

Submission No 7

Inquiry into the Suitability of the Australian Army for Peacetime, Peacekeeping and War

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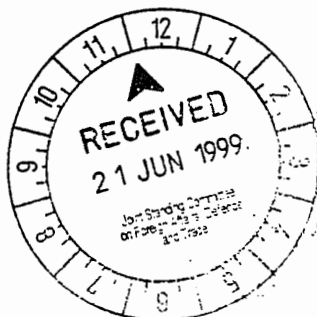
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16 June 1999

CONFIRMS FACSIMILE

The Secretary
Defence Sub-Committee
Joint Standing Committee
On Foreign Affairs
Defence and Trade
Parliament House
CANBERRA ACT 2600



Per facsimile: 02 6277 2221

Dear Sir

INQUIRY: SUITABILITY OF THE AUSTRALIAN ARMY FOR PEACETIME, PEACEKEEPING AND WAR.

In response to the inquiry by the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade the Australian Council of Trade Unions offers its policy on 'Reservists Called-Out for the Defence of Australia'.

The policy was formulated in 1995 by the ACTU representatives to the Defence Reserves Support Committee, Queensland - Mr Greg McMahon and the Defence Reserves Support Committee, National - Mr Bill Thompson. A copy is enclosed.

It is considered that the policy is relevant to the current problems of recruitment, retention and management of those Australian Defence Force personnel who have a civilian career as well as contributing to the nation's defence through their Reserve service.

Of the three services, it is considered that the Australian Army has particular and urgent problems in its Reserve personnel administration. Specifically, the time demand for Common Induction Training and travel to and from 1st Recruit Training Battalion can exceed seven weeks for some recruits. Most employers cannot release staff for such a long period.

The ACTU paper gives emphasis to what is considered a lack of legislated protection for a Reservist's civilian employment. It recommends a 'charter' for ADF Reserves human resource management and it provides a comprehensive basis for administrative review.


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If the Sub-Committee so requests, it is advised that Mr McMahon and Mr Thompson will be available to offer oral evidence. At that time it may be appropriate to furnish a number of ACTU 'Position Briefs', including:

- Legislation: Government as a Model Employer.
- Legislation: Descriptions of Disadvantages.
- Legislation: Exemptions.
- Legislation: Coverage of Persons Protected.
- Legislation: Description of Rights and Remedies.
- Legislation: Enforcement of Reservists Rights.
- Legislation: Retrospectivity.
- Protection of Economic Interests.

The ACTU welcomes the opportunity to offer its views on the matters of inquiry and hopes that it can add constructively to its findings.

Yours sincerely



BILL THOMPSON
ACTU REPRESENTATIVE

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Enc

For Information

- Secretary, Australian Council of Trade Unions.
- National Executive Officer, Defence Reserves Support Committee.

ACTU POLICY

RESERVISTS CALLED-OUT FOR

THE DEFENCE OF AUSTRALIA

ACTU POLICY:

RESERVISTS CALLED-OUT FOR THE DEFENCE OF AUSTRALIA

INTRODUCTION

The ACTU accepts that national decisions on the structure of Australia's Defence Forces require from part-time Army, Air Force and Naval Reservists a role that is vital to the effectiveness of the Defence Force.

Today, Defence Reservists represent over one-third of the total strength of the Australian Defence Force. Reservists now have specific roles in defending Australia in short warning conflicts, both as individuals and as formed units. In a few areas Defence Reservists have assumed full responsibility for a specific operational capability. Defence Reservists are therefore a fundamental part of Australia's Total Defence Force.

Reservists are also employees and business owners, they are family members and many of them are members of unions. Ninety-five percent of their working lives, before and after any period of defence service on call-out, is devoted to a civilian career.

This document sets out the ACTU policy on Reservist's call-out for the defence of Australia in situations short of war or defence emergencies.

VISION

The ACTU proposes the establishment of

A 'Charter for Defence Reservists, Employers and the Australian Government on Call Out for the Defence of Australia'.

The Charter would provide, in situations short of war or defence emergencies, mechanisms for the regulation and conduct of call-out procedures that are effective for the purposes of the call-out and reasonable towards the interests of the employees and employers involved.

A member of the Australian Defence Force, Regular member or Reservist, is a citizen who is to be accorded all the rights and responsibilities that Australian citizenship entails to the limits only of the inherent obligations peculiar to service with the Australian Defence Force.

In the case of Reservists, who have both a full time civilian career as well as a part-time Reservist career, effective protection of the interests of the Reservists and their employer requires statutory provisions that:

- * Encourage Reservists to make their contribution to the Australian Defence Forces by the removal or reduction of the disadvantages which accrue to Reservists called out in the defence of Australia;

- * Provide for the combining of civilian employment and defence service in a manner which is complementary to the interests of the employee, the employer and the nation;
- * Lessen the personal disruption of call-out to Reservists and their employers, and at the completion of such service, provide subsequent prompt reinstatement of the Reservists to their civilian employment, and
- * Prohibit by legislation discrimination against Reservists resulting from their service with the Australian Defence Force.

PURPOSES

The objects of the policy position on call-out are:

- (a) To encourage part-time career service by Reservists in the Defence Force, by eliminating or minimising the disadvantages to employees and to their civilian careers that can result from such service.
- (b) To minimise the disruption to the lives of Reservists while performing service in the Defence Force, as well as to their employers, by providing for the prompt re-employment of Reservists upon their completion of such service.
- (c) To ensure that individuals that become involved in the Defence Reserves are not discriminated against because of their service in the Defence Force.

KEY STRATEGIES

Three Key Strategies support the purposes of this policy:

- * *Enactment of effective legislation protecting the civilian career of Defence Reservists.* To be effective, legislation needs to be comprehensive in the scope of its protections and the detailing of its provisions, it needs to be expressed in plain English easily understandable to the employer and the Defence Reservist, and its provisions must be enforceable within the resources made available to the Reservist or the Reservist's family.

The design of legislation should:

- Establish the Australian Government as a model employer, with State Territory and Local Governments encouraged to adopt similar legislation.
- Provide comprehensive descriptions and definitions of the disadvantages in employment against which the Reservist will be protected.

- Provide for exemption for employers and employees from obligations in carefully defined circumstances, in particular, in the situation of undue hardship.
- Provide for protections for the widest range of persons likely to have their employment disadvantaged because of their defence service, including:
 - (i) Volunteers.
 - (ii) Non-volunteers.
 - (iii) Persons who act as advocates or witnesses in actions to have protections given under the legislation enforced.
 - (v) Temporary employees.
- Provide comprehensive descriptions and definitions of rights protections and remedies afforded Reservists.
- Provide for assistance to Reservists in the investigation of their complaints about the actions of their employers affecting the Reservist's employment, and in the enforcement of Reservist's rights under the legislation.
- Require appropriate authorities to report annually on the complaints of Reservists and the results of investigations and of actions before the Courts.
- Provide for periodic review of the legislation jointly by the Government, employers and the ACTU.
- Provide for retrospectivity of new legislation to the date (1988) of the amendments to the Defence Act that made Reservist's subject to "call-out".

* *Establishment and maintenance of co-operative employer/Reservist work relationships sharing a commitment to the defence of Australia.* To be maintained leading up to and during a period of defence service, the employer/Reservist work relationship needs to be supported by Defence procedures regarding continuous defence service obligations that:

- Provide for reasonable warning to the employer and the Reservist of any impending obligation.
- Provide for determination of the availabilities of Reservists for call-out through flexible arrangements rather than by direction.

- * *Protection of the economic and legal interests of the Reservist and his or her family.* These interests include:

- Income
 - Superannuation, and
 - Insurance, and,
- as may be relevant to the circumstances of individuals,
- Hire purchase agreements
 - Partnerships
 - Child support
 - Agricultural re-establishment
 - Rehabilitation
 - Bankruptcy
 - Rights regarding limitation periods
 - Educational opportunities