

# THE DFWA MONTHLY *UPDATE*



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*UPDATE* is a monthly newssheet (except for January) produced by the Defence Force Welfare Association (DFWA) containing items of interest to the Service and ex-Service community. It is distributed to politicians, media outlets, senior Service officers and DFWA Branches.

## SAS PAY

The Association welcomed the Chief of Army's explanation of the issues that have led to the current problems with SAS pay, and the positive actions he is taking. DFWA understands that there may be yet a further group which may be affected by this problem – those that are either recently discharged, or in the process of being discharged, some on medical grounds, and possibly some widows. None of these people will be able to gain retrospective qualifications. DFWA trusts that this matter will also be investigated and steps taken to resolve.

Although the DFWA recognizes the need for the chain of command to handle problems of this nature, it suggests that this issue further highlights the need for more effective, independent representation for ADF members, which is our role.

## **POLICY FOR THE TREATMENT OF MULTIPLE DISABILITIES UNDER THE MILITARY REHABILITATION AND COMPENSATION SCHEME**

Recently the High Court granted special leave for an applicant to appeal a 2008 Federal Court decision which had upheld Comcare's policy for the treatment of multiple disabilities under the Military Rehabilitation and Compensation Scheme. Basically, the applicant injured first her left knee, then her right knee in work-related injuries. Each was assessed as a 10% disability but, because of the interpretation of the Act by Comcare, together the injuries are considered to produce the same level of disability to the same bodily system or function, so she was assessed as only 10% disabled.

In February 2008 the Association, in a response to the circulation of a draft of the 2<sup>nd</sup> edition of Comcare's *Permanent Impairment Guide* for comment, objected to that interpretation, which had been in use for several years. The draft Guide says: "Where two or more injuries give rise to the impairment of the **same** bodily system or function, it is necessary to determine the degree of impairment which results from each injury. These separate impairments **may not be combined**. However compensation is not payable in respect of impairment to a bodily system or function arising from subsequent injuries unless there is a 10% increase in the degree of impairment of the bodily system of [sic] function (subsection 24(7) of the SRC Act)." [NB: **Bold** type is as used in the Comcare draft guide.]

By granting leave to appeal, the High Court seems to have expressed interest in the matter *and* it has not thrown out the case on legal grounds, so there seems to be an arguable case that the Comcare interpretation may be wrong in law.

Coincidentally, the Association understands that the new edition of the *Comcare Permanent Impairment Guide* has not yet been promulgated but notes that the High Court case may have some influence on the next edition.

## **AMALGAMATION OF ALL THE PUBLIC SERVICE AND MILITARY SUPERANNUATION BOARDS**

A response has been received from Senator Sherry to the Association's letter opposing the amalgamation of all the public service and military superannuation boards. The Association opposed the amalgamation on the grounds that the expertise required by the military schemes, particularly death and disability aspects, is specialized.

Senator Sherry has advised that " the board will have the requisite skills to govern in the best interests of all members. For example, the board will have the capacity to establish a policy committee to consider specific military requirements, such as the disability and death benefits payable to military personnel." This sounds like a separate board that isn't called a board !

## **RESERVE PERSONNEL RETURNING FROM ACTIVE SERVICE**

The Association is developing a short paper on the problems for reserve personnel of having to return almost immediately from active service to the incomprehension of their civilian workplaces and friends, and often without the psychological support provided by local ADF unit structures. The BBC has been reporting significant problems for UK reservists returning from active service in Iraq and Afghanistan. The Association will further consider this matter in the coming months.

## **SUPERANNUATION INDEXATION AND THE STIMULUS PACKAGE**

Although the Association welcomes the inclusion of substantial funding for Defence housing in recent announcement of measures to stimulate the economy, we are disappointed that the Prime Minister did not take the opportunity to fix the long standing grievances of Defence Force personnel by eliminating the discounted indexing on ADF superannuation, punitive rules for repayment of lump sums and by extending the same tax treatment to them as it has to the rest of the community.

Readers are reminded that over the last ten years, parliamentarians' superannuation and the age pension have increased by nearly double the indexation rate for ADF superannuation and this is viewed as a discriminatory measure by both serving and retired members of the ADF superannuation schemes. Fairness and equity maybe the trademark that the Federal Government wants to be known by, but current members of the Australian Defence Force superannuation schemes are still looking for it !

## **DFWA BLOG: TRANSPORT OF ADF MEMBERS TO AND FROM OPERATIONAL ZONES**

A blog has been established on the DFWA website inviting comment on current issues. The Association has received a report from an ADF family member expressing concern about the reliability of chartered aircraft being used to transport ADF members to and from operational zones. The Association is investigating this matter and has been invited comment on the blog ([www.dfw.org.au/have your say](http://www.dfw.org.au/have_your_say)).

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