



# National President's Newsletter No 3 of 2015



## 1. Success of RSL Advocacy

I issued a Press Release on Thursday 7 May 2015 welcoming the statement by the Minister for Veterans' Affairs Senator the Honourable Michael Ronaldson that day that the Government had "decided not to proceed with changes to pension indexation announced in the 2014-15 Budget."

Members of the RSL should not underestimate the impact that they had both individually and collectively in bringing about this reversal of Government policy. The motions passed at all RSL Branch Conferences last year deploring the Government's proposed change to indexing by Consumer Price Index (CPI) for some veterans' entitlements from 1 July 2017 demonstrated the extent of RSL opposition to this policy. The RSL 2015-2016 annual budget submission to Government forwarded on 29 August 2014 reinforced this stance as did my subsequent letter to the Prime Minister and meetings with him and the Minister for Veterans' Affairs I wrote about in NP Newsletter No 2 of 2015.

The fact that the Government heeded RSL advice on this matter and acknowledged this is welcome and it is pleasing that our principled stance and robust advocacy had the desired effect. My thanks to all members of the RSL for your unequivocal support in achieving this successful outcome.

Other successes for RSL advocacy are exemplified by the Government's decision announced on 4 March 2015 to request that the Defence Force Remuneration Tribunal (DFRT) consider a pay offer for the men and women of the ADF larger than that put forward to and agreed by the DFRT in late 2014; and the announcement on Monday 11 May 2015 by the Minister for Finance that the Government had no intention of selling the Defence Housing Authority at this time.

## 2. ANZAC Day 2015

Once again, and as Australians have come to expect, the RSL was in the forefront of planning for and organising ANZAC Day commemorative ceremonies and marches across the nation and overseas. The National Dawn Service organised by the RSL ACT Branch in conjunction with the Australian War Memorial drew a crowd of an

astonishing 128,000. Reports from throughout Australia are that record crowds attended in all the States and Territories.

All in the RSL should be justifiably proud of their efforts and of the way in which their fellow Australians lent their support. The many RSL members who went out of their way to speak to groups of school children; the well organised and sensitively conducted RSL Sub-Branch events held in the lead up to April 25<sup>th</sup> throughout the nation; and the welcoming of all into RSL Sub-Branches on ANZAC Day are hallmarks of great work the RSL does on behalf of the nation. My thanks to all in the RSL for your hard work and dedication.

### **3. Revision of RSL National Constitution**

A writing/drafting group headed by the Victorian RSL Branch State President, Major General David McLachlan, has recently completed Version 4 of the revision of the RSL National Constitution. This document is now being considered by Directors and will be an item for discussion and decision at the next meeting of the RSL National Board on Monday 18 May. The expectation is that the Board will agree to once again circulate the latest version of the revision of this important governing document for consideration by all RSL members. Such action would fulfil the promise I have made regularly at RSL gatherings and meetings around the country that the process of revision will be fully transparent. Provided there is broad agreement to the revision through this iterative process it is hoped the document will be formally adopted before the end of the year.

### **4. ADF Super**

The major development since I wrote about this topic in my last newsletter has been a meeting on 25 March 2015 with the Assistant Minister for Defence the Honourable Stuart Robert MP at which he affirmed the Government's intention to continue to closely consult with the RSL about this important condition of service for the men and women of the ADF. To that end draft documentation was made available for consideration and comment leading to a formal response in a letter I sent to Minister Robert on 17 April 2015. The main points addressed were:

- **Eligibility of Reserve Force Members of the ADF.** We noted that there was provision for only members of the Reserve Force engaged in continuous full time service to join ADF Super and have contributions paid on their behalf by Defence. Our examination of the documents suggested the definition of a 'continuous full time member of the ADF Reserve is a member of the

Reserve Force whose undertaking to render Defence services of a continuous nature for a specified period has been accepted under either ss32A(3) of the Naval Defence Act 1910 or ss50(3) of the Defence Act 1903 or ss4J(3) of the Air Force Act 1923 and who is rendering that continuous service in accordance with the undertaking. Each of the relevant sections of those Acts refers to those Forces and to a “voluntary undertaking to take continuous full-time Service.” To be “continuous” therefore the different pieces of legislation refer to service not under compulsion rendered on a voluntary choice basis.

In sum Reserve Force members excluded in the draft documentation are those serving part-time and those serving full time on a compulsion basis.

We noted that this is at odds with the RSL stance advanced in our earlier submissions in which we contended that all Reserve Force members should be given a once only opt in or opt out opportunity of joining ADF Super.

In the letter to Minister Robert we acknowledged such a provision would introduce administrative complexities and costs but that we promoted this ideal because of the total force concept now evolving in the ADF. Another point made was that as the RSL has previously noted there are particular circumstances for some members of the Reserve Force where consideration should be given to allowing them to become members of ADF superannuation schemes while retaining the taxation benefit of ADF reserve service. Those serving in NORFORCE where many are indigenous Australians are an example where such special arrangements might be appropriate.

- **Defence Rates of Contribution to ADF Super.** The draft documentation specified two rates of contribution. Our understanding was that on each payday Defence would pay for each member of the permanent ADF an amount equal to 15.4% of the "ordinary times earnings" of the person; and an additional 2.6% payable for persons engaged in "war like service". We understood “ordinary times earnings” meant and included parental leave but excluded salary sacrifice amounts. As advanced in our earlier submission, the RSL contended there should be only one rate and that this should be at least 18% of “ordinary times earnings”.
- **Rule Making Power.** Our examination of the draft documentation led us to believe that the rules may make any provision necessary for the purpose of enabling "ADF super" to satisfy any "condition or requirement of, or

made under any of (a series of acts — including the Corporations Act 2001, the Family Law Act 1975, the Income Tax Assessment Acts 1936 and 1997 and the Superannuation Industry Supervision Act 1993).

For instance, if the tax treatment of superannuation funds were to change (for example by reason of the removal of concessions) then it would be expected that the 'Rules' might be amended because of this circumstance. This highlights one possible disadvantage in the change from where a pension is partially guaranteed by the Department of Defence (existing Schemes) to one where the Defence Force account is directly affected not only by investment choices and the fluctuations of the market but also by any changes in the law which might affect the concessional taxation of Superannuation Funds. The RSL contends that this must be made clear in legislation when ADF Super is put before Parliament.

Another matter of concern to the RSL in the draft documentation was that normally any delegated rules or regulations or instruments cannot be inconsistent with the main legislation; whereas our examination suggests this is reversed in this case. Thus we understand that where there is any inconsistency between the draft documentation and the Rules, the Rules prevail.

We advised that this contrasts with what is normal practice and that we do not agree with it. We noted that if this was allowed to stand one of the ways of changing ADF Super would be to use the power to amend the rules. Our concern is that such action could be effected without having to pass amending legislation through Parliament. That would mean no consultation and no debate. The RSL opposed this aspect of the draft documentation and asserted that any Rules must be subservient to legislation.

Rear Admiral Ken Doolan AO RAN (Retd)  
12 May 2015