



THE DFWA MONTHLY UPDATE #238 – April 2009

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

SUPPORT ARRANGEMENTS AT HQ JOINT OPERATIONS COMMAND

The Association is following up on complaints received about transport arrangements for staff posted to HQJOC, especially those domiciled in Defence housing in the ACT region. Other aspects of concern include the lack of catering over weekends for watchkeepers (who work 12 hour watches) and an apparent absence of adequate sleeping arrangements for staff who might have to spend several nights at HQJOC during intensive operations. Of particular concern is the decision to issue the special DI(G) that overrides the general DHA policy - that Defence housing will be provided not more than 30 km from bases - completely undercuts the CDF's and the Ministers' repeated statements about the emphasis on supporting ADF personnel.

A discussion bog has been raised on the DFWA website (www.dfw.org.au) inviting comments.

FULL FEDERAL COURT DECISION - *MILITARY REHABILITATION AND COMPENSATION COMMISSION*

A recent Full Federal Court decision (*FCA FC 09/0033 - Irwin v Military Rehabilitation and Compensation Commission*) considered whether the Administrative Appeals Tribunal (AAT), in reviewing a decision of the Military Rehabilitation Compensation Commission, may determine a claim for compensation once satisfied the Commission is liable for a "service injury", even though the Commission had found no liability and not assessed compensation. The AAT had apparently felt that it could not override the Commission if the Commissioner had determined that no liability existed. In the judgment, the learned judges said "The matter before us is important. It will affect every application to the Tribunal for review of a decision by the Commission to decline liability. We accordingly propose to give reasons". The Association is following up on this potentially important issue and the likely effects of this judgment for veterans' advocates.

IMPLICATIONS OF "DOMICILE OF CHOICE"

In its submission to the Clarke Review reconsideration, DFWA had written in response to Recommendation 60 – Domicile of Choice, that the Government's response did not recognize the situation facing young Australians, many of them away from their families and studying or working in the UK on the outbreak of World War II, who joined the UK Armed Forces as their contribution to the defence of the British Empire and, through that, Australia.

Recently the Association has received details of an unpublished AAT appeal decision from 2006 in which the Repatriation Commission had admitted that its interpretation of the term "Domicile of Choice", which it had been applying (apparently since WWII), had been incorrect in law. It appears that, since admitting its error in the AAT, the Repatriation Commission has made no attempt to extend the implications of the decision to applicants. The Association has written to the Minister, asking to enquire of DVA why it decided to keep the change quiet, and what action will now be taken to extend the coverage of the VEA to these veterans (and their widows) without recourse to legal action.

PROPOSED CHANGES TO COMMONWEALTH SENIORS HEALTH CARD

The Association has been responding to recent calls about the proposed changes to the eligibility criteria for the Commonwealth Seniors Health Card (CSHC), which the Coalition opposes. The legislation requires inclusion in the income test for the CSHC of a) income from a “taxed” superannuation fund, ie income that is untaxed; and b) salary sacrificed to superannuation. This **latter** measure is necessary to stop people whose income would otherwise be above the threshold from reducing their taxable income by making contributions to their superannuation. Readers may be aware of Coalition claims that the changes can have adverse effects on veterans and military pensioners. That is quite correct if they have untaxed pension income from taxed funds. However the Coalition’s policy implies that they think that it is acceptable for people with tax-free pensions, ie from private super fund assets, to still be able to get the CSHC, whereas ex-military pensioners *with the same total income in their hands* but from military retirement pensions, do not have access to the CSHC!

THE F-111 DESEAL-RESEAL INQUIRY

The Chair of the Defence Sub-committee has written to the Association advising that the F-111 deseal-reseal inquiry has been extended, basically because of the complexity of the issues uncovered. There will now be a further hearing in April, so it seems unlikely that the report will be tabled before the Budget sittings (12 May – 25 June). Readers may recall that in addition to getting a sensible scheme in place for affected F-111 workers, DFWA has expressed concern about workers on other aircraft who were exposed to the same or similar chemicals. It is hoped that the current inquiry will, in addition to addressing F-111 issues, at least recommend a formal inquiry into those other issues.

SAS PAY ISSUE

The Association welcomes the auditor’s report and will now analyse its findings and redouble our efforts to see that similar situations don’t happen in the future. In particular we will be pressing the Minister on the matter of more effective representation of ADF members on their service conditions

RECLASSIFICATION OF DEFENCE CO-OPERATION PROGRAM SERVICE IN EAST TIMOR

Advice has been received that service by Defence Cooperation Program (DCP) personnel in East Timor between the period 16 September 1999 and 17 August 2003 has been re-classified as warlike. This means that those who were involved in the Army Training Support Team - East Timor and other DCP tasks are now eligible to be awarded the Australian Active Service Medal (AASM) with clasp East Timor and the Returned from Active Service Badge (RASB).

The upgrade of the Australian Service Medal (ASM) to the AASM requires the ASM to be returned before the AASM is awarded, unless the ASM has been awarded for another operation. Those who already hold the AASM will be issued the clasp after returning the ASM if required. The RASB will be issued with the AASM if not previously issued for other qualifying service. Qualification for both the AASM and ASM on a single rotation is not permitted.

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