



Ms Sabina Wynn
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Dear Ms Wynn

Submission in response to Issues Paper:
Grey Areas – Age Barriers to Work in Commonwealth Laws

Please find attached a submission from the Department of Veterans' Affairs (DVA) in response to the Issues Paper released on 1 May 2012 as part of the ALRC's Inquiry – Age Barriers to Work in Commonwealth Laws.

I am disappointed that the Department was not consulted on veteran specific proposals prior to the release of the Issues Paper. As reflected in the Department's submission, the intention to consider raising the eligibility age for the service pension has already caused some concern in the veteran community and advice prior to the release of the Issues Paper would have enabled the Department to anticipate and prepare for the reaction of both ex-service organisations and concerned individuals.

Future policy settings that may arise from this Inquiry around the pace of withdrawal from the workforce will need to recognise the unique employment conditions in the military and the longer term health effects of multiple deployments. A further consideration is the potential impact on the capacity of the Australian Defence Force to retain the skills and experience of its highly trained people. I understand the Department has provided contact details for ComSuper and the Department of Defence to assist the Commission in exploring these aspects.

I am advised that representatives of the Department met with Dr Julie MacKenzie and her colleagues on 29 June 2012 to discuss the Issues Paper. I trust that that this has provided the Commission with a clearer understanding of the Department's views on the potential impact for the veteran community of proposals in the Issues Paper. The enclosed submission includes information sought by the Commission during that meeting.

Yours sincerely,

Ian Campbell
Secretary

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Submission in Response to the Australian Law Reform Commission Issues Paper – Grey Areas - Age Barriers to Work in Commonwealth Laws

Overall Comments

While there is an understanding of the broad scope of the Issues Paper in considering the legislative barriers which may prevent older people from continuing to participate in the workforce, this submission is limited to comments on the potential impact of proposals within the Issues Paper for the veteran community.

Age Service Pension

Since 1914 and the introduction of the *War Pensions Bill 1914*, Australian governments of all political persuasions have made it a high priority to provide compensation and related support to veterans and their dependants. The repatriation system, established at that time in response to a strong sense of national obligation to those who served in World War I, remains a unique instrument of public administration, providing economic support, rehabilitation, education and medical treatment for eligible veterans, their dependants and their carers.

The Department of Veterans' Affairs expended \$12.4 billion in the 2010 – 11 financial year to provide benefits to approximately 350,000 entitled veterans and their dependants, which is about 1% of the total Australian population. This includes the payment of the age service pension to over 160,000 recipients.

The service pension was introduced in response to concerns expressed in the early 1930s that war service must be presumed to be the cause of premature ageing in returned servicemen. This was referred to as the 'burnt out digger' concept and was supported by calculations by the Commonwealth Statistician, based on the 1933 Census data, which showed a comparatively higher mortality amongst returned soldiers since discharge, compared to males of the same age from the general community. In recognition of the negative impacts of military service, the *Australian Soldiers' Repatriation Act 1935* (a precursor to the *Veterans' Entitlements Act 1986*) provided the equivalent of an age pension to veterans who had served in a theatre of war and attained the age of 60 years (55 for ex-servicewomen); or were permanently unemployable.

While the deployment experience of service personnel has changed over time, particularly in relation to the incidence of multiple deployments, military service continues to have a deleterious impact on the health and wellbeing of service personnel as they age. The unique nature of military service has been recognised by the Australian community and successive Governments, reflected in continuing support for maintaining earlier access to age service pension for this group.

The intention of the Inquiry to consider the possibility of incrementally increasing the qualifying age for age service pension in the same manner as the age pension has already raised considerable concern within the veteran community.

The brief discussion on this issue in the Issues Paper proposes this change on the basis of creating consistency with the Age Pension. However, this discussion does not clarify whether the intention is to raise the qualifying age for service pension to match that of the age pension (ie from 60 years to 67 years by 2023) or raise the qualifying age for service pension to maintain the 5 year differential between the age pension and service pension (ie from 60 years to 62 years by 2023).

While acknowledging that changes made to the *Veterans' Entitlements Act 1986* in December 1994 will result in female and male pension qualifying ages being the same by 1 January 2014, DVA does not support any increase in the qualifying age for age service pension beyond 60 years. This

approach would not be consistent with the policy intent of the service pension payment, which is to provide income support to Australian veterans for the indefinable and intangible effects of war service that could lead to premature ageing and the loss of ability to earn a living.

There is also broad community and government recognition of the barriers to employment experienced by veterans under retirement age who experience ongoing health issues. Invalidity service pension seeks to address this issue by providing financial support to veterans with limited means who are permanently incapacitated for work and are therefore experiencing barriers to effectively participating in the paid workforce. There are no minimum age requirements for invalidity service pension. Rather, the veteran must have a permanent impairment which means that they are unable to work for more than eight hours per week.

DVA would support more focused responses to building workforce participation for older veterans, rather than aligning the qualifying age for age service pension with that for age pension.

Pension Bonus Scheme

DVA notes that the technical requirements of the Pension Bonus Scheme were complex and that their simplification may have provided an incentive for people to remain in the workforce. However, noting that the scheme closed to new entrants in September 2009 and will therefore only be relevant to those already 'grandfathered' in the scheme for a further two years, DVA doubts that any changes would have an ongoing employment incentive.

Work Bonus

DVA administers Work Bonus arrangements which mirror those applying to the general community. The work bonus provides financial incentives for veteran community members who are over pension age and wish to continue working. The work bonus is particularly valued by age service pensioners who work a limited number of hours per week, as the first \$250 of their employment earnings is not regarded as assessable income. The work bonus bank allows veteran community members with varying hours of paid employment and therefore variable earnings, to "even out" the impact of their employment earnings over time and retain the highest possible rate of service pension, while continuing to participate in employment.

Although the arrangements for the work bonus are relatively new and therefore the amount of data/evidence is limited, DVA supports the work bonus as an incentive to ongoing workforce participation. While DVA does not have any further comment on this issue at this point in time, further consideration may be given to this issue in the future, in light of other submissions made to the Inquiry and the potential options identified in the Inquiry's Discussion Paper.

Tax Exemption and Offsets

The comments made in the Issues Paper on exemption and offsets note that DVA administers schemes or arrangements that mirror tax exemption arrangements and offsets for mainstream pensions. The war widow's pension and disability service pension are currently tax exempt and DVA would not support any change to the tax status of these payments as they are compensatory in nature.

Longer term health effects of service

In exploring the issues of age barriers to work and the appropriateness of compulsory retirement age, it is important to recognise the unique employment condition with ADF service, given the occupational exposures and the nature of military experiences of deployment. In the current climate

of warlike and non-warlike overseas military operations, as well as humanitarian assistance operations supported by the ADF, multiple deployments are common.

Studies into the health and well-being of veterans following military deployment have found statistically significant increases in mortality and morbidity among our veterans. A listing of research projects undertaken by, or on behalf of the Department which focus on exploring the possible long term effects of military service and deployment is included at Attachment A.

Interaction with DVA payments

DVA administers the *Military Rehabilitation and Compensation Act 2004* (MRCA) which is the rehabilitation and compensation scheme that covers ADF members currently serving in Afghanistan and other deployments around the world. Upon separation from the ADF, superannuation payments are 100 per cent offset against MRCA incapacity payments and also reduces income support benefits at the taper rate. This is consistent with the principle that the Government should not make duplicate income maintenance payments to the same person through superannuation and compensation.

The MRCA has a benefits structure with a strong rehabilitation focus, designed to assist ADF members back to at least their pre-injury physical and psychological state, and at least the same social, vocational and educational status. Vocational rehabilitation is designed to assist injured personnel with the capacity to work, to adapt in their current job, to train for a more suitable role within the Defence Force, or to transition to appropriate civilian employment.

The recent Report on the *Review of Military Compensation Arrangements* concluded that the objectives of the MRCA are sound. Whilst noting that there are areas for improvement, the Review confirmed that the unique nature of military service justified rehabilitation and compensation arrangements specific to the needs of the military.

It is understood that Safe Work Australia is examining policy options around retirement age in workers' compensation laws in view of the increasing age pension eligibility age. DVA is aware of the activities being undertaken by Safe Work Australia and will continue to monitor the outcomes around the harmonisation of workers' compensation arrangements across the Commonwealth, states and territories, to ascertain potential flow-on effects for the MRCA.

Participation in Volunteer work

As noted in the Issues Paper, in addition to age, financial security, health and family responsibilities are amongst many variables that influence workforce participation. Many members of the veteran community are active in "other productive work" through their unpaid work for community or welfare organisations.

There is a range of programs and services that DVA provides to promote social participation, particularly amongst older members of the veteran community. The Training and Information Program (TIP) is a joint venture between ex-service organisations (ESOs) and the Department which provides training and information for volunteer welfare and pensions officers. Welfare officers work within ESOs to provide information on local health and community services, how to access them as well as communicate with service providers. Pensions Officers assist personnel in applying for DVA pensions and benefits.

To encourage and support volunteering amongst the veteran community, the Veterans' Indemnity and Training Association (VITA) has been established for the purpose of providing professional indemnity insurance for suitably qualified, trained and authorised members of ESOs, who give

advice in good faith to the ex-service community on matters relating to DVA pension and compensation entitlements and welfare support.

DVA recognises and values the importance of volunteers in our ex-service community. There is a strong culture and support framework which provides the opportunity and choice to remain engaged and active participants in society.

Overview of DVA Payments

To further assist the ALRC with this Inquiry, the following tables provide a summary of the key payments available under the *Veterans' Entitlement Act 1986* (VEA), the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) and the *Military Rehabilitation and Compensation Act 2004* (MRCA). Age-related criteria, if applicable, are noted in the descriptions.

Income Support payments

Benefits	VEA	SRCA	MRCA
Age service pension	<p>Payment to a veteran who has rendered qualifying service</p> <p>Payable from age 60 for males and currently, 59.5 for a female veteran, increasing to 60 by 1 January 2014 under age equalisation.</p> <p>Subject to income and assets tests, with some arrangements being age-based such as the work bonus, and the assessment of superannuation investments.</p>		
Invalidity service pension	<p>Payment to a veteran who has rendered qualifying service</p> <p>May be granted at any age up to age pension age to a veteran who is permanently unable to work, or is permanently blind</p> <p>Subject to income and assets tests as above</p>	<p>N/A – an individual will need to satisfy the eligibility criteria under the VEA, or under the <i>Social Security Act 1991</i> to access income support</p>	<p>N/A – an individual will need to satisfy the eligibility criteria under the VEA, or under the <i>Social Security Act 1991</i> to access income support</p>
Partner service pension	<p>Payment to the partner or widow(er) of a service pensioner</p> <p>Age and other eligibility requirements apply; some concessional age treatment applies for partners of severely injured veterans</p> <p>Subject to income and assets tests as above</p>		
Income support supplement (ISS)	<p>Additional payment to a war widow(er), or a wholly dependent partner</p> <p>No age criteria, but tax advantage if ISS is granted on the grounds of permanent incapacity for work</p> <p>Subject to income and assets tests similar to above</p>		

There are also associated allowances for specific purposes such as rent assistance, remote area allowance and bereavement payment.

Compensation payments

Benefits	VEA	SRCA	MRCA
Compensation for permanent impairment	<p>Disability pension for life, tax-free, with the rate depending on the degree of incapacity:</p> <ul style="list-style-type: none"> • General Rate (10% - 100%) • Intermediate Rate* • Extreme Disablement Adjustment (EDA) - may be paid to severely incapacitated veterans aged over 65 years who do not receive the Special or Intermediate Rate. • Special Rate* (T&PI, TTI) • Additional pension - paid to veterans with war-caused or defence-caused amputation or blindness. <p>*Has requirements relating to incapacity for work</p>	<p>A tax-free lump sum for permanent impairment and non-economic loss.</p> <p>Additional Defence Act 1903 lump sum payment may apply for severely injured employees.</p>	<p>A tax-free weekly payment for life.</p> <p>The rate depends on the degree of impairment and the type of service the member was rendering that caused the injury or disease (peacetime or warlike/non-warlike).</p> <p>May be converted to an age-based lump sum.</p> <p>A lump sum payment for any dependent children under 16 or between 16 and 25 in full time education applies for those in receipt of maximum permanent impairment payment.</p>
Incapacity for service or work	<p>Intermediate Rate and Special (T&PI, TTI) Rate pensions may be paid to veterans who have been prevented from continuing in their substantive paid work solely due to their accepted service-related conditions, and must now be incapable of working more than 20 hours/8 hours and this has resulted in a loss of earnings.</p> <p>Loss of Earnings allowance (LoE) - paid where treatment for an accepted disability, or attendance at a medical appointment in relation to a disability, results in an actual loss of earnings which has not been compensated from another source.</p> <p>LOE tops up the disability pension to the Special Rate, or, pays the amount of salary, wages or earnings actually lost, whichever is the lesser amount.</p>	<p>Weekly, taxable, incapacity payments for loss of earnings at 100% of normal weekly earnings reducing to 75%, after 45 weeks in receipt of incapacity payments.</p> <p>Payments cease at age 65</p>	<p>Weekly, taxable, incapacity payments for loss of earnings paid at 100% of normal earnings reducing to a minimum of 75% after 45 weeks of incapacity payments after discharge.</p> <p>Payments cease at age 65.</p> <p>In the case of more seriously injured, the person may choose to receive a tax-free Special Rate Disability Pension (SRDP) instead of incapacity payments, payable for life.</p> <p>The SRDP is reduced by any permanent impairment payments and Commonwealth-funded Superannuation received.</p>
Widow(er)'s benefits	<p>A tax-free war widow(er)'s pension payable fortnightly for life in respect of death due to service.</p> <p>No age criteria</p>	<p>A tax-free lump sum (shared with child dependants, if any, but minimum of 75% to spouse).</p> <p>No age criteria</p>	<p>A tax-free weekly payment for a wholly dependent partner of a deceased member.</p> <p>The partner may elect to convert the payment to an age-based lump sum</p> <p>An additional age-based lump sum is provided where the death is service caused.</p>

Benefits	VEA	SRCA	MRCA
Dependent children benefits	<p>Fortnightly orphans pension (if war/service caused death of parent).</p> <p>Conditions apply if child is over 16 years of age—e.g. not eligible if receiving education benefits.</p>	<p>Dependent child lump sum.</p> <p>Weekly payment while under 16 years of age, or between 16 and 25 years of age and in full time education.</p>	<p>A tax-free lump sum payment for each dependent child under 16 years of age, or between 16 and 25 if in full time education.</p> <p>A weekly payment applies while under 16 years of age, or between 16 and 25 if in full time education.</p>
Children's Education benefits	<p>Veterans' Children Education Scheme (VCES) benefits (non-means tested) for eligible children of certain severely disabled members or members whose death has been accepted as service-caused.</p> <p>VCES has various rates of education allowances.</p>	<p>N/A — would have to apply for Youth Allowance through Centrelink.</p>	<p>Military Rehabilitation and Compensation Act Education and Training Scheme (MRCAETS) for dependent children of severely injured members or deceased members where:</p> <ul style="list-style-type: none"> • The member's death is accepted as service caused, • The member is eligible to choose to receive the SRDP at time of death, or • The member suffers a permanent impairment of 80 or more impairment points <p>MRCAETS has various rates of education allowances</p>

Eligible persons may also have access to specific compensation allowances and various supplementary benefits in relation to medical treatment and rehabilitation.

Attachment A

Summary of DVA Research: Longer Term Health Effects of Service

- Allostatic Load: A Review of the Literature
- Australian Gulf War Veterans' Health Study 2003
- Australian Participants in British Nuclear Tests in Australia
- Examination of the Potential Exposure of RAN Personnel to Polychlorinated Dibenzodioxins and Polychlorinated Dibenzofurans via Drinking Water
- Health Study 2005: Australian Veterans of the Korean War
- Intergenerational Health Effects of Service in the Military - Research Protocol
- Korean Veterans Mortality Study
- Korean War Veterans Cancer Incidence Study
- Mortality and Cancer Incidence in Australian Vietnam Veterans Studies
- Report of the third study of mortality and cancer incidence in aircraft maintenance personnel
- Research into Toxicological Effects of Chemicals used in F-111 Deseal/Reseal Programs
- Study of Health Outcomes in Aircraft Maintenance Personnel (SHOAMP)
- Family Study Program - The Vietnam Veterans' Family Study and Timor-Leste Family Study (in progress)

Study reports are available at:

http://www.dva.gov.au/health_and_wellbeing/research/Pages/health%20studies.aspx

Applied Research Program - summary of approved ARP projects 2007-2011

- 0702a Review of DVA Chondromalacia Patellae claims
- 0702b Relationship between Australian Defence Force service and Chondromalacia Patellae claims
- 0712 Mental health outcomes for VVCS clients
- 0715 Younger veterans study - Transition experience of medically separated Australian Defence Force members
- 0717 Military Rehabilitation and Compensation Act and Safety, Rehabilitation and Compensation Act population modelling project
- 0718 Disability and incapacity in the twenty first century: Changing concepts and implications for veterans' administration
- 0720 Veterans at risk study 2008
- 0712 Mental health outcomes for DVA Veterans and Veterans Families Counselling Services (VVCS) counselling - Policy and practice, 2004-2008
- 0721 Social isolation in the veteran community
- 0801 Needs of spouse carers of WWII veterans before and after widowhood
- 0808 Independent study to examine the issue of suicide in the ex-service community
- 0902 A temporal analysis of the healthy soldier effect
- 0903 The wellbeing of female Vietnam and contemporary veterans: An ethnography of military health personnel
- 0904 The long-term causal effects of Vietnam war era conscription on the economic and social outcomes of Australian conscripts
- 0907 Australian Gulf War Veteran Health Study Follow Up 2011 (in progress)
- 0910 The health and service needs of older veterans: A longitudinal analysis
- 0921 The 45 and Up Study (first release of baseline data - DVA cardholders)
- 0914 Contemporary factors influencing health and productive ageing for women in late middle age in the DVA context

- 0927 An analysis of the long-term costs of disability arising from the Vietnam War
- 0931 Behavioural and psychological symptoms of dementia in veterans: Exploring the influence of posttraumatic stress disorder and war time experiences
- 1010 The long-term outcomes of VVCS Centre-based counselling
- 1023 A literature review of mild traumatic brain injury in the context of the MEAO operational area
- 1034 Exploring future service needs of Australian Defence Force reservists: A pilot study (in progress)
- 1037 Health and lifestyle risk factors profile of NSW DVA cardholders using 45 and Up Study baseline data (in progress)
- 1038 Veterans of the Rwanda deployment 1994/95: Understanding outcomes 15 years on (in progress)
- 1106 Comparison of DVA clients', ADF members' and the general population's responses to the 2007 National Survey of Mental Health and Wellbeing (in progress)
- 1122 Systematic review of psychological disorder, multisymptom disorder and chronic fatigue syndrome in veterans of deployment to the Gulf War, Iraq and Afghanistan (yet to commence)
- 1127 Depression in Australian Gulf War veterans (yet to commence)

ARP Annual Reports available at:

http://www.dva.gov.au/health_and_wellbeing/research/arp/Pages/range.aspx