



Senator Jacqui Lambie Senator for Tasmania

4 September 2015

Senator the Hon. Michael Ronaldson
Minister for Veterans' Affairs

Suite M1 49

Parliament House

CANBERRA ACT 2600

Email: officeoftheminister@dva.gov.au – Senator.Ronaldson@aph.gov.au

Dear Senator Ronaldson

Re: Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015

I am writing in regards to the Veterans' Affairs Legislation Amendment (2015 Budget Measures) Bill 2015 that is scheduled for the Senate Program on 7 September 2015.

This legislation, in particular Schedule 2, strips veterans of appeal rights and gives DVA more power to frustrate and deny claims without independent review of their decisions. This results in a single and inferior pathway for appeals (through the VRB only) and replaces the current arrangement, which provides an injured veteran with dual pathways. The current pathway, which this legislation will abolish, may not be ideal, but it is better than the VRB process. This Bill removes any ability for veterans to seek independent help during the veterans' compensation review process.

Listed below are responses we have received in relation to this proposed legislation pointing out numerous areas of concern.

Slater and Gordon Lawyers

- *"To insert Schedule 2 will have severe and a profound impact on the rights of our Veteran's and ex vets. Schedule 2 should be opposed. It is nothing more than a thinly veiled attempt by this government to keep all decision making in house and avoid independent review.*
- *The waffle about access to legal aid is sugar coating a bad piece of legislation. We think the claim about legal aid is a smokescreen as lawyers cannot appear in the VRB so what is the point. Whilst they may recover something from legal aid (if they are eligible, legal aid is means tested, and no lawyers with skills and relevant experience will be able to afford to do the work at rates paid by legal aid.*
- *With the means testing it is unlikely people who are currently earning a wage will qualify for any legal aid. This will leave veteran's spending thousands of dollars on legal representatives which they will not recover even if they are successful in their Appeal.*



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- *If the government wants a single path of appeal then it should abolish the VRB and create one new, fair process, not expand a process that doesn't work.*
- *The SOP's used are far more restrictive so less liability claims will be accepted. More claims will be denied and the VRB after about years will re-affirm DVA decisions. Then clients will have the unqualified RSL advocates that DVA fund and train to represent them. Caesar judging Caesar once more.*
- *A \$2.2 million saving is ludicrous for the adverse impact it will have on the rights of service personnel.*
- *If the veteran's gets a refusal from the VRB and wishes to appeal, it appears they may be able to apply for legal aid but it's a token amount that few will be helped by unless they are eligible because they have nothing left. On the other hand DVA have seemingly endless resources to pay lawyers to help then deny the veteran compensation."*

KCI Lawyers

- *The current two (2) pathways to appeal i.e. internal review and VRB means that only those who go through an internal review and then to the administrative appeals tribunal – AAT can have their legal costs reimbursed i.e. the Veteran can have most of their legal costs paid, barristers can undertake cases on a contingency basis, Veterans can have the cost of medical reports they may have paid for reimbursed to them.*
- *However if, as proposed by Government and DVA, the Veteran can only go through the VRB and is dissatisfied with the decisions are not eligible to have their legal costs reimbursed although they are eligible for a grant of legal aid which is substantially limited i.e. approximately \$1,500.00 for the lawyers to prepare their case and for a barrister to prepare and attend a hearing.*
- *I attach my advice paper for those Veterans who face the appeal path option and implications of going to the VRB as opposed to the internal review option. The delay to have the case heard by the VRB is The VRB will take up to 418 days to hear an appeal as opposed to the internal review that will take up to 127 days to consider the reasons for reconsideration (See - Review of Military Compensation Arrangements – Vol 2 DVA February 2011 – Chap 17.35)*
- *DVA propose to limit all appeals to go only to the VRB which has serious consequences for Veterans and their ability to review decisions to the AAT as we, as lawyers generally will not be able to act on a contingency basis and Veterans will need to pay for the whole appeal win lose or draw.*
- *DVA will undoubtedly continue to use the panel firms and reward them handsomely against Veterans who will largely be represented by ESO advocates i.e. non lawyers notwithstanding the complexity of the legislation on the legal process.*
- *Of significant benefit to DVA through this process will be less scrutiny by DVA have to decisions made by the AAT and in particular appeals that would go on to the Federal court and full Federal Court of which there have been many by the law firms such as my own and others.*
- *Without appeals, lawyers cannot push the boundary of DVA's interpretation of the Acts and essentially their "policies" and what I have deemed DVA's "LORE" as opposed to how to apply or interpret the "LAW".*
- *This is a serious issue and one that the Senate Committee respectfully needs to address and have DVA explain how Veterans will be able to have access to the appeal process when DVA knows that the number of appeals, the quality of representation in the appeal process, the delays and the opportunity for Veterans*



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to get legal representatives to take matters on further appeal to the AAT and Federal court will be substantially limited by their proposal to funnel everything to the VRB's

Please be advised I will not be supporting this Bill and will ensure the public, cross-benchers, Greens and Labor are made aware of the above points so that this Legislation can be seen in its true light – unfair.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J. Lambie'.

Senator Jacqui Lambie
Senator for Tasmania

CC: **Office of the Hon David Feeney MP - David.Feeney.MP@aph.gov.au**