAA)**

phone: (03) 9337 4736 | mobile: 0418 131 352

email: [vp14970@gmail.com](mailto:vp14970@gmail.com)

address: 28A Dinah Parade, Keilor East. Vic. 3033

s 22 - Out of scope

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**From:** **s 47E; s 47F** milie on behalf of DLO  
**Sent:** Monday, 7 November 2022 1:55 PM  
**To:** MCU  
**Cc:** Pettitt, Liane; **s 47E; s 47F** Magda; **s 47E; s 47F** Clare  
**Subject:** FW: For appro ion **s 47F** - Maroochy RSL feedback on the legislative reform for Royal Commission [SEC=OFFICIAL]  
**Attachments:** Letter to The Hon Matt Keogh MP 07.11.22.pdf

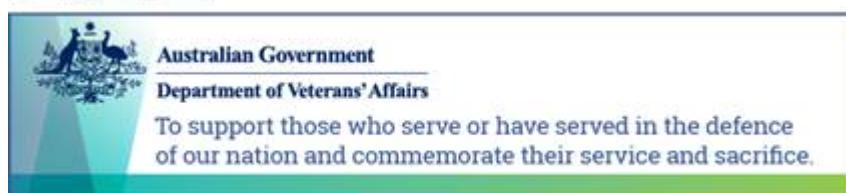
**Categories:** **s 47E; s 47F**

Hi MCU

For appropriate action.

Kind regards

**s 47E; s 47F**  
**Emilie** Ministerial Support Officer  
Ministerial & Parliamentary Section | Parliamentary & Governance  
Department of Veterans' Affairs  
Tel **s 47E; s 47F**  
Emilie **s 47E; s 47F** @dva.gov.au  
[www.dva.gov.au](http://www.dva.gov.au)



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**From:** Keogh, Matt (MP)  
**Sent:** Monday, 7 November 2022 12:19 PM  
**To:** DLO  
**Subject:** For appropriate action - **s 47F** Maroochy RSL feedback on the legislative reform for Royal Commission

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**From:** **s 47F**  
**Sent:** Monday, 7 November 2022 9:16 AM  
**To:** [xxxxxxxxxxxxxxxxxxxx@xxx.xxx.xx](mailto:xxxxxxxxxxxxxxxxxxxx@xxx.xxx.xx); Keogh, Matt (MP) <[Matt.Keogh.xx@xxx.xxx.xx](mailto:Matt.Keogh.xx@xxx.xxx.xx)>  
**Cc:** **s 47F** Marles, Richard  
(MP) <[Richard.Marles.MP@aph.gov.au](mailto:Richard.Marles.MP@aph.gov.au)>  
**Subject:** Letter from Maroochy RSL - Presiden **s 47F**

Dear Sir/Madam,

Please find attached correspondence from Maroochy RSL President **s 47F**, with reference to the requested feedback that Maroochy RSL have on the legislative reform.

Kind regards,

**s 47F**

**s 47F**

Executive Assistant to CEO

**s 47F**

105 Memorial Avenue  
Maroochydore Q 4558  
PO Box 5824  
Maroochydore BC Q 4558

[maroochyrl.com.au](http://maroochyrl.com.au)



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4 November 2022

The Hon Matt Keogh MP  
Minister for Veterans' Affairs

Email: [PCConsultation2022@dva.gov.au](mailto:PCConsultation2022@dva.gov.au);  
[Matt.Keogh.MP@aph.gov.au](mailto:Matt.Keogh.MP@aph.gov.au)

Dear Minister Keogh

In response to your request for feedback on the legislative reform after the Australian Government agreed to Recommendation 1 of the Royal Commission into Defence and Veteran Suicide Interim Report, on behalf of Maroochy RSL, a leading veteran support organisation based on the Sunshine Coast in Queensland, we wish to submit the following feedback.

Maroochy RSL as a not-for-profit charity is heavily invested in providing advocacy services to returned service men and women seeking compensation from the Department of Veteran Affairs (DVA) for service-related conditions.

For many years we have witnessed the distress and degradation of our ex-service personnel due to the ongoing wait times caused by DVA processing issues. At our veteran support centre here in Maroochydore, Sunshine Coast we see the day-to-day anguish of Sunshine Coast veterans and their families caused by delays in cases being processed and progressed. We are privy to constant feedback that many veterans young and old feel their lives are on hold pending an outcome of the DVA hearings. As you would appreciate this sense of despair and hopelessness leads to further complications with mental, physical and emotional health, often with dire consequences.

We at Maroochy RSL's veteran support centre provide support and coping mechanisms where possible to these veterans however it is not sustainable for their future recovery and ability to re-enter society in a positive, productive way. The support we offer is one small part in a larger picture of what these veterans need to move on with their lives with the appropriate planks in place to function and flourish within our communities.

In a sense, this limbo means they are in standby, waiting for DVA to process and approve or decline their claims for any type of support be it financial or medical before they feel confidently able to live a full and fulfilled life.

As you would appreciate this is not only affecting the individual, family members also suffer which in turn ripples into society. We see this often, veterans' family members seeking support or counselling on how to address the issues, all in the quest to lead a quality life. This also impacts our Advocates, working on behalf of the veterans and assisting with their claim application.

These volunteer Advocates are constantly hindered by a less than satisfactory system when delegates are largely working from home, with no access to client files and no clear purview of

the applicant's circumstance. This current work from home model draws out the process further, extending already stretched claim times with wait times of in excess of two years having to be explained to veterans who in many cases are experiencing trauma.

Advocates liaise with veterans and attempt to appease them however with wait times pre covid sitting around 3 months for a result, now extending out to eighteen months or two years, Advocates are dismayed and unable to provide little or no comfort to their veteran clients from DVA.

Further to this, the lack of a clearly defined process within the DVA claims system, the lack of skilled delegates at DVA able to make decisions and the ongoing frustration that this broken system is causing amongst advocates is concerning. Our Advocates including a highly skilled Level 4 Compensation Advocate working for over 25 years in this space, including as a Training and Assessor for the Advocacy Training & Developing Program (ADTP) training compensation and wellbeing Advocates throughout Australia, are despondent and are stating that 'they have never seen it (the DVA claims process) this bad' or 'it's incurable'. The situation is dire. It is only the sheer will of these Advocates and their commitment to veterans that motivates them to persist with a system that is cumbersome at every turn.

In terms of solutions, to reference point 1a) of the recommendation and firmly recommend to government to accept recommendations from the 2019 Productivity Report (*A Better Way to Support Veterans*), we strongly recommend that the recommendation contained within therein be accepted and legislated as soon as possible for the following reasons.

The 2019 Productivity Commission Inquiry Report has described current legislation as 'not fit for purpose' and we wholeheartedly concur. While the Commission has not quantified the benefits of its reform, they are likely to be significant and across multiple domains, including:

- Better lives or wellbeing gains, improved work health and safety and injury prevention;
- Improved and more continuous rehabilitation and transition supports ensuring veterans and their families are better equipped for the challenges of transition;
- A simpler, fairer and more accessible system of compensation;
- More consistent assessment of claims easing pressures for claimants;
- A quicker and simpler review process;
- A better evidence base to inform the design and delivery of services, programs and policies which should lead to improved outcomes for clients.

There will also be efficiency gains from the proposed changes including those that place a greater focus on accountability and lifetime costs of support while reducing duplication. This translates into increased economic and social participation of veterans and reduced use of income support. The report focuses on finding ways to achieve better outcomes for veterans.

These gains are at the heart of the work done by Maroochy RSL Volunteer Advocates at our support centre. A dedicated team that works tirelessly to assist veterans from around the Sunshine Coast and further afar with their claims.

Therefore, we hope that the common sense and practical recommendations made in the 2019 Productivity Report (*A Better Way to Support Veterans*), are accepted and enacted as a matter of urgency. If not, we face a potential mass exodus of highly skilled and highly qualified Advocates

walking away from this ever-increasing need in our society that is only going to worsen in the years ahead.

We await your feedback and anticipate swift action for the betterment of all involved.

Yours sincerely

MAROOCHY RSL

**S 47F**

**s 47F**

OAM

**President**

Cc The Hon Richard Marles MP, Deputy Prime Minister, Minister for Defence –

[Richard.Marles.MP@aph.gov.au](mailto:Richard.Marles.MP@aph.gov.au)

Maroochy RSL

T 07 5443 2211 | F 07 5443 8105 | E [maroochy@maroochyrsl.com.au](mailto:maroochy@maroochyrsl.com.au) | Memorial Avenue, Maroochydore QLD 4558 | PO Box 5824, Maroochydore BC QLD 4558

RSL House

T 07 5443 1719 | F 07 5443 7551 | E [rslhouse@maroochyrsl.com.au](mailto:rslhouse@maroochyrsl.com.au) | PO Box 615, Cotton Tree QLD 4558

Returned & Services League of Australia (Queensland Branch) Maroochydore Sub Branch Incorporated

ABN 24 413 646 602

**From:** **s 47F**  
**Sent:** Monday, 14 November 2022 4:44 PM  
**To:** PCCONSULTATION2022  
**Subject:** Recommendation 1 of the Royal Commission into Defence and Veteran Suicide  
**Attachments:** DRA Letter to Minister-Veterans' Legislation.docx; ATT00001.htm

Please find attached the submission by the Defence Reserves Association. The submission has also been sent to the Minister.

Regards

**s 47F**  
President Defence Reserves Association (DRA)

**s 47F**



**Defence Reserves  
Association**

**s 47F**

Telephone **s 47F**  
Mobile  
E-mail: **s 47F**

13 November 2022

**The Hon. Matt Keogh, MP**  
Minister for Defence Personnel  
Minister for Veterans' Affairs  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Minister

Thank you for the opportunity to provide feedback on the Government's response to Recommendation 1 of the Interim Report by the Royal Commission into Defence and Veteran Suicide.

The Defence Reserves Association (DRA) congratulates the Government for agreeing to "develop a pathway for simplification and harmonisation of veteran compensation and rehabilitation legislation on the basis of this recommendation".

The DRA considers that this pathway could provide a once in a generation opportunity to create a simple veteran compensation and rehabilitation system that complements and supports the unique nature of ADF service.

The DRA strongly supports the underlying logic in the Productivity Commission Report – "A Better Way to Support Veterans" that any compensation and rehabilitation system should focus on how to rehabilitate the ADF member who is wounded or injured so that they can continue to make a significant contribution to the Australian society.

Further, the DRA argues that it should not matter whether a soldier falls off a truck in Kandahar on operations and suffers a serious back injury or falls off a truck at Puckapunyal and suffers a similar back injury. The treatment and rehabilitation should be the same. ADF personnel on operations receive other benefits for their operational service, such as allowances, tax free pay, and campaign and bravery medals.

The DRA contends that this primary position - all veterans should be treated the same - should be the foundation of any new legislation covering the

rehabilitation of veterans. In saying this, the DRA understands that this position may not be supported by some Ex-Service Organisations (ESOs) and/or by DVA.

In this regard, I bring to the attention of the Minister a recent book by Karen Page titled “My Broken Soldier – the Untold story of life beyond the front line” concerning the significant difficulties that her husband, CPL Matthew Page experienced with Army and DVA after suffering a significant injury in a training accident at Puckapunyal. CPL Page had previous operational service in Iraq and Afghanistan.

The DRA also contends that any new legislation should focus on rehabilitation rather than financial compensation. It should only be in extreme circumstances that financial compensation should be paid where an injured/wounded ADF member cannot be satisfactorily rehabilitated. Again, the DRA understands that this position may not be supported by all ESOs.

The DRA notes that the Government in its response to Recommendation 1 of the Royal Commission Interim Report stated that “funding will be considered in the context of budget processes and fiscal constraints.” The matter of additional funding associated with any new legislation was raised by DVA at the last ESORT meeting.

A new simpler, easier to navigate rehabilitation system for veterans, with a consistent and beneficial standard of proof should lead to a substantial reduction in the time taken to process claims which in turn should lead to a significant reduction of processing staff. The savings made in reducing DVA processing staff should be used to fund in part or in whole any new legislative system.

Finally, the DRA considers that the most effective way to achieve a new harmonised legislative instrument in a timely way would be to entrust this process to an agency with an objective position, such as the Attorney-General’s Department, albeit with appropriate subject matter expert advice from a panel including DVA, Defence, and experienced compensation and wellbeing advocates from the ESO sector.

Yours faithfully

**s 47F**

National President

15 November 2022

Mr Matt Keogh MP  
Minister for Veterans Affairs and Defence Personnel  
Parliament House  
**Canberra ACT 2600**  
Via email: [minister@dva.gov.au](mailto:minister@dva.gov.au)

Dear Minister Keogh

**Re: Simplify and Harmonise Veteran Compensation and Rehabilitation Legislation**

The Royal Commission into Defence and Veteran Suicide Interim Report made 13 recommendations to Government in August 2022. Recommendation 1 (Rec 1) which was agreed by government, was to simplify and harmonise veteran compensation and rehabilitation legislation which currently comprises three Acts; the Veterans Entitlement Act 1986 (VEA), the Safety Rehabilitation and Compensation Act (Defence-related Claims) Act 1988 (DRCA) and the Military Rehabilitation and Compensation Act 2004 (MRCA). This recommendation was considered at the Annual Legacy Advocacy Forum held in Canberra in October 2022 and an agreed position was decided.

Ideally the reduction to one Act would simplify the situation and should be pursued in the long term but would be a long and slow process; in the interim, a recommendation of a reduction to two Acts was forth coming. In coming to this conclusion the benefits of the three Acts for our Legacy beneficiaries were considered and compared, bearing in mind that the MRCA was effectively a combination of the better aspects of the DRCA and the VEA and used for warlike, non-warlike and peacetime service, and applied the Statement of Principles (SOPs) to all situations with two levels of proof between peacetime and operational service. The application of SOPs is considered to be a major advantage between the VEA and MRCA compared to the DRCA. Additionally, by combining the DRCA with the MRCA Legacy beneficiaries would be entitled to a broader range of benefits but would also suffer fewer restrictions.



The outcome was that the VEA and the MRCA should be maintained and that the MRCA be amended to become the Administrative Authority for the DRCA. **This solution is recommended as the interim position for Legacy Australia Inc.**

The consensus was also to retain the two levels of proof of reasonable hypothesis and balance of probabilities. It was noted that when the VEA was introduced in 1986 it totally replaced the Repatriation Act 1920 as amended.

Yours sincerely

**s 47F**

**s 47F**

**Chief Executive Officer**