



DEFENCE FORCE WELFARE ASSOCIATION

(A member of the Alliance of Defence Service Organisations)

MONTHLY UPDATE #259 – 15 April 2011

UPDATE is a monthly news sheet produced by the Defence Force Welfare Association containing current items of interest to the Service and ex-Service community. It is widely distributed to Members of Parliament, media outlets, senior Service and Public Service Officers and DFWA members.

THE ADFA INCIDENT

The Association's strong view is that the recent actions of ADFA cadets that have been the subject of much publicity simply cannot be condoned and to somehow link such actions to the "Defence Culture" in general is a bridge too far.

These cadets had been at ADFA less than 3 months so surely their behavioural standards are more a reflection of their life experience from home, their schooling days and the communities in which they grew up rather than the ADF? Indeed, one of the tasks of ADFA is to hone the cadets' character traits so they can develop into competent leaders that are respected by those for whom they are responsible.

What we now expect is that all the cadets involved face timely and appropriate disciplinary action that reflects the seriousness of the situation. We also expect that the female cadet will receive sensitive counselling support.

Unfortunately politicians from both sides and many interest groups have intervened in an entirely inappropriate way and have muddied the waters to the extent that justice for all may well take a secondary role to the social and political forces that have been unleashed. We are especially concerned that public esteem for the ADF has been damaged and reiterate that this incident does not reflect the wider defence culture nor the individual behavioural standards of the overwhelming majority of ADF members.

The work carried out by the men and women of the ADF is done competently to very high professional, moral and ethical standards. Our servicemen and women have earned and deserve our respect and this Association unreservedly supports them.

THE MILITARY COURT OF AUSTRALIA BILL 2010

The Association has some significant concerns in relation to the Military Court of Australia Bill 2010 ("the Bill"). The Bill, when enacted, will establish the Military Court of Australia ("the MCA") to try serious service offences alleged against members of the Australian Defence Force, in place of the present system of trial by court martial and Defence Force Magistrate. The trial of other service offences by "summary authorities" will continue as before under the *Defence Force Discipline Act 1982* ("the DFDA").

The MCA will be a federal court under Chapter 3 of the Constitution and will therefore not meet the same fate of invalidity as did the former Australian Military Court ("the AMC") which was established under the *Defence Legislation Act 2006* and declared by the High Court to be unconstitutional (*Lane v Morrison [2009] HCA 29*). It will be constituted by judges and federal magistrates who cannot be members of the ADF although the Bill allows for some ADF personnel to carry out administrative duties in the court.

Our primary concern is that the bill proposes to remove from an ADF member charged with a serious service offence, the right to have his/her guilt or innocence determined by a jury of his/her peers as is the right of every Australian citizen charged on indictment with a serious criminal offence in a Federal, State or Territory court as is prescribed by s.80 of the Constitution.

The Association has joined with its Alliance partners and provided a detailed submission to the Attorney General outlining our concerns. The full submission is available on the Association's website.

SENATE INQUIRY INTO THE FAIR INDEXATION BILL

The Association welcomes the Senate inquiry into the Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill. This will be the **eighth** such inquiry into the indexation of military superannuation pensions, and all but one (the widely discredited Matthews Report) recommended a different mechanism for indexing military superannuation pensions.

The purpose of indexation is to maintain purchasing power. The Association agrees with the ABS (the relevant Authority on this issue) that the Consumer Price Index has changed significantly, and by itself, no longer represents an adequate index for measuring purchasing power. We also propose that the maintenance of “fiscal responsibility” as a Government imperative is more than possible with the inclusion of the Future Fund in any analysis of how funding fair indexation can be achieved.

The Fair Indexation Bill provides a means of restoring adequate and fair indexation for DFRB and DFRDB recipients over 55 and is a welcome first step. The Association strongly believes the Bill should be passed by the Senate. The Alliance further believes that Parliament should go further to acknowledge other military superannuation pensions also require fair indexation and commit to address these issues in subsequent legislation as a matter of priority.

MINISTER WONG OFFERS TACIT SUPPORT

During an ABC TV “Big Ideas” segment, rerun on ABC News 24 on 16 April, there was a public debate titled “The Major Parties are Failing Us”, held in Melbourne on the 5 April 2011. The Minister for Finance, Penny Wong, was the last debater and she mentioned the indexation issue in the context of other competing funding priorities being faced by the Government.

The Association is gratified that for the first time, a Government Minister has acknowledged in public arena that our cause has merit: Ms Wong indicated it was “certainly a worthy ask”. However the Minister again focussed on cost, and that the Government was at odds to funding fair indexation because of its supposed un-affordability.

The Association agrees that cost seems to be the stumbling block on this issue: what we need is to reinforce with policy makers that current Government policy rests on a rocky foundation of imprecise data, ill-conceived ideas and false assumptions that underpins the policy advice they have been receiving so far. Our evidence is in the public arena and is well documented: as a start we invite readers to examine the public submissions from the Alliance of Defence Service Organisations and from Mr Peter Thornton to the Senate Inquiry into the Fair Indexation Bill.

The link to Minister Wong’s comments is available on the DFWA website. The direct link is: <http://www.abc.net.au/tv/bigideas/stories/2011/04/05/3181771.htm>. All submissions to the Senate inquiry on the Fair Indexation Bill will be available on the Australian Parliament House website at: http://www.aph.gov.au/Senate/committee/fapa_ctte/defence_retirement_benefits/index.htm

In summary, the Association submits that implementation of the community standard of indexation, as adopted for the Age and Service pensions, applied to all components of DFRB/DFRDB/MSBS military superannuation pensions (including the total reversionary pension for partners of deceased military superannuation pensioners and preserved employer benefits), is long overdue and is affordable.

It is a simple matter of justice.

THE ASSOCIATION WISHES ALL READERS A SAFE AND HAPPY EASTER BREAK

Media Contacts

Executive Director:

Les Bienkiewicz 0411 444248

www.dfw.org.au

National President:

David Jamison 0416 107557