

[04/07/2002 The Veteran's Review Committee](#)

The meeting of The Veteran's Review Committee, chaired by The Honorable John Clarke QC, was held in Brisbane on 27th June 2002.

Representing the FESR – National Executive President – John Schultz, Advocate and Special Projects Officer – Alex Schultz and National Executive Secretary – Gordon Love.

Alex Schultz addressed the Committee and submitted the "Perceived Questions" as detailed below.

The committee then asked the FESR representatives a series of questions pertaining to the [FESR Submission](#)

The Chairman of the Review Committee thanked the FESR for this submission, that in their opinion contained points of view not previously presented to the committee.

Submission Inquiry

Perceived Questions

It must be understood that there are two distinct principal forms of pension that can be paid to a veteran under the Veteran's Entitlement Act 1986. These are a "disability pension" and a "service pension". A disability pension can be granted for any service covered by the Act, but the service pension can only be granted for personnel who have qualifying service under the Act. This qualifying service occurs where the Australian Government declares an area of conflict, and where Australian forces are allotted and are deemed to be in danger from the enemy. Under the Act with qualifying service, any pension for an incapacitated condition (disability pension) which has been proven to be related to service, and is paid to the veteran, is not considered as income when applying for a service pension.

However, without this qualifying service, under the Federal Government Legislation, when applying for a disabled or old age pension through Centrelink, it is compulsory for all income to be declared, even the received as compensation related to military service. Consequently, the disability payment from the Department of Veteran's Affairs (DVA), is assessed along with any income from other sources, for example superannuation or interest from bank accounts.

At this point, it is interesting to note that "all disability pensions paid through the Department of Veteran's Affairs are non-taxable". A group certificate showing the amount received for the service pension (DVA) or aged/disability pension (Centrelink) is sent to veterans. There is no group certificate sent to any veteran in relation to any pension he or she might receive from DVA.. One may well ask if this disability pension is non-taxable, why is it assessed as income by Centrelink.. The major question that must be asked is, "why are all personnel covered by the Act not treated in a similar vein".

As another example, and on a personal note, I injured my back in 1962 in Malaya which was "operational service" not "qualifying service, although I qualified for qualifying service from Malaya and Vietnam.

Others with no qualifying service who may have injured themselves during this period are severely.

disadvantaged. The qualifying period in Malaya was from the 1950's ending on the 30/06/1960, the operational period extended from the 1950's up to the 27th May 1963. So in one day it went from a qualifying area to an operational one. Many injuries were sustained during that period from June 1960 up to May 1963 for which personnel serving in that area receive a disability pension through DVA. Without the necessary qualifying service, the disability pension for these personnel is deemed as income for aged or disability pensions through Centrelink.

Another quirk in the Veteran's Entitlement Act. propounds that during the Second World War, if military personnel had one day of qualifying service, then the entire period of service was deemed to be operational. This is fine for those with the required one day qualifying service. I have made submissions on behalf of many WW2 veterans who because of a particular skill were drafted into a specific service. For example, I advocated for a veteran who was an aeronautical engine fitter prior to service and drafted into the Airforce. This veteran was posted to an aerodrome south of Alice Springs for his entire period of four years service. Due to no fault of his own, only that he was skilled in a particular trade, he was never sent outside Australia, consequently no qualifying service. When I attended a claim for him, and he received a 60% disability pension for a hearing disability attributed to service, he and his wife

lost a portion of their aged pension.

A suggestion in the initial submission, that the T&PI or other disability pensions be included in one sum incorporating the service, aged or disability pension would possibly bring confusion when assessing taxable income. Nevertheless, another avenue to explore as a suggest in the submission, is that the computer system at Veteran's Affairs is already programmed to disregard disability pensions as income. Although other income such as superannuation and interest bearing deposits is assessed as income for service pension and taxation purposes.

Consider taking into account the programming of the DVA computers, and when a veteran without qualifying service receives a disability pension through the Department of Veteran's Affairs. Before payment of the disability pension, it is ascertained that the veteran is either employed, or on an old aged pension, other type of pension or income from Centrelink. Another interesting adverse fact to note is that if the veteran received a lump sum from his claim for the veteran's disability pension, he will lose a certain amount of this money, As unlike DVA, Centrelink see this as additional income for that period and adjust the aged or other pension accordingly.

Therefore to referee this anomaly, as I see this board as an arbitrator, a reasonable answer to the problem would be to assess all veterans with a disability pension through the Department of Veteran's Affairs, for their aged, or other pension that they are qualified to receive.

When addressing the problem of superannuation that was referred to in the submission, I wish to use myself as an example again. I suggest that my early retirement due to war related injuries lowered the superannuation I was to receive by between 50,000 and 80,000 dollars. Again, it is a difficult problem to overcome. It might be suggested that some form of scale for retirement age could be calculated relating to the T&PI and service (DVA) or disability (Centrelink) pension. When taking those without qualifying service into account, where the retirement age for them is 65 years, they are in receipt of a T&PI pension and forced to retire early, it can be seen that once again they are holding the short straw. Their aged or disability pension is lowered by the DVA pension, and they possibly cannot make up these monies from allotted superannuation schemes due to early retirement.

I relation to the issue of a medal for service personnel for two years service or more, I feel I have outlined the proposal in the initial submission. That is, that the members of the Association I represent regard the issue of the medal as mandatory, in relation to, and after the Government issue of a medal to National Servicemen.

Copy of the original submission to the Veteran's Review Committee by Alex Schultz (Advocate, Projects Officer) on behalf of the FESR Association (Australia). [Click Here to Access Archive](#)

The Honorable John Clarke QC
Committee Chair
The Veteran's Review Committee
Post Office Box 9563
Deakin ACT 2600

Dear Sir,

The Executive and members of the Far East Strategic Reserve (FESR) Association have commissioned this submission. It is related to the anomalies that are present regarding the payment of the "Totally and Permanent Incapacitated", and other disability pensions to personnel who are covered by the Veteran's Entitlement Act (VEA) 1986. We also seek the striking of a medal for service in the permanent forces, this is considered mandatory since the Government's issue of a medal to National Service Personnel.

The Government in pre-election assurances promulgated a further review of service anomalies, and these include a re-examination and analysis of the existing pension structure by a Veteran's Review Committee selected by the Government.

As suggested, our primary interest is in the area of these pensions include the "Totally and Permanently Incapacitated" (TPI) and other disability pensions, and to this end, it is considered the following information is relevant.

To use the TPI pension as an example, it is a fundamental anomaly that personnel who have served in an "operational area", but do not have "qualifying service", and receive a TPI pension are severely disadvantaged.

For example, a veteran with qualifying service who has satisfied the criteria related to a TPI pension, and then applies for a "service pension"; the TPI is not considered as income when assessing the service pension.

However, for the person who has operational or eligible defence service under the Veteran's Entitlement Act 1986,

the TPI is considered as income when that person applies through Centrelink for a "Invalid" or "Aged Pension". Consequently, the invalid or aged pension payment is reduced for both the veteran if single, and his/her partner if a relationship or marriage exists.

It is quite possible that a veteran covered by the VEA has qualifying service, which is considered under the Act to be any portion of one day in a qualifying area, an area of hostilities.

What then is operational service, if it is not an area of hostile involvement? To take this scenario one step further, two personnel one with qualifying service, may be serving either on the same ship or in the same unit, in an operational area, or covered under the VEA after the 7th December 1972.

The disease or injuries that determined that they be deemed as unfit for employment after discharge occurred during this period when they served together. One person is entitled to the TPI with a full service pension; the other with operational or defence service is denied social justice and is uncompromisingly handicapped when applying for an invalid or old age pension through Centrelink. One suggestion is that the service pension be included in the TPI, which would avoid the discrepancy that is now seen when veterans are applying through Centrelink.

Many veterans are forced to retire at a much younger age than the normal retirement age through injury or disease that has been ascertained by the Department of Veteran's Affairs as war or service related. Thus, veterans may have belonged to a superannuation fund and this has curtailed any hope of paying into that fund, as they are no longer employed. When investigating the TPI payment, we feel this aspect should also be taken into consideration.

Another suggestion to alleviate this perceived stigma would be to allow all veterans who qualify for any type of disability pension covered by the Veteran's Entitlement Act be granted an aged pension through Veterans Affairs. At present only veterans who have qualifying service are entitled to claim a service pension (age at 60 years or invalid) through the Department of Veteran's Affairs.

A proposal would be to grant those without qualifying service an aged pension at 65 years of age or invalid pension, through the Department of Veteran's Affairs as their computer system is already programmed to disregard disability pension when assessing a service pension.

For example, qualifying service pension at 60 years of age, non-qualifying service aged pension at 65 years of age, for those with a disability pension. This is not proposed to grant those without qualifying service the same medical cover as veterans with qualifying service, although veterans with 100% disability pension receive a gold card.

The FESR Association suggests that all service personnel covered by the VEA be seen and treated as equal under the Act in this regard, and that when applying for a pension, the TPI and other disability pension payment is not regarded as income.

In relation to the matter of a medal for service personnel, perhaps a qualifying period of service, such as two (2) years could be used as a yardstick for the issuing of such a medal. It may be suggested that many National Service would not have been inducted into the service if pressure had not been applied by the Government of the day. On the other hand, defence personnel joined of their own free will to serve their country in times of war and peace as the Government saw fit.

Yours Sincerely
Alex Schultz (Advocate, Projects Officer)