

2022-2023-2024

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Veterans' Entitlements, Treatment and
Support (Simplification and
Harmonisation) Bill 2024**

No. , 2024

(Veterans' Affairs)

**A Bill for an Act to amend the law relating to
veterans' affairs and military rehabilitation and
compensation, and for related purposes**

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OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, sixth ed, pp. 423-427, and OGC advice.) If yes: <ul style="list-style-type: none"> • List relevant clauses/items—various • Prepare message advice (see Drafting Direction 4.9) • Give a copy of the message advice to the Legislation area. 	Yes
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	Yes

1

2

3

4

A Bill for an Act to amend the law relating to veterans' affairs and military rehabilitation and compensation, and for related purposes

5

The Parliament of Australia enacts:

6

1 Short title

7

This Act is the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2024*.

8

9

2 Commencement

10

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

11

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Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	1 July 2026.	1 July 2026
3. Schedule 3, Part 1	The day after the end of the period of 60 days beginning on the day this Act receives the Royal Assent.	
4. Schedule 3, Part 2	1 July 2026.	1 July 2026
5. Schedules 4 to 7	1 July 2026.	1 July 2026
6. Schedule 8, Part 1	1 July 2026.	1 July 2026
7. Schedule 8, Part 2	The later of: (a) at the same time as the provisions covered by table item 6; and (b) immediately after the commencement of Part 1 of Schedule 1 to the <i>Defence Amendment (Parliamentary Joint Committee on Defence) Act 2024</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

- 1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.
- 4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

1

3 Schedules

2

Legislation that is specified in a Schedule to this Act is amended or

3

repealed as set out in the applicable items in the Schedule

4

concerned, and any other item in a Schedule to this Act has effect

5

according to its terms.

1 **Schedule 1—Single ongoing Act main**
2 **amendments**

3 **Part 1—Closing eligibility to DRCA and VEA**

4 *Military Rehabilitation and Compensation Act 2004*

5 **1 Section 3 (before the paragraph beginning “This Act**
6 **provides for”)**

7 Insert:

8 This Act provides rehabilitation, compensation and other
9 entitlements for veterans and other members of the Defence Force
10 (referred to in this Act as members and former members) and for
11 members of their families.

12 **2 Section 3**

13 Omit “This Act provides”, substitute “In particular, this Act provides”.

14 **3 Section 3**

15 After:

16 (c) certain assistance (such as child care, counselling and
17 household services) to members or former members or
18 to related persons of members, former members or
19 deceased members.

20 insert:

21 From the date of commencement, the benefits and assistance
22 provided for by this Act cover all members and former members,
23 regardless of when they rendered service or the nature of that
24 service, and this is the only Act under which a claim for such
25 benefits and assistance can be made.

26 Note 1: Part 2 of the *Military Rehabilitation and Compensation (Consequential*
27 *and Transitional Provisions) Act 2004* deals with the application of this
28 Act on and after the date of commencement.

1
2
3

Note 2: Part IA of the DRCA and Part IA of the VEA deal with the closure of those Acts to certain new claims on and after the date of commencement.

4 **4 Section 3**

5 Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
6 substitute “VEA”.

7 **5 Subsection 5(1)**

8 Insert:

9 *date of commencement* means 1 July 2026.

10 *de facto relationship*: see section 19A.

11 *DRCA* means the *Safety, Rehabilitation and Compensation*
12 *(Defence-related Claims) Act 1988*.

13 **6 Subsection 5(1) (subparagraph (c)(i) of the definition of**
14 ***partner*)**

15 Omit “subsection (2)”, substitute “section 19A”.

16 **7 Subsection 5(1) (definition of *pharmaceutical benefits*)**

17 Repeal the definition, substitute:

18 *pharmaceutical benefits* means drugs, medicinal preparations and
19 other pharmaceutical items (including aids to treatment and
20 dressings) for the treatment of sicknesses or injuries suffered by
21 human beings.

22 **8 Subsection 5(1)**

23 Insert:

24 *VEA* means the *Veterans’ Entitlements Act 1986*.

25 **9 Subsection 5(1) (definition of *Veterans’ Affairs Minister*)**

26 Repeal the definition.

1 **10 Subsection 5(2)**

2 Repeal the subsection.

3 **11 After section 19**

4 Insert:

5 **19A De facto relationships**

6 In forming an opinion for the purposes of this Act whether 2
7 people are living together in a de facto relationship, regard is to be
8 had to all the circumstances of the relationship including, in
9 particular, the following matters:

- 10 (a) the financial aspects of the relationship, including:
- 11 (i) any joint ownership of real estate or other major assets
12 and any joint liabilities; and
- 13 (ii) any significant pooling of financial resources especially
14 in relation to major financial commitments; and
- 15 (iii) any legal obligations owed by one person in respect of
16 the other person; and
- 17 (iv) the basis of any sharing of day-to-day household
18 expenses;
- 19 (b) the nature of the household, including:
- 20 (i) any joint responsibility for providing care or support of
21 children; and
- 22 (ii) the living arrangements of the people; and
- 23 (iii) the basis on which responsibility for housework is
24 distributed;
- 25 (c) the social aspects of the relationship, including:
- 26 (i) whether the people hold themselves out as being in
27 a de facto relationship with each other; and
- 28 (ii) the assessment of friends and regular associates of the
29 people about the nature of their relationship; and
- 30 (iii) the basis on which the people make plans for, or engage
31 in, joint social activities;
- 32 (d) any sexual relationship between the people;
- 33 (e) the nature of the people's commitment to each other,
34 including:

- 1 (i) the length of the relationship; and
2 (ii) the nature of any companionship and emotional support
3 that the people provide to each other; and
4 (iii) whether the people consider that the relationship is
5 likely to continue indefinitely; and
6 (iv) whether the people see their relationship as a
7 de facto relationship.

8 **12 Section 197**

9 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

10 **13 Subsection 198(2)**

11 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

12 **14 Subsection 204A(2) (note 3)**

13 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

14 **15 Sections 221 to 224**

15 Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
16 substitute “VEA”.

17 **16 Paragraphs 234(5)(a) and 245(b)**

18 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

19 **17 Sections 246 to 248**

20 Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
21 substitute “VEA”.

22 **18 Subsection 258(7)**

23 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

24 **19 Section 278**

25 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
26 *Claims) Act 1988*”, substitute “DRCA”.

1 **20 Section 280A (heading)**

2 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
3 *Claims) Act 1988*”, substitute “DRCA”.

4 **21 Subsection 280A(1)**

5 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
6 *Claims) Act 1988*”, substitute “DRCA”.

7 **22 Subsection 280A(1) (note 1)**

8 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

9 **23 Subsection 280A(1) (note 2)**

10 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
11 *Claims) Act 1988*”, substitute “DRCA”.

12 **24 Subsection 280A(2)**

13 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
14 *Claims) Act 1988*”, substitute “DRCA”.

15 **25 Section 300 (note 2)**

16 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
17 *Claims) Act 1988*”, substitute “DRCA”.

18 **26 Sections 301 to 303**

19 Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
20 substitute “VEA”.

21 **27 Subsection 409(5) (paragraph (g) of the definition of**
22 ***receiving Commonwealth body*)**

23 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

24 **28 Section 423**

25 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
26 *Claims) Act 1988*” (wherever occurring), substitute “DRCA”.

27 **29 Paragraph 424L(2)(b)**

28 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

1 **30 Paragraph 430(3E)(b)**

2 Omit “Veterans’ Entitlements Act 1986”, substitute “VEA”.

3 **31 Subparagraph 438(a)(i)**

4 Omit “Veterans’ Affairs”.

5 ***Safety, Rehabilitation and Compensation (Defence-related***
6 ***Claims) Act 1988***

7 **32 Subsection 4(1)**

8 Insert:

9 *date of commencement* means 1 July 2026.

10 **33 After Part I**

11 Insert:

12 **Part IA—Operation of this Act on and after date of**
13 **commencement**
14

15 **14AA No new claims etc. on or after date of commencement**

16 Despite anything else in this Act:

17 (a) a claim may not be made under Part V on or after the date of
18 commencement; and

19 (b) an instrument may not be made under section 41B (acute
20 support package) on or after that date.

21 Note 1: From the date of commencement:

22 (a) claims that could previously be made under this Act will be able
23 to be made under the MRCA; and

24 (b) acute support packages that could previously be granted under
25 this Act will be able to be granted under section 268B of the
26 MRCA.

27 Note 2: See also section @88 of the CTPA in relation to pending claims.

1 **34 Subsection 41B(1) (note)**

2 Omit “Note”, substitute “Note 1”.

3 **35 At the end of subsection 41B(1)**

4 Add:

5 Note 2: An instrument may not be made under this section on or after the date
6 of commencement (see section 14AA).

7 **36 At the end of subsection 54(1)**

8 Add:

9 Note: A claim may not be made under this section on or after the date of
10 commencement (see section 14AA).

11 **37 At the end of subsection 124(1A)**

12 Add:

13 Note: A claim for compensation under this Act may not be made on or after
14 the date of commencement (see section 14AA).

15 ***Veterans’ Entitlements Act 1986***

16 **38 Subsection 5Q(1)**

17 Insert:

18 *date of commencement* means 1 July 2026.

19 **39 After Part I**

20 Insert:

21 **Part IA—Operation of this Act on and after date of**
22 **commencement**
23

24 **12AA No new claims, applications etc. on or after date of**
25 **commencement**

26 Despite anything else in this Act:

- 1 (a) a claim or application may not be made under any of the
2 following on or after the date of commencement:
3 (i) Part II (other than Division 2A);
4 (ii) Part IV;
5 (iii) section 111 (other than in respect of bereavement
6 payment under section 98AA);
7 (iv) a legislative instrument made under section 105 or 106;
8 and
9 (b) an instrument may not be made under section 115S (acute
10 support package) on or after that date.

11 Note 1: From the date of commencement:
12 (a) certain claims and applications that could previously be made
13 under this Act, or under legislative instruments made under this
14 Act, will be able to be made under the MRCA; and
15 (b) acute support packages that could previously be granted under
16 this Act will be able to be granted under section 268B of the
17 MRCA.

18 Note 2: See also section @89 of the CTPA in relation to certain pending
19 claims and applications.

20 **40 Subsection 14(1) (notes 1 and 2)**

21 Repeal the notes, substitute:

22 Note: A claim may not be made on or after the date of commencement (see
23 section 12AA).

24 **41 At the end of subsections 15(1) and (2)**

25 Add:

26 Note: An application may not be made on or after the date of
27 commencement (see section 12AA).

28 **42 At the end of subsection 111(2)**

29 Add:

30 Note: An application may not be made on or after the date of
31 commencement, unless it is for bereavement payment under
32 section 98AA (see section 12AA).

33 **43 Subsection 115S(1) (note)**

34 Omit “Note”, substitute “Note 1”.

1 **44 At the end of subsection 115S(1)**

2 Add:

3 Note 2: An instrument may not be made under this section on or after the date
4 of commencement (see section 12AA).

1 **Part 2—Opening MRCA to pre-2004 conditions**

2 **Division 1—Accepted DRCA and VEA conditions**

3 *Military Rehabilitation and Compensation Act 2004*

4 **45 Section 21 (paragraph beginning “The Commission”)**

5 After “none of the exclusions in Part 4 apply.”, insert “The Commission
6 is taken to have accepted liability for an injury or disease in certain
7 circumstances.”.

8 **46 Section 22 (paragraph beginning “The Commission must
9 accept”)**

10 After “none of the exclusions in Part 4 apply.”, insert “The Commission
11 is taken to have accepted liability for an injury or disease, and the injury
12 or disease is taken to be a service injury or disease, if liability for the
13 injury or disease has previously been accepted under the DRCA or
14 VEA.”.

15 **47 After section 24**

16 Insert:

17 **24A Commission taken to have accepted liability for certain injuries
18 and diseases**

- 19 (1) This section applies in relation to an injury sustained, or a disease
20 contracted, by a person if:
- 21 (a) before the date of commencement, the person made a claim
22 for either of the following in respect of the injury or disease:
 - 23 (i) compensation under the DRCA;
 - 24 (ii) a pension under Part II or IV of the VEA; and
 - 25 (b) as a result of the determination of that claim (including any
26 reconsideration or review of a decision made in relation to
27 that claim):
 - 28 (i) if subparagraph (a)(i) applies—liability to pay
29 compensation in respect of the injury or disease was
30 accepted; or

1 (ii) if subparagraph (a)(ii) applies—it was determined that
2 the person was entitled to be granted a pension in
3 respect of the injury or disease.

4 (2) For the purposes of this Act, the regulations and any other
5 instrument made under this Act:

6 (a) the Commission is taken to have accepted liability for the
7 injury or disease under this Chapter; and

8 (b) the injury or disease is taken to be a service injury, or a
9 service disease, as the case may be.

10 Note: This means that the person is not required to make a claim under
11 section 319 for acceptance of liability for the injury or disease and the
12 Commission is not required to reassess liability for the injury or
13 disease.

14 **48 At the end of section 27**

15 Add:

16 Note 1: Certain injuries and diseases are taken to be service injuries and
17 service diseases (see section 24A).

18 **Division 2—Classifying pre-2004 operations**

19 *Military Rehabilitation and Compensation Act 2004*

20 **49 Before section 1**

21 Insert:

22 **Part 1—Preliminary**

24 **50 Subsection 5(1)**

25 Insert:

26 *Australian contingent*, in relation to a Peacekeeping Force, means
27 a contingent of that Force that has been authorised or approved by
28 the Australian Government.

29 *Australian member*, in relation to a Peacekeeping Force, means a
30 member of that Force whose membership has been authorised or
31 approved by the Australian Government.

1 *authorised travel*, in relation to a member of a Peacekeeping
2 Force, means travel authorised by the appropriate authority, being
3 an authority approved by the Minister for the purpose.

4 *British nuclear test defence service* has the meaning given by
5 section @6B.

6 **51 Subsection 5(1) (definition of *defence service*)**

7 Omit “paragraph 6(1)(d)”, substitute “subsection 6(1A)”.

8 **52 Subsection 5(1)**

9 Insert:

10 *domicile* has a meaning affected by section 19B.

11 *hazardous service* has the meaning given by section @6C.

12 **53 Subsection 5(1) (at the end of the definition of *member*)**

13 Add:

14 ; or (d) a member of a Peacekeeping Force.

15 **54 Subsection 5(1)**

16 Insert:

17 *member of a Peacekeeping Force* means a person who is serving,
18 or has served, with a Peacekeeping Force outside Australia as an
19 Australian member, or as a member of the Australian contingent,
20 of that Peacekeeping Force.

21 *operational service* has the meaning given by sections @444 to
22 @450.

23 *Peacekeeping Force* has the meaning given by subsection
24 @6A(3).

25 *peacekeeping service* has the meaning given by subsection
26 @6A(1).

27 **55 Before section 6**

28 Insert:

1 **Part 2—Kinds of service to which this Act applies**
2

3 **56 Section 6 (heading)**

4 Repeal the heading, substitute:

5 **6 Defence service**

6 **57 Before subsection 6(1)**

7 Insert:

8 (1A) For the purposes of this Act, the following kinds of service are
9 *defence service*:

- 10 (a) warlike service;
11 (b) non-warlike service;
12 (c) British nuclear test defence service;
13 (d) hazardous service;
14 (e) peacetime service.

15 Note: This Act applies in relation to operational service as if it were warlike
16 service or non-warlike service (see section @443).

17 **58 Paragraph 6(1)(b)**

18 After “this Act”, insert “, or service that is peacekeeping service”.

19 **59 Paragraphs 6(1)(c) and (d)**

20 Repeal the paragraphs, substitute:

- 21 (c) *peacetime service* means service with the Defence Force that
22 is not any of the following:
23 (i) warlike service;
24 (ii) non-warlike service;
25 (iii) British nuclear test defence service;
26 (iv) hazardous service.

27 **60 After section 6**

28 Insert:

@6A Meanings of *peacekeeping service* and *Peacekeeping Force*

- (1) ***Peacekeeping service*** means service rendered by a person with a Peacekeeping Force outside Australia, and includes:
- (a) any period after the person's appointment or allocation to the Peacekeeping Force during which the person was travelling outside Australia for the purpose of joining the Peacekeeping Force; and
 - (b) any period (not exceeding 28 days) of authorised travel by the person outside Australia after the person has ceased to serve with the Peacekeeping Force.
- (2) For the purposes of subsection (1):
- (a) a person who has travelled from a place in Australia to a place outside Australia is taken to have commenced to travel outside Australia when the person departed from the last port of call in Australia; and
 - (b) a person who has travelled to Australia from a place outside Australia is taken to have been travelling outside Australia until the person arrived at the first port of call in Australia.
- (3) A Peacekeeping Force described in column 1 of an item of the following table is a ***Peacekeeping Force*** for the purposes of this Act on and from the initial date specified in column 2 of the item.

Peacekeeping Forces

Item	Column 1 Description of Peacekeeping Force	Column 2 Initial date as a Peacekeeping Force
1	Security Council Commission of Investigation on the Balkans	29 January 1947
2	Committee of Good Offices	25 August 1947
3	United Nations Special Commission on the Balkans	26 November 1947
4	United Nations Commission on Korea	1 January 1949
5	United Nations Military Observer Group in India and Pakistan	1 January 1949
6	United Nations Commission for Indonesia	28 January 1949

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Peacekeeping Forces		
Item	Column 1 Description of Peacekeeping Force	Column 2 Initial date as a Peacekeeping Force
7	United Nations Truce Supervision Organisation	1 June 1956
8	United Nations Operations in the Congo	1 August 1960
9	United Nations Yemen Observation Mission	1 January 1963
10	United Nations Force in Cyprus	14 May 1964
11	United Nations India-Pakistan Observation Mission	20 September 1965
12	United Nations Disengagement Observer Force	1 January 1974
13	United Nations Emergency Force Two	1 July 1976
14	United Nations Interim Force in Lebanon	23 March 1978
15	Commonwealth Monitoring Force in Zimbabwe	24 December 1979
16	Sinai Multinational Force and Observers established by the Protocol between the Arab Republic of Egypt and the State of Israel dated 3 August 1981	18 February 1982
17	United Nations Iran/Iraq Military Observer Group	11 August 1988
18	United Nations Border Relief Operation in Cambodia	1 February 1989
19	United Nations Transition Assistance Group Namibia	18 February 1989
20	United Nations Mission for the Referendum in Western Sahara (Mission des Nations Unies pour un Referendum au Sahara Occidental)	27 June 1991
21	The Australian Police Contingent of the United Nations Transitional Authority in Cambodia	18 May 1992
22	The Australian Police Contingent of the United Nations Operation in Mozambique	27 March 1994
23	Australian Defence Support to a Pacific Peacekeeping Force for a Bougainville Peace Conference	21 September 1994
24	The Australian Police Contingent of the Multi-National Force in Haiti	10 October 1994
25	The Australian Police Contingent of the United Nations Mission in East Timor	21 June 1999
26	The Australian Police Contingent of the United Nations Transitional Administration in East Timor	25 October 1999

Peacekeeping Forces

Item	Column 1 Description of Peacekeeping Force	Column 2 Initial date as a Peacekeeping Force
27	The Australian Police Contingent of the United Nations Mission of Support in East Timor	20 May 2002
28	The Australian Police Contingent of the Regional Assistance Mission to Solomon Islands	24 July 2003
29	The Australian Police Contingent of the United Nations Mission in Sudan	1 January 2006

1 **@6B British nuclear test defence service**

2 (1) A person has rendered *British nuclear test defence service* if,
3 while the person was a member of the Defence Force, the person
4 rendered service in an area mentioned in an item of the following
5 table during the period mentioned in the item.

6

British nuclear test defence service in an area within a period

Item	Area	Period
1	The area within 10 kilometres of Main Beach on Trimouille Island in the Monte Bello Archipelago	The period: (a) starting at the start of 3 October 1952; and (b) ending at the end of 19 June 1958
2	The area within 25 kilometres of the Totem test sites at Emu Field	The period: (a) starting at the start of 15 October 1953; and (b) ending at the end of 25 October 1955
3	The area within 40 kilometres of any of the Buffalo or Antler test sites near Maralinga	The period: (a) starting at the start of 27 September 1956; and (b) ending at the end of 30 April 1965

7 (2) A person has rendered *British nuclear test defence service* if,
8 while the person was a member of the Defence Force:

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- 1 (a) the person was involved in the transport, recovery,
2 maintenance or cleaning of a vessel, vehicle, aircraft or
3 equipment at any time during a period mentioned in an item
4 of the following table; and
5 (b) the vessel, vehicle, aircraft or equipment was contaminated
6 as a result of its use in the area mentioned in the item.
7

British nuclear test defence service relating to work on contaminated things

Item	Period in which involvement occurred	Area where thing was contaminated
1	The period: (a) starting at the start of 3 October 1952; and (b) ending at the end of 19 July 1956	The area within 10 kilometres of Main Beach on Trimouille Island in the Monte Bello Archipelago
2	The period: (a) starting at the start of 15 October 1953; and (b) ending at the end of 25 November 1953	The area within 25 kilometres of the Totem test sites at Emu Field
3	The period: (a) starting at the start of 27 September 1956; and (b) ending at the end of 30 May 1963	The area within 40 kilometres of any of the Buffalo or Antler test sites near Maralinga

- 8 (3) A person has rendered **British nuclear test defence service** if,
9 while the person was a member of the Defence Force and at a time
10 between the start of 3 October 1952 and the end of 31 October
11 1957, the person flew in an aircraft of the Royal Australian Air
12 Force or the Royal Air Force that was at that time:
13 (a) used in measuring fallout from nuclear tests conducted in an
14 area described in the table in subsection (1); and
15 (b) contaminated by the fallout.
- 16 (4) A person has rendered **British nuclear test defence service** if:
17 (a) the service was rendered while the person was a member of
18 the Defence Force; and
19 (b) the person satisfies the requirements specified in an
20 instrument under subsection (5).

1 (5) The Commission may, by legislative instrument, specify
2 requirements for the purposes of subsection (4).

3 **@6C Hazardous service**

4 *Hazardous service* is service with the Defence Force, before 1 July
5 2004, that is of a kind determined by the Defence Minister, by
6 legislative instrument, to be hazardous service for the purposes of
7 this section.

8 **Part 3—Other interpretation provisions**
9

10 **61 Before section 20**

11 Insert:

12 **19B Domicile**

13 (1) A person is taken for the purposes of this Act to have been capable
14 of having an independent domicile at a time before 1 July 1982 if
15 the person had turned 18 at or before that time.

16 Note: Subsection 8(1) of the *Domicile Act 1982* has a similar effect for a
17 time occurring on or after 1 July 1982.

18 (2) Subsection (1) has effect despite any rule of law to the contrary.

19 **62 Subsection 335(1) (heading)**

20 Omit “*or non-warlike service*”, substitute “*service, non-warlike service,*
21 *British nuclear test defence service or hazardous service*”.

22 **63 Subsection 335(1)**

23 Omit “*or non-warlike service*”, substitute “*service, non-warlike service,*
24 *British nuclear test defence service or hazardous service*”.

25 **64 Subsection 338(1)**

26 Omit “*or non-warlike service*”, substitute “*service, non-warlike service,*
27 *British nuclear test defence service or hazardous service*”.

1 **65 Subparagraph 340(2)(c)(ii)**

2 Omit “and”, substitute “or”.

3 **66 At the end of paragraph 340(2)(c)**

4 Add:

5 (iii) British nuclear test defence service; or

6 (iv) hazardous service; and

7 **67 At the end of the Act**

8 Add:

9 **Chapter 12—Application of this Act to**
10 **operational service**

11 **Part 1—Preliminary**
12

13 **@441 Simplified outline of this Chapter**

14 This Act applies to operational service as if it were warlike service
15 or non-warlike service. This means that persons who are taken to
16 have been rendering operational service may be entitled to benefits
17 and assistance under this Act.

18 This Chapter defines what is *operational service*.

19 **@442 Definitions**

20 (1) In this Chapter:

21 *allied country* means any country (not being Australia or a
22 Commonwealth country):

23 (a) that was, at the relevant time, at war with the enemy; or

24 (b) the forces of which were, at the relevant time, engaged in an
25 operational area against forces against which the forces of the
26 Commonwealth were engaged in that area;

27 and includes:

1 (c) a state, province or other territory that is one of 2 or more
2 territories that together form, or formed at the relevant time, a
3 discrete part of such a country; and

4 (d) a place that is, or was at the relevant time, a territory,
5 dependency or colony (however described) of such a country.

6 ***allotted for duty*** in an operational area has the meaning given by
7 subsection (2).

8 ***Australian mariner*** means a person who was, during the period of
9 World War 2 from its commencement to and including 29 October
10 1945:

11 (a) a master, officer or seaman employed under agreement, or an
12 apprentice employed under indenture, in sea-going service on
13 a ship registered in Australia that was engaged in trading
14 between a port in a State or Territory and any other port; or

15 (b) a master, officer or seaman employed under agreement, or an
16 apprentice employed under indenture, in sea-going service on
17 a ship registered outside Australia who was, or whose
18 dependants were, resident in Australia for at least 12 months
19 immediately before the person entered into the agreement or
20 indenture; or

21 (c) a master, officer, seaman or apprentice employed on a
22 lighthouse tender, or pilot ship of the Commonwealth or of a
23 State; or

24 (d) a pilot employed or licensed by Australia or a State or by an
25 authority constituted by or under a law of the Commonwealth
26 or of a State; or

27 (e) a master, officer, seaman or apprentice employed in
28 sea-going service on a ship owned in Australia and operating
29 from an Australian port, being a hospital ship, troop
30 transport, supply ship, tug, cable ship, salvage ship, dredge,
31 fishing vessel or fisheries investigation vessel; or

32 (f) a member or employee of the Commonwealth Salvage Board
33 engaged in sea-going service under the direction of that
34 Board; or

35 (g) a master, officer, seaman or apprentice employed in
36 sea-going service on a ship registered in New Zealand who
37 the Commission is satisfied was engaged in Australia and is

1 not entitled to compensation under a law of a Commonwealth
2 country providing for the payment of pensions and other
3 payments to seamen who suffered death or disablement as a
4 result of World War 2.

5 **Commonwealth country** means a country (other than Australia)
6 that is, or was at the relevant time, a part of the Dominions of the
7 Crown, and includes:

- 8 (a) a state, province or other territory that is one of 2 or more
9 territories that together form, or formed at the relevant time, a
10 discrete part of such a country; and
11 (b) a place that is, or was at the relevant time, a territory,
12 dependency or colony (however described) of a part of such a
13 country.

14 **continuous full-time operational service** means:

- 15 (a) in relation to a member of the Defence Force:
16 (i) service in the Naval Forces of the Commonwealth of the
17 kind known as continuous full-time naval service; or
18 (ii) service in the Military Forces of the Commonwealth of
19 the kind known as continuous full-time military service;
20 or
21 (iii) service in the Air Force of the Commonwealth of the
22 kind known as continuous full-time air force service; or
23 (b) in relation to a member of the naval, military or air forces of
24 a Commonwealth country or an allied country—service in
25 those forces of a kind similar to the kind of service referred
26 to in subparagraph (a)(i), (ii) or (iii); or
27 (c) if the Minister determines, under paragraph (5)(a), that a
28 person, or a person included in a class of persons, was
29 rendering continuous full-time operational service while
30 rendering service of a kind specified in the determination—
31 service of that kind that was rendered by that person or a
32 person included in that class of persons.

33 **eligible civilian** means a person:

- 34 (a) who was killed, or detained by the enemy, during World War
35 2; and
36 (b) who was, at the time the person was killed or first detained:
37 (i) a British subject; and
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- 1 (ii) a resident, but not an indigenous inhabitant, of the
2 Territory of Papua or the Territory of New Guinea; and
3 (c) who was not, at that time:
4 (i) rendering service as a member of the Defence Force; or
5 (ii) employed by the Commonwealth on a special mission
6 outside Australia.

7 **enemy** means:

- 8 (a) in relation to World War 1 or World War 2—the naval,
9 military or air forces, or any part of the naval, military or air
10 forces, of a State at war with the Crown during that war; or
11 (b) in relation to service in, or a period of hostilities in respect of,
12 an operational area—the naval, military or air forces against
13 which the Naval, Military or Air Forces of the
14 Commonwealth were engaged in that operational area; or
15 (c) persons assisting any of those forces.

16 **fishing vessel** means a ship employed in connection with the
17 occupation of sea fishing for profit.

18 **member of a unit of the Defence Force** means:

- 19 (a) a member of the Defence Force; or
20 (b) another person who is:
21 (i) a member of the unit; or
22 (ii) attached to the unit; or
23 (iii) appointed for continuous full-time operational service
24 with the unit; or
25 (c) if the Minister determines, under paragraph (5)(b), that a
26 person, or a person included in a class of persons, was a
27 member of a specified unit of the Defence Force while
28 rendering service of a kind specified in the determination—
29 the person or a person included in the class of persons.

30 **member of the Defence Force** includes a person appointed for
31 continuous full-time operational service with a unit of the Defence
32 Force.

33 Note: See also subsection (4) in relation to the Army Medical Corps Nursing
34 Service.

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member of the Interim Forces means a person who:

- (a) enlisted or re-engaged in, or was appointed or re-appointed to, the Defence Force for continuous full-time operational service for a term of not more than 2 years; or
- (b) was appointed for continuous full-time operational service with a unit of the Defence Force for a term of not more than 2 years;

on or after 1 July 1947 and before 1 July 1949.

operational area has the meaning given by section @451.

period of hostilities means:

- (a) World War 1 from its commencement on 4 August 1914 to 11 November 1918 (both included); or
- (b) World War 2 from its commencement on 3 September 1939 to 29 October 1945 (both included); or
- (c) the period of hostilities in respect of Korea from 27 June 1950 to 19 April 1956 (both included); or
- (d) the period of hostilities in respect of Malaya from 29 June 1950 to 31 August 1957 (both included); or
- (e) the period of hostilities in respect of war-like operations in operational areas from 31 July 1962 to 11 January 1973 (both included).

special mission means a mission that, in the opinion of the Commission, was of special assistance to the Commonwealth in the prosecution of World War 1 or World War 2.

unit of the Defence Force means a body, contingent or detachment of the Defence Force.

World War 1 means:

- (a) the war that commenced on 4 August 1914; or
- (b) any other war in which the Crown became engaged after 4 August 1914 and before 11 November 1918.

World War 2 means:

- (a) the war that commenced on 3 September 1939; or
- (b) any other war in which the Crown became engaged after 3 September 1939 and before 3 September 1945.

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Allotted for duty

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(2) A reference in this Chapter to a person, or a unit of the Defence Force, that was ***allotted for duty*** in an operational area is a reference:

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(a) in the case of duty that was carried out in an operational area described in item 1, 2, 3, 6, 7, 8, 9 or 10 of the table in section @451—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument issued by the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or

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(b) in the case of duty that was carried out in an operational area described in item 4, 5, 11, 12, 13, 14, 15, 16 or 17 of the table in section @451—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument signed by the Vice Chief of the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or

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(c) to a person, or unit of the Defence Force, that is, by written instrument signed by the Defence Minister, taken to have been allotted for duty in an operational area described in item 6 or 10 of the table in section @451.

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(3) An instrument under paragraph (2)(a), (b) or (c) is not a legislative instrument.

25

Army Medical Corps Nursing Service

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(4) For the purposes of this Chapter, a member of the Army Medical Corps Nursing Service who:

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(a) rendered service during World War 1, either within or outside Australia; and

(b) rendered the service as such a member in accordance with an acceptance or appointment by the Director-General of Medical Services for service outside Australia;

is taken to have been serving as a member of the Defence Force while rendering that service.

- 1 (a) the operational service were warlike service or non-warlike
2 service; and
3 (b) the person who is taken to have been rendering the
4 operational service were a member who had rendered warlike
5 service or non-warlike service.

6 **Part 3—Service that is operational service**

7 **Division 1—Operational service**

8 **@444 Operational service—world wars**

- 9 (1) Subject to subsection (3), a person referred to in an item of the
10 following table is taken to have been rendering *operational service*
11 during any period during which the person was rendering service
12 of a kind referred to in the item.

13

Operational service

Item	Person	Nature of service
1	A member of the Defence Force	(a) continuous full-time operational service outside Australia during World War 1 or World War 2; or (b) continuous full-time operational service for a period of at least 3 months in that part of the Northern Territory that is north of the parallel 14°30'S (including any of the islands adjoining the Northern Territory) between 19 February 1942 and 12 November 1943 (both dates inclusive); or (c) continuous full-time operational service during World War 1 or World War 2 rendered within Australia immediately before, or immediately after, a period of continuous full-time operational service of the kind referred to in paragraph (a) or (b); or (d) continuous full-time operational service rendered within Australia during World

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Operational service

Item	Person	Nature of service
		War 2 in such circumstances that the service should, in the opinion of the Commission, be treated as service in actual combat against the enemy
2	A member of the Defence Force who enlisted in the Defence Force while living on a Torres Strait Island	(a) continuous full-time operational service for a period of at least 3 months on that island between 14 March 1942 and 18 June 1943 (both dates inclusive); or (b) continuous full-time operational service during World War 1 or World War 2 rendered within Australia immediately before, or immediately after, a period of continuous full-time operational service of the kind referred to in paragraph (a)
3	A member of the naval, military or air forces of a Commonwealth country or of an allied country who was domiciled in Australia or an external Territory immediately before the member's appointment or enlistment in those forces	Continuous full-time operational service during World War 1 or World War 2 rendered: (a) outside that country; or (b) within that country but in such circumstances that the service should, in the opinion of the Commission, be treated as service in actual combat against the enemy

1 Note: Section 19B may affect a person's domicile immediately before
2 appointment or enlistment.

3 (2) A person referred to in an item of the following table is taken to
4 have been rendering *operational service* during the period, or at
5 the time, specified in the item.
6

Operational service

Item	Person	Relevant period or time
1	A person who was, during World War 1 or World War 2, employed by the Commonwealth on a special mission outside Australia	The period during which the person was so employed by the Commonwealth

Operational service

Item	Person	Relevant period or time
2	An eligible civilian who was killed, during the invasion of the Territory of Papua or the Territory of New Guinea during World War 2, as a result of action by the enemy	The time of the event as a result of which the person was killed
3	An eligible civilian who was detained by the enemy during World War 2	The period during which the person was so detained
4	A person who, while rendering continuous full-time operational service as a member of the Defence Force within Australia during World War 2, was injured, or contracted a disease, as a result of enemy action	The time of the event as a result of which the person was injured or contracted the disease

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(3) Any continuous full-time operational service that was rendered during World War 2 by a member of the Defence Force (other than a member of the Interim Forces) on or after the cut-off date for the member is not taken to be *operational service*.

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(4) For the purposes of subsection (3), the *cut-off date* for a member of the Defence Force is the date applicable to the member in accordance with the following table.

Cut-off date

Item	Member	Date
1	A member who was appointed or enlisted for war service in any part of the Defence Force that was raised during World War 2 for war service, or solely for service during that war or during that war and a definite period immediately following that war	1 July 1951
2	A member who was appointed or enlisted in the Citizen Forces and was called up for continuous full-time operational service for the duration of, or directly in connection with, World War 2	1 July 1951

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Cut-off date

Item	Member	Date
3	A member who served in the British Commonwealth Occupation Force in Japan	1 July 1951, or the date on which the member arrived back in Australia on the completion of the member's service in that Force, whichever is the earlier
4	Any other member	3 January 1949

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2 **@445 Operational service—Australian mariners**

- 3 (1) A person is taken to have been rendering *operational service*
4 during:
- 5 (a) any period of employment outside Australia as an Australian
6 mariner on a ship; or
- 7 (b) any period of employment within Australia as an Australian
8 mariner on a ship if that period of employment ended
9 immediately before, or started immediately after, the period
10 of employment referred to in paragraph (a).
- 11 (2) A person who, while employed within Australia as an Australian
12 mariner on a ship, was injured, or contracted a disease, as a result
13 of enemy action is taken to have been rendering *operational*
14 *service* at the time of the event as a result of which the person was
15 injured or contracted the disease.
- 16 (3) A person who was employed within Australia as an Australian
17 mariner on a ship in such circumstances that the employment
18 should, in the opinion of the Commission, be treated as
19 employment in actual combat against the enemy is taken to have
20 been rendering *operational service* while the person was so
21 employed.
- 22 (4) Without limiting paragraph (1)(a), a person is taken to have been
23 employed outside Australia as an Australian mariner on a ship in
24 each of the following circumstances:

- 1 (a) at any time when the person was at a place outside Australia
2 on leave from the ship while the ship was at a port outside
3 Australia;
- 4 (b) at any time when the person was outside Australia while on
5 the person's way to take up employment as an Australian
6 mariner on a ship;
- 7 (c) while the person was awaiting return to Australia from
8 employment as an Australian mariner on a ship;
- 9 (d) while the person was returning to Australia from employment
10 as an Australian mariner on a ship.
- 11 (5) For the purposes of this section, if a person was employed as an
12 Australian mariner on a ship undertaking a voyage for the purpose
13 of going from a place within Australia to another place within
14 Australia, the person is taken to have been employed within
15 Australia during the whole of the voyage.
- 16 (6) In this section:
- 17 *Australia* does not include an external Territory.

18 **@446 Operational service—post-World War 2 service in**
19 **operational areas**

- 20 (1) Subject to this section, a member of the Defence Force who has
21 rendered continuous full-time operational service in an operational
22 area as:
- 23 (a) a member who was allotted for duty in that area; or
24 (b) a member of a unit of the Defence Force that was allotted for
25 duty in that area;
- 26 is taken to have been rendering *operational service* in the
27 operational area while the member was so rendering continuous
28 full-time operational service.
- 29 (2) A member of the naval, military or air forces of a Commonwealth
30 country or of an allied country who:
- 31 (a) was domiciled in Australia or an external Territory
32 immediately before the member's appointment or enlistment
33 in those forces; and

1 (b) has rendered continuous full-time operational service in an
2 operational area;
3 is taken to have been rendering *operational service* in the
4 operational area while the member was so rendering continuous
5 full-time operational service.

6 Note: Section 19B may affect a person's domicile immediately before
7 appointment or enlistment.

8 (3) For the purposes of subsection (1), a member of the Defence Force
9 is, subject to subsection (4), taken to have rendered continuous
10 full-time operational service in an operational area during the
11 period commencing on:

12 (a) if the member was in Australia on the day (the *relevant day*)
13 from which the member, or the unit of the member, was
14 allotted for duty in that area—on the day on which the
15 member left the last port of call in Australia for that service;
16 or

17 (b) if the member was outside Australia on the relevant day—on
18 that day;

19 and ending at the end of:

20 (c) if the member, or the unit of the member, ceased to be
21 allotted for duty—the day from which the member, or the
22 unit, ceased to be allotted for duty; or

23 (d) if the member, or the unit of the member, was assigned for
24 duty from the operational area to another area outside
25 Australia (not being an operational area)—the day from
26 which the member, or the unit, was assigned to that other
27 area, or the day on which the member, or the unit, arrived at
28 that other area, whichever is the later; or

29 (e) in any other case—the day on which the member arrived at
30 the first port of call in Australia on returning from
31 operational service.

32 (4) If, while rendering continuous full-time operational service in an
33 operational area, a member of the Defence Force has:

34 (a) returned to Australia in accordance with the Rest and
35 Recuperation arrangements of the naval, military or air
36 forces; or

37 (b) returned to Australia on emergency or other leave granted on
38 compassionate grounds; or

- 1 (c) returned to Australia on duty; or
2 (d) returned to Australia for the purpose of receiving medical or
3 surgical treatment as directed by the medical authorities of
4 the Defence Force;
5 only so much of the period of service of the member within
6 Australia after the member's return and while the member:
7 (e) continued to be allotted for duty in an operational area; or
8 (f) continued to be a member of a unit of the Defence Force
9 allotted for duty in an operational area;
10 as does not exceed 14 days is taken, for the purposes of
11 subsection (1), to be a period when the member was rendering
12 continuous full-time operational service in the operational area.

13 **@447 Operational service—other post-World War 2 service**

- 14 (1) This section applies to a member of the Defence Force who, or a
15 member of a unit of the Defence Force that:
16 (a) was assigned for service:
17 (i) in Singapore at any time during the period from and
18 including 29 June 1950 to and including 31 August
19 1957; or
20 (ii) in Japan at any time during the period from and
21 including 28 April 1952 to and including 19 April 1956;
22 or
23 (iii) in North East Thailand (including Ubon) at any time
24 during the period from and including 28 July 1962 to
25 and including 24 June 1965; or
26 (iv) in North East Thailand (not including Ubon) at any time
27 during the period from and including 31 May 1962 to
28 and including 27 July 1962; or
29 (b) was, at any time during the period from and including
30 1 August 1960 to and including 27 May 1963, in the area
31 comprising the territory of Singapore and the country then
32 known as the Federation of Malaya;
33 but so applies only if the member, or the unit of the member, is
34 included in a written instrument issued by the Defence Force for
35 use by the Commission in determining a person's eligibility for
36 entitlements under this Act.

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1 Note: Service in Ubon in Thailand between 31 May 1962 and 27 July 1962
2 is taken to be operational service because of section @446 and item 4
3 of the table in section @451.

4 (2) An instrument under subsection (1) is not a legislative instrument.

5 (3) A person to whom this section applies is taken to have been
6 rendering **operational service** during any period during which the
7 person was rendering continuous full-time operational service as:

8 (a) a member of the Defence Force; or

9 (b) a member of a unit of the Defence Force;

10 while the person was in the area described in paragraph (1)(a) or
11 attached to the Far East Strategic Reserve (as the case may be).

12 (4) For the purposes of subsection (3), the operational service of a
13 person to whom this section applies:

14 (a) is taken to have started:

15 (i) if the person was in Australia on the day (the **relevant**
16 **day**) from which the person’s unit was assigned for
17 service as described in paragraph (1)(a) or attached to
18 the Far East Strategic Reserve (as the case may be)—on
19 the day on which the member left the last port of call in
20 Australia for that service; or

21 (ii) if the person was outside Australia on the relevant
22 day—on that day; and

23 (b) is taken to have ended:

24 (i) if the member was assigned for service in another
25 country or area outside Australia (not being an
26 operational area)—the day from which the member was
27 assigned to that other country or area, or the day on
28 which the member arrived at that other country or area,
29 whichever is the later; or

30 (ii) in any other case—the day on which the member
31 arrived at the first port of call in Australia on returning
32 from operational service.

1 **@448 Operational service—minesweeping and bomb/mine**
2 **clearance service**

3 A member of the Defence Force is taken to have been rendering
4 **operational service** during any period of service in respect of
5 which the member has been awarded, or has become eligible to be
6 awarded, the Naval General Service Medal or the General Service
7 Medal (Army and Royal Air Force) with the Minesweeping
8 1945-51 Clasp, the Bomb-Mine Clearance 1945-53 Clasp, the
9 Bomb and Mine Clearance 1945-49 Clasp or the Bomb and Mine
10 Clearance 1945-56 Clasp.

11 **@449 Operational service—service on submarine special operations**

12 A member of the Defence Force for whom the following are
13 satisfied:

- 14 (a) the member has rendered continuous full-time operational
15 service on a submarine for a period that started on or after
16 1 January 1978 and ended on or before the end of 12 May
17 1997;
- 18 (b) the member has rendered continuous full-time operational
19 service on submarine special operations (the **special service**)
20 at any time in the period beginning on 1 January 1978 and
21 ending at the end of 12 May 1997;
- 22 (c) the member:
- 23 (i) has been awarded the Australian Service Medal with
24 Clasp “SPECIAL OPS” for the special service; or
- 25 (ii) has become eligible for that award for the special
26 service; or
- 27 (iii) would have been eligible for that award for the special
28 service if the member had not already been awarded it
29 for other service;

30 is taken to have been rendering **operational service** during each
31 period covered by paragraph (a).

32 **@450 Operational service—Korean demilitarised zone and Vietnam**

33 A member of the Defence Force who was assigned for service:

- 1 (a) in the demilitarised zone between North Korea and South
2 Korea after 18 April 1956; or
3 (b) on HMA Ship Vampire or Quickmatch in Vietnam during the
4 period from and including 25 January 1962 to and including
5 29 January 1962;
6 is taken to have been rendering *operational service* while the
7 member was so rendering continuous full-time operational service
8 in that zone or in Vietnam (as the case may be) during the period in
9 which the member was so assigned for service.

10 Division 2—Operational areas

11 @451 Meaning of *operational area*

12 An area described in an item of the following table was an
13 *operational area* during the period specified in the item.
14

Operational areas		
Item	Area	Period
1	The area of Korea, including the waters contiguous to the coast of Korea for a distance of 185 kilometres seaward from the coast	The period from and including 27 June 1950 to and including 19 April 1956
2	The area of Malaya, including the waters contiguous to the coast of Malaya for a distance of 18.5 kilometres seaward from the coast	The period from and including 29 June 1950 to and including 31 August 1957
3	The area comprising the territories of the countries then known as the Federation of Malaya and the Colony of Singapore, respectively	The period from and including 1 September 1957 to and including 31 July 1960
4	Ubon in Thailand	The period from and including 31 May 1962 to and including 27 July 1962
5	North East Thailand (including Ubon)	The period from and including 25 June 1965 to and including 31 August 1968

Operational areas		
Item	Area	Period
6	Vietnam (Southern Zone)	The period from and including 31 July 1962 to and including 11 January 1973
7	<p>All that part of the Federation of Malaya contained within the area bounded by a line:</p> <p>(a) commencing at the intersection of the western shore of the Federation of Malaya at high-water mark and the boundary between the States of Perlis and Kedah;</p> <p>(b) then proceeding generally north-easterly along that boundary to its intersection with the railway line from Arau to Penang Tungal;</p> <p>(c) then following that railway line generally southerly to its intersection with the northern boundary between the States of Penang and Kedah;</p> <p>(d) then proceeding along the boundary between those States generally easterly, southerly and westerly to the intersection of the boundaries of the States of Penang, Kedah and Perak;</p> <p>(e) then following the boundary between the States of Penang and Perak to its intersection with the railway line from Penang Tungal to Taiping;</p> <p>(f) then following that railway line generally southerly, easterly and southerly to its intersection with the parallel 04°51'N;</p> <p>(g) then proceeding due south in a straight line to the intersection of that line with the parallel 04°30'N;</p> <p>(h) then proceeding along that parallel to its intersection with the eastern bank of the Perak River;</p>	The period from and including 1 August 1960 to and including 16 August 1964

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Operational areas		
Item	Area	Period
	(i) then following that bank of that river to its intersection with the parallel 04°47'N; (j) then proceeding in a straight line to the intersection of the boundaries of the States of Perak, Kelantan and Pahang; (k) then proceeding along the boundary between the States of Kelantan and Pahang to its intersection with the meridian 101°48'E; (l) then proceeding in a straight line to the intersection of the eastern bank of the Raya River with the eastern bank of the Nenggiri River; (m) then following that bank of that river to its intersection with the western bank of the Galas River; (n) then proceeding in a straight line due east to the eastern bank of that river; (o) then following that bank of that river and the eastern bank of the Kelantan River to its intersection with the eastern shore of the Federation of Malaya at high-water mark; (p) then following that shore at high-water mark to its intersection with the boundary between the Federation of Malaya and Thailand; (q) then proceeding along that boundary to the western shore of the Federation of Malaya and Thailand at high-water mark; (r) then following that shore of the Federation of Malaya at high-water mark to the point of commencement	
8	All that area of land and waters (other than islands and waters forming part of the territory of the Republic of the Philippines) bounded by a line:	The period from and including 8 December 1962 to and including 16 August 1964

Operational areas

Item	Area	Period
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- (a) commencing at the intersection of the northern shore of Borneo at high-water mark with the boundary between Kalimantan and Sarawak;
 - (b) then proceeding generally south-easterly, easterly and northerly along that boundary to its junction with the boundary between Kalimantan and Sabah;
 - (c) then proceeding generally easterly along that boundary to its intersection with the eastern shore of Borneo at high-water mark;
 - (d) then proceeding in a straight line easterly to the intersection of the western shore of the island of Sebatik at high-water mark with the boundary between that part of that island that forms part of Sabah and that part of that island that forms part of Kalimantan;
 - (e) then proceeding generally easterly along that boundary to its intersection with the eastern shore of the island of Sebatik at high-water mark;
 - (f) then proceeding in a straight line easterly to a point 80.5 kilometres east (true) of the intersection of the eastern shore of Borneo at high-water mark with the boundary between Kalimantan and Sabah;
 - (g) then proceeding generally northerly and south-westerly parallel to and at a distance of 80.5 kilometres from the eastern and northern shores, respectively, of Borneo at high-water mark to a point 80.5 kilometres north (true) of the point of commencement;
 - (h) then proceeding in a straight line southerly to the point of commencement
-

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Operational areas		
Item	Area	Period
9	The territories of Malaysia, Brunei and Singapore and the waters adjacent to those countries	The period from and including 17 August 1964 to and including 14 September 1966
10	All that area of land and waters (other than land or waters forming part of the territory of Cambodia or China) bounded by a line: <ul style="list-style-type: none"> (a) commencing at the intersection of the boundary between Cambodia and Vietnam (Southern Zone) with the shore of Vietnam (Southern Zone) at high-water mark; (b) then proceeding in a straight line to a point 185.2 kilometres west (true) of that intersection; (c) then proceeding along an imaginary line parallel to, and at a distance of 185.2 kilometres from, the shore of Vietnam at high-water mark to its intersection with the parallel 21°30'N; (d) then proceeding along that parallel westerly to its intersection with the shore of Vietnam at high-water mark; (e) then following the shore of Vietnam at high-water mark to the point of commencement 	The period from and including 31 July 1962 to and including 11 January 1973
11	The area comprising the United Nations Mandated Territory of Namibia and the area of land extending 400 kilometres outwards from the borders of Namibia into the adjoining countries of Angola, Zambia, Zimbabwe, Botswana and South Africa (including Walvis Bay)	The period from and including 18 February 1989 to and including 10 April 1990
12	The area comprising the following countries and sea areas: <ul style="list-style-type: none"> (a) Bahrain, Oman, Qatar, Saudi Arabia, the United Arab Emirates and the Island of Cyprus; 	The period from and including 2 August 1990 to and including 9 June 1991

Operational areas		
Item	Area	Period
	(b) the sea areas contained within the Gulf of Suez, the Gulf of Aqaba, the Red Sea, the Gulf of Aden, the Persian Gulf and the Gulf of Oman;	
	(c) the sea area contained within the Arabian Sea north of the boundary formed by joining each of the following points to the next: (i) 20°30'N 070°40'E; (ii) 14°30'N 067°35'E; (iii) 08°30'N 060°00'E; (iv) 06°20'N 053°52'E; (v) 05°48'N 049°02'E;	
	(d) the sea area contained within the Suez Canal and the Mediterranean Sea east of 030°E	
13	The area comprising Iraq and Kuwait	The period from and including 23 February 1991 to and including 9 June 1991
14	The area comprising Cambodia and the areas in Laos and Thailand that are not more than 50 kilometres from the border with Cambodia	The period from and including 20 October 1991 to and including 7 October 1993
15	The area comprising the former Yugoslavia	The period from and including 12 January 1992 to and including 24 January 1997
16	The area comprising Somalia	The period from and including 20 October 1992 to and including 30 November 1994
17	The area of the Red Sea north of the parallel 20°N	The period from and including 13 January 1993 to and including 19 January 1993

1

1 **Division 3—Retesting claims**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **68 Subsection 319(1) (note)**

4 Omit “Note”, substitute “Note 1”.

5 **69 At the end of subsection 319(1)**

6 Add:

7 Note 2: If a claim that was made under the DRCA or the VEA in respect of an
8 injury or disease has been refused, a new claim may be made under
9 this section in respect of the same injury or disease, provided the new
10 claim is supported by additional evidence (see subsection 322(5B)).

11 **70 After subsection 322(5)**

12 Insert:

13 *Claims under other Acts*

14 (5A) A claim must not be made under this Act in respect of an injury or
15 disease if:

16 (a) before the date of commencement, a claim was made under
17 the DRCA or the VEA in respect of the same injury or
18 disease; and

19 (b) that claim has not yet been finally determined.

20 (5B) If:

21 (a) before the date of commencement, a claim was made under
22 the DRCA or the VEA in respect of an injury or disease; and

23 (b) that claim has been refused (whether before or after that
24 date);

25 a subsequent claim under this Act in respect of the same injury or
26 disease must be supported by additional evidence.

1 **Division 4—Needs assessment**

2 *Military Rehabilitation and Compensation Act 2004*

3 **71 At the end of subsection 325(2)**

4 Add:

5 Note: Subsection (2) applies even if the Commission is taken to have
6 accepted liability for the person’s injury or disease because of the
7 operation of section 24A.

8 **Division 5—Service injuries, diseases and deaths arising**
9 **from treatment**

10 *Military Rehabilitation and Compensation Act 2004*

11 **72 Subsection 29(1)**

12 After “by a person”, insert “who is a member or former member”.

13 **73 Subparagraph 29(1)(a)(i)**

14 Omit “service injury or service disease”, substitute “injury or disease
15 (whether or not a service injury or a service disease)”.

16 **74 Subsection 29(2)**

17 After “by a person”, insert “who is a member or former member”.

18 **75 Subparagraph 29(2)(a)(i)**

19 Omit “service injury or service disease”, substitute “injury or disease
20 (whether or not a service injury or a service disease)”.

21 **76 Subsection 29(3)**

22 After “of a person”, insert “who is a member or former member”.

23 **77 Subparagraph 29(3)(a)(i)**

24 Omit “under this Act for a service injury or disease”, substitute “for an
25 injury or disease (whether or not a service injury or disease)”.

1 **Part 3—Other amendments**

2 **Division 1—Permanent impairment**

3 ***Military Rehabilitation and Compensation Act 2004***

4 **78 Paragraph 68(2)(b)**

5 Omit “by satisfying paragraph (1)(b) and sections 69 and 70 (if
6 applicable)”.

7 **79 At the end of section 68**

8 Add:

- 9 (3) For the purposes of paragraph (2)(b), the date determined must be
10 the later of:
- 11 (a) the date on which a claim was made under section 319 for
12 acceptance of liability for the compensable condition; and
 - 13 (b) the date on which both of the following were first satisfied,
14 as estimated by a medical practitioner who has examined the
15 person:
 - 16 (i) the impairment suffered by the person as a result of the
17 compensable condition became likely to continue
18 indefinitely;
 - 19 (ii) the person’s compensable condition stabilised.

20 **80 Subsection 71(3)**

21 Repeal the subsection, substitute:

22 *Determination of date*

- 23 (3) The Commission must determine the date on which the person
24 became entitled to compensation under this section.
- 25 (4) For the purposes of subsection (3), the date determined for
26 additional compensation under subsection (1) must be the later of:
- 27 (a) the date on which a claim was made under section 319 for
28 acceptance of liability for the additional service injuries or
29 diseases; and

- 1 (b) the date on which both of the following were first satisfied,
2 as estimated by a medical practitioner who has examined the
3 person:
4 (i) the additional impairment suffered by the person as a
5 result of the additional injuries or diseases became
6 likely to continue indefinitely;
7 (ii) each of the person's additional injuries or diseases
8 stabilised.

- 9 (5) For the purposes of subsection (3), the date determined for
10 additional compensation under subsection (2) must be the later of:
11 (a) the date on which the Commission was notified of the
12 deterioration in the person's compensable condition; and
13 (b) the date on which both of the following were first satisfied,
14 as estimated by a medical practitioner who has examined the
15 person:
16 (i) the additional impairment suffered by the person as a
17 result of the deterioration in the person's compensable
18 condition became likely to continue indefinitely;
19 (ii) the person's compensable condition stabilised.

20 *References to person who has been paid, or is entitled to be paid,*
21 *compensation under this Part*

- 22 (6) For the purposes of this section, a person is taken to have been
23 paid, or be entitled to be paid, compensation under this Part if the
24 Commission is taken to have accepted liability for an injury
25 sustained, or a disease contracted, by the person because of the
26 operation of section 24A.

27 **81 Subsection 77(1)**

28 Omit "the later of".

29 **82 Paragraphs 77(1)(a) and (b)**

30 Repeal the paragraphs, substitute:

- 31 (a) if the date on which the person became entitled to
32 compensation under that section in respect of the injury or

- 1 disease is the date mentioned in paragraph 68(3)(a)—that
2 date; or
3 (b) if the date on which the person became entitled to
4 compensation under that section in respect of the injury or
5 disease is the date mentioned in paragraph 68(3)(b)—the first
6 day of the calendar month during which that date occurs.

7 **83 Subsection 77(2)**

8 Omit “the later of”.

9 **84 Paragraphs 77(2)(a) and (b)**

10 Repeal the paragraphs, substitute:

- 11 (a) if the date on which the person became entitled to
12 compensation under that subsection in respect of the injury or
13 disease is the date mentioned in paragraph 71(4)(a)—that
14 date; or
15 (b) if the date on which the person became entitled to
16 compensation under that subsection in respect of the injury or
17 disease is the date mentioned in paragraph 71(4)(b)—the first
18 day of the calendar month during which that date occurs.

19 **85 Subsection 77(3)**

20 Omit “the later of”.

21 **86 Paragraphs 77(3)(a) and (b)**

22 Repeal the paragraphs, substitute:

- 23 (a) if the date on which the person became entitled to
24 compensation under that subsection in respect of the
25 deterioration in the injury or disease is the date mentioned in
26 paragraph 71(5)(a)—that date; or
27 (b) if the date on which the person became entitled to
28 compensation under that subsection in respect of the
29 deterioration in the injury or disease is the date mentioned in
30 paragraph 71(5)(b)—the first day of the calendar month
31 during which that date occurs.

1 **Division 2—Incapacity payments**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **87 Subsection 85(1) (note)**

4 Omit “Note”, substitute “Note 1”.

5 **88 At the end of subsection 85(1)**

6 Add:

7 Note 2: The Commission is taken to have accepted liability for an injury or
8 disease in certain circumstances (see section 24A).

9 **89 Subsections 86(1) and 87(1) (after note 1)**

10 Insert:

11 Note 1A: The Commission is taken to have accepted liability for an injury or
12 disease in certain circumstances (see section 24A).

13 **90 Subsection 118(1) (note)**

14 Omit “Note”, substitute “Note 1”.

15 **91 At the end of subsection 118(1)**

16 Add:

17 Note 2: The Commission is taken to have accepted liability for an injury or
18 disease in certain circumstances (see section 24A).

19 ***Safety, Rehabilitation and Compensation (Defence-related***
20 ***Claims) Act 1988***

21 **92 Subsection 4(1) (definition of *compensation leave*)**

22 Repeal the definition.

23 **93 Subsection 4(1) (definition of *pre-determination period*)**

24 Repeal the definition.

25 **94 Subsection 13(1) (definition of *relevant amount*)**

26 Omit “19(7), (8) or (9),”.

1 **95 Subsection 13(1) (definition of *relevant amount*)**

2 Omit “, 30(1)”.

3 **96 Divisions 3 and 6 of Part II**

4 Repeal the Divisions.

5 **97 Subsection 41B(2)**

6 Omit “(3), (4),”.

7 **98 Subsections 41B(3) and (4)**

8 Repeal the subsections.

9 **99 Section 60 (definition of *determination*)**

10 Omit “19, 20, 21, 21A, 22,”.

11 **100 Section 60 (definition of *determination*)**

12 Omit “, 29A, 30, 31,”, substitute “or 29A”.

13 **101 Sections 112A, 112B, 116 and 120**

14 Repeal the sections.

15 **102 Subsections 124(6) and (7)**

16 Omit “or under section 19, 20, 21, 22 or 31 in respect of an incapacity,”.

17 **103 Paragraph 132A(2)(b)**

18 After “20”, insert “(as in force immediately before the commencement
19 of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support*
20 *(Simplification and Harmonisation) Act 2024*)”.

21 **104 Paragraph 132A(3)(b)**

22 After “19”, insert “(as in force immediately before the commencement
23 of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support*
24 *(Simplification and Harmonisation) Act 2024*)”.

1 **105 Subsection 132A(4)**

2 After “(g)”, insert “(as in force immediately before the commencement
3 of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support*
4 *(Simplification and Harmonisation) Act 2024)*”.

5 **106 Subsection 133(2) (at the end of the definition of**
6 ***minimum earnings*)**

7 Add “(as in force immediately before the commencement of Schedule 1
8 to the *Veterans’ Entitlements, Treatment and Support (Simplification*
9 *and Harmonisation) Act 2024)*”.

10 **107 Subsection 137(5) (at the end of the definition of**
11 ***specified number*)**

12 Add “(as in force immediately before the commencement of Schedule 1
13 to the *Veterans’ Entitlements, Treatment and Support (Simplification*
14 *and Harmonisation) Act 2024)*”.

15 ***Veterans’ Entitlements Act 1986***

16 **108 After subsection 30D(2)**

17 Insert:

18 (2A) However, if:

- 19 (a) the person is a veteran who is receiving, or is granted, a
20 pension under this Part at a rate provided for by
21 subsection 22(4) or section 23, 24 or 25; and
22 (b) the periodic payments of compensation are payments of
23 compensation under Part 3 or 4 of Chapter 4 of the MRCA
24 that are made on or after the date of commencement in
25 respect of a period of incapacity that starts on or after that
26 date;

27 the rate per fortnight of the person’s pension must not be reduced
28 because of those payments below the rate per fortnight that would
29 be payable to the person under subsection 22(2) if subsection 22(2)
30 applied to the person.

1 **Division 3—Liability restrictions on tobacco use**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **109 Section 36**

4 Omit “defence service only because of the person’s use of tobacco
5 products.”, substitute:

6 defence service:

7 (d) in the case of a person who had not used tobacco products
8 before 1 January 1998—only because the person used
9 tobacco products after 31 December 1997; or

10 (e) in the case of a person who had used tobacco products before
11 1 January 1998—only because the person increased their use
12 of tobacco products after 31 December 1997.

13 **Division 4—Medical event on duty**

14 ***Military Rehabilitation and Compensation Act 2004***

15 **110 After paragraph 27(d)**

16 Insert:

17 (da) the injury was sustained while the person was on duty as a
18 member, whether or not as a result of performing that duty;

19 **111 At the end of section 27**

20 Add:

21 Note 2: Sections 338 and 339 do not apply to an injury or disease that is
22 covered by subparagraph (c)(i) or paragraph (da) or (e) of this section.

23 **112 After paragraph 28(1)(e)**

24 Insert:

25 (ea) the death occurred while the person was on duty as a
26 member, whether or not as a result of performing that duty;

27 **113 At the end of subsection 28(1)**

28 Add:

1 Note: Sections 338 and 339 do not apply to a death that is covered by
2 subparagraph (c)(i) or paragraph (ea) or (f) of this subsection.

3 **114 Subsection 338(1)**

4 After “death”, insert “(other than an injury, disease or death covered by
5 subparagraph 27(c)(i), paragraph 27(da) or (e), subparagraph 28(1)(c)(i)
6 or paragraph 28(1)(ea) or (f))”.

7 **115 Subsection 339(1)**

8 After “death”, insert “(other than an injury, disease or death covered by
9 subparagraph 27(c)(i), paragraph 27(da) or (e), subparagraph 28(1)(c)(i)
10 or paragraph 28(1)(ea) or (f))”.

11 **Division 5—Posthumous permanent impairment**
12 **payments**

13 ***Military Rehabilitation and Compensation Act 2004***

14 **116 Subsection 78(7)**

15 Repeal the subsection, substitute:

16 *Choice may be made by legal personal representative*

17 (7) The legal personal representative of a deceased person may choose
18 to convert 100% of the weekly amount of compensation that would
19 have been payable to the deceased person but for the person’s
20 death to a lump sum if:

21 (a) the deceased person made the claim for compensation before
22 the person’s death; and

23 (b) the deceased person did not make a choice under
24 subsection (1) in respect of the weekly amount before the
25 person’s death.

26 Note: A claim made before the death of the person who made the claim
27 continues to have effect after the death of that person (see
28 subsection 321(1)).

29 (8) The choice under subsection (7) must be made in writing and must
30 be given to the Commission within 6 months after the date on

1 which the legal personal representative is given the notice under
2 section 76.

- 3 (9) For the purposes of working out the amount of the lump sum if a
4 choice is made under subsection (7), subsection (5) applies as if:
5 (a) the appropriate percentage were 100%; and
6 (b) the weekly amount converted to a lump sum were worked out
7 by reference to the person’s age at the date of the person’s
8 death; and
9 (c) the weekly amount converted to a lump sum excluded any
10 compensation payable in respect of the effect of a service
11 injury or disease on a person’s lifestyle.

12 **117 Subsection 79(1)**

13 Omit “section 78”, substitute “subsection 78(1)”.

14 **118 At the end of section 79**

15 Add:

- 16 (4) This section applies in relation to a legal personal representative
17 who makes a choice under subsection 78(7) in the same way as it
18 applies in relation to a person who makes a choice under
19 subsection 78(1).

20 **119 Subsection 321(2) (note 1)**

21 Repeal the note, substitute:

22 Note 1: The legal personal representative can choose to convert compensation
23 for permanent impairment to a lump sum in certain circumstances (see
24 subsection 78(7)).

25 **Division 6—Overpayments and debts**

26 ***Military Rehabilitation and Compensation Act 2004***

27 **120 Paragraphs 415(1)(a), (b) and (c)**

28 After “this Act” (wherever occurring), insert “or the DRCA”.

29 **121 At the end of subsection 415(4)**

30 Add “or the DRCA”.

1 **122 Paragraph 416(1)(a)**

2 After “this Act”, insert “or the DRCA”.

3 **123 Subsections 428(1) and 429(1)**

4 After “this Act”, insert “or the DRCA”.

5 ***Safety, Rehabilitation and Compensation (Defence-related***
6 ***Claims) Act 1988***

7 **124 Section 60 (definition of *determination*)**

8 Omit “, under paragraph 114B(5)(a)”.

9 **125 Sections 114 to 114D**

10 Repeal the sections.

11 **Division 7—Payment to solicitor’s trust account**

12 ***Military Rehabilitation and Compensation Act 2004***

13 **126 Subsection 430(3D)**

14 Repeal the subsection, substitute:

15 *Nomination of accounts*

16 (3D) The account referred to in subsection (1) or (3A) must be one that
17 is nominated, at any time by the person, for the purposes of this
18 section.

19 **Division 8—Common law damages**

20 ***Military Rehabilitation and Compensation Act 2004***

21 **127 Subsection 389(5)**

22 Omit “\$110,000”, substitute “\$177,000”.

1 **Division 9—Information sharing**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **128 Subsection 5(1)**

4 Insert:

5 *Australian Defence Force* has the same meaning as in the *Defence*
6 *Act 1903*.

7 **129 Section 405 (heading)**

8 Repeal the heading, substitute:

9 **405 Power of Commission to obtain information from claimant**

10 **130 Subsection 406(1)**

11 After “purposes of this Act”, insert “, the DRCA or the VEA”.

12 **131 After section 407**

13 Insert:

14 **407A Defence Department and Defence Force may disclose**
15 **information to Commission**

16 (1) Either of the following entities:

17 (a) the Defence Department;

18 (b) the Australian Defence Force;

19 may disclose information obtained or generated by the entity to the
20 Commission if the disclosure is for the purposes of assisting the
21 Commission to perform its functions or duties or exercise its
22 powers.

23 (2) To avoid doubt, if information is disclosed in accordance with this
24 section, the disclosure is taken, for the purposes of the Australian
25 Privacy Principles, to be authorised by this Act.

26 (3) This section applies despite any other law of the Commonwealth,
27 any rule of common law or any equitable obligation of confidence.

1 **407B Use of information by Commission**

2 The Commission may use or disclose information obtained under
3 section 407A if the use or disclosure is for the purposes of the
4 Commission performing its functions or duties, or exercising its
5 powers.

6 **132 Subsection 409(2)**

7 After “this Act”, insert “, the DRCA or the VEA”.

8 **133 Subsection 409(2) (table items 1 and 2)**

9 Repeal the items substitute:

10

1	The Defence Department	A purpose of the Defence Department
2	The Australian Defence Force	A purpose of the Australian Defence Force

11 **134 Paragraph 409(2A)(a)**

12 Repeal the paragraph, substitute:

13 (a) any of the following apply:

- 14 (i) a person is entitled to treatment under Chapter 6 of this
15 Act;
- 16 (ii) a person is entitled to compensation for medical
17 treatment under the DRCA;
- 18 (iii) a person is entitled to treatment under Part V of the
19 VEA; and

20 **135 Subsection 409(5) (paragraph (b) of the definition of**
21 **receiving Commonwealth body)**

22 Omit “Scheme Launch Transition”.

23 **136 After section 409**

24 Insert:

1 **409A Commission must give certain documents on request**

2 (1) Any of the persons mentioned in subsection (2) may request the
3 Commission to give the person any document held by the
4 Commission that relates to a claim or application made under the
5 VEA.

6 (2) For the purposes of subsection (1), the persons are the following:
7 (a) the Chief of the Defence Force;
8 (b) the person who made the claim or application (as the case
9 requires).

10 (3) The Commission must comply with the request.

11 ***Safety, Rehabilitation and Compensation (Defence-related***
12 ***Claims) Act 1988***

13 **137 Sections 151, 151AA and 151A**

14 Repeal the sections.

15 **Division 10—Offsetting**

16 ***Military Rehabilitation and Compensation Act 2004***

17 **138 Section 386 (paragraph beginning “This Chapter”)**

18 Omit “compensation under this Act for”, substitute “compensation
19 under this Act or the DRCA, or a pension under Part II or IV of the
20 VEA, in respect of”.

21 **139 Section 386 (paragraph beginning “This Chapter”)**

22 After “from this Act”, insert “, the DRCA or the VEA”.

23 **140 Subsection 388(5)**

24 Omit “compensation under this Act”, substitute “compensation under
25 this Act or the DRCA, or a pension under Part II or IV of the VEA,”.

26 **141 Paragraph 388(5)(a)**

27 Repeal the paragraph, substitute:

- 1 (a) an amount equal to the total of the following:
- 2 (i) all amounts of compensation paid to the person under
- 3 this Act in respect of the service death before the
- 4 recovery of damages (except MRCA supplement under
- 5 section 245 and compensation for dependants under
- 6 section 242, 253 or 255);
- 7 (ii) all amounts of compensation paid to the person under
- 8 the DRCA in respect of the service death before the
- 9 recovery of damages;
- 10 (iii) all amounts of pension paid to the person under Part II
- 11 or IV of the VEA in respect of the service death before
- 12 the recovery of damages; and

13 **142 Subsection 388(6)**

14 Omit “Compensation under this Act”, substitute “Compensation under

15 this Act or the DRCA, or a pension under Part II or IV of the VEA,”.

16 **143 Paragraph 389(1)(a)**

17 After “75”, insert “of this Act, or section 24, 25 or 27 of the DRCA,”.

18 **144 Paragraph 389(4)(b)**

19 After “75”, insert “of this Act, or section 24, 25 or 27 of the DRCA,”.

20 **145 Paragraph 390(1)(a)**

21 Repeal the paragraph, substitute:

- 22 (a) any of the following apply:
- 23 (i) compensation is payable under this Act in respect of a
- 24 service injury, disease or death of a person;
- 25 (ii) compensation is, or has been, payable under the DRCA
- 26 in respect of an injury, disease or death of a person;
- 27 (iii) a pension is, or has been, payable under Part II or IV of
- 28 the VEA in respect of an injury, disease or death of a
- 29 person; and

30 **146 Paragraphs 391(1)(a) and 392(1)(a)**

31 Repeal the paragraphs, substitute:

- 32 (a) any of the following apply:

- 1 (i) compensation is payable under this Act in respect of a
2 service injury, disease or death of a person (the *cause of*
3 *action*);
- 4 (ii) compensation is payable under this Act in respect of the
5 loss of, or damage to, a medical aid used by a person
6 (the *cause of action*);
- 7 (iii) compensation is, or has been, payable under the DRCA
8 in respect of an injury, disease or death of a person (the
9 *cause of action*);
- 10 (iv) compensation is, or has been, payable under the DRCA
11 in respect of the loss of, or damage to, property used by
12 a person (the *cause of action*);
- 13 (v) a pension is, or has been, payable under Part II or IV of
14 the VEA in respect of an injury, disease or death of a
15 person (the *cause of action*); and

16 **147 Paragraph 397(1)(b)**

17 After “right to compensation”, insert “or a pension”.

18 **148 Paragraph 397(1)(b)**

19 After “Chapter 6”, insert “, the DRCA or the VEA”.

20 **149 Paragraph 397(1)(b)**

21 After “under this Act”, insert “, the DRCA or the VEA”.

22 **150 Subsection 397(5)**

23 After “right to compensation”, insert “or a pension”.

24 **151 Subsection 397(5)**

25 Omit “compensation is not”, substitute “the compensation or pension is
26 not”.

27 **152 Paragraph 398(2)(a)**

28 Repeal the paragraph, substitute:

- 29 (a) an amount equal to the total of:
- 30 (i) if the claim relates to a cause of action mentioned in
31 subparagraph 392(1)(a)(i) or (ii)—all amounts of
32 compensation paid to the plaintiff under this Act before
-

- 1 the payment of the damages (except MRCA supplement
2 under section 221 or 245 and compensation for
3 dependants under section 242, 253 or 255) in respect of
4 the cause of action; or
- 5 (ii) if the claim relates to a cause of action mentioned in
6 subparagraph 392(1)(a)(iii) or (iv)—all amounts of
7 compensation paid to, or for the benefit of, the plaintiff
8 under the DRCA before the payment of the damages in
9 respect of the cause of action; or
- 10 (iii) if the claim relates to a cause of action mentioned in
11 subparagraph 392(1)(a)(v)—all amounts of pension paid
12 to the plaintiff under Part II or IV of the VEA before the
13 payment of the damages in respect of the cause of
14 action; and

15 **153 Paragraph 398(3)(b)**

16 After “under this Act”, insert “or the DRCA, or amounts of pension
17 under Part II or IV of the VEA,”.

18 **154 Paragraph 398(3)(b)**

19 After “amount of compensation”, insert “or pension”.

20 **155 Division 3 of Part 3 of Chapter 10 (heading)**

21 Omit “under this Act”.

22 **156 Paragraph 399(a)**

23 Repeal the paragraph, substitute:

24 (a) any of the following apply:

- 25 (i) compensation is payable under this Act in respect of a
26 service injury, disease or death of a person (the *cause of*
27 *action*);
- 28 (ii) compensation is payable under this Act in respect of the
29 loss of, or damage to, a medical aid used by a person
30 (the *cause of action*);
- 31 (iii) compensation is, or has been, payable under the DRCA
32 in respect of an injury, disease or death of a person (the
33 *cause of action*);

- 1 (iv) compensation is, or has been, payable under the DRCA
2 in respect of the loss of, or damage to, property used by
3 a person (the *cause of action*);
4 (v) a pension is, or has been, payable under Part II or IV of
5 the VEA in respect of an injury, disease or death of a
6 person (the *cause of action*); and

7 **157 Section 401 (heading)**

8 Omit “paid under this Act”, substitute “etc.”.

9 **158 Paragraph 401(1)(a)**

10 After “under this Act”, insert “or the DRCA, or a pension under the
11 VEA,”.

12 **159 Paragraph 401(2)(a)**

13 Repeal the paragraph, substitute:

- 14 (a) an amount equal to the total of:
15 (i) if the claim relates to a cause of action mentioned in
16 subparagraph 399(a)(i) or (ii)—all amounts of
17 compensation paid to the person under this Act before
18 the payment of the damages (except MRCA supplement
19 under section 221 or 245 and compensation for
20 dependants under section 242, 253 or 255) in respect of
21 the cause of action; or
22 (ii) if the claim relates to a cause of action mentioned in
23 subparagraph 399(a)(iii) or (iv)—all amounts of
24 compensation paid to, or for the benefit of, the person
25 under the DRCA before the payment of the damages in
26 respect of the cause of action; or
27 (iii) if the claim relates to a cause of action mentioned in
28 subparagraph 399(a)(v)—all amounts of pension paid to
29 the person under Part II or IV of the VEA before the
30 payment of the damages in respect of the cause of
31 action; and

32 **160 Subsection 401(3)**

33 Repeal the subsection, substitute:

- 1 (3) If the Commission is satisfied that a part of the damages does not
2 relate to an injury, disease or death, or a loss of, or damage to, a
3 medical aid or property, in respect of which:
4 (a) compensation is payable under this Act; or
5 (b) compensation is payable under the DRCA; or
6 (c) a pension is payable under Part II or IV of the VEA;
7 this section only applies to so much of the damages as relates to an
8 injury, disease, death, loss or damage in respect of which that
9 compensation or pension (as the case may be) is payable.

10 **161 Section 402 (heading)**

11 Omit “under this Act”, substitute “etc.”.

12 **162 Subsection 402(1)**

13 After “this Act”, insert “, or the DRCA,”.

14 **163 Subsection 402(1)**

15 After “the person”, insert “and whether or not a pension in respect of
16 the cause of action has been paid under Part II or IV the VEA to or for
17 the benefit of the person”.

18 **164 Subsection 402(2)**

19 Repeal the subsection, substitute:

- 20 (2) None of the following is payable to the person in respect of the
21 cause of action after the day on which the damages were
22 recovered:
23 (a) compensation under this Act (except MRCA supplement
24 under section 221 or 245 and compensation for dependants
25 under section 242, 253 or 255);
26 (b) compensation under the DRCA;
27 (c) a pension under Part II or IV of the VEA.

28 **165 After paragraph 403(1)(a)**

29 Insert:

- 30 (aa) appears to the Commission to be liable to pay damages:

- 1 (i) to a person (the *plaintiff*) in respect of an injury (within
2 the meaning of the DRCA) of the plaintiff; or
3 (ii) to a person (the *plaintiff*) in respect of the loss of, or
4 damage to, property used by the plaintiff; or
5 (iii) to a dependant (within the meaning of the DRCA) (the
6 *plaintiff*) of a person in respect of the death of the
7 person that resulted from an injury (within the meaning
8 of the DRCA);
9 in respect of which compensation has been paid under
10 the DRCA; or
11 (ab) appears to the Commission to be liable to pay damages:
12 (i) to a person (the *plaintiff*) in respect of an injury or
13 disease of the plaintiff; or
14 (ii) to a dependant (within the meaning of the VEA) (the
15 *plaintiff*) of a person in respect of the death of the
16 person;
17 in respect of which a pension has been paid under
18 Part II or IV of the VEA; or

19 **166 Paragraph 403(3)(b)**

20 Repeal the paragraph, substitute:

- 21 (b) whichever of the following applies:
22 (i) the total amount of compensation paid to the plaintiff
23 under this Act in respect of the injury, disease, death,
24 loss or damage (except MRCA supplement under
25 section 221 or 245 and compensation for dependants
26 under section 242, 253 or 255);
27 (ii) the total amount of compensation paid to the plaintiff
28 under the DRCA in respect of the injury, loss or
29 damage;
30 (iii) the total amount of pension paid to the plaintiff under
31 Part II or IV of the VEA in respect of the injury, disease
32 or death.

1 **Division 11—Rehabilitation**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **167 At the end of subsections 43(1), 55(1) and 62(1)**

4 Add:

5 Note: The Commission is taken to have accepted liability for an injury or
6 disease in certain circumstances (see section 24A).

7 ***Safety, Rehabilitation and Compensation (Defence-related***
8 ***Claims) Act 1988***

9 **168 Subsection 4(1)**

10 Repeal the following definitions:

- 11 (a) definition of *approved program provider*;
12 (b) definition of *rehabilitation authority*.

13 **169 Subsection 4(1)**

14 Insert:

15 *transferred DRCA rehabilitation program* means a rehabilitation
16 program under this Act that:

- 17 (a) on and after the date of commencement, is taken to be an
18 approved rehabilitation program for the purposes of the
19 MRCA because of section @ 104 of the CTPA; and
20 (b) has not ceased under section 53 of the MRCA.

21 **170 Subparagraphs 6(1)(f)(iii) and (g)(iii)**

22 After “rehabilitation program provided under this Act”, insert “, or a
23 transferred DRCA rehabilitation program”.

24 **171 Part III**

25 Repeal the Part.

26 **172 Section 60 (definition of *determination*)**

27 Omit “36, 37 or 39”.

1 **173 Section 60 (definition of *reviewable decision*)**

2 Repeal the definition.

3 **174 Sections 146 and 148**

4 Repeal the sections.

5 **175 Subsection 160(1A)**

6 Repeal the subsection.

7 ***Veterans' Entitlements Act 1986***

8 **176 Subsection 5Q(1)**

9 Insert:

10 *transferred VEA rehabilitation program*: see subsection 115A(1).

11 **177 Subsection 5Q(1) (definition of *Veterans' Vocational***
12 ***Rehabilitation Scheme*)**

13 Repeal the definition.

14 **178 Subsection 24(5A)**

15 Omit “vocational rehabilitation program under the Veterans’ Vocational
16 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
17 program”.

18 **179 Subsection 24A(2)**

19 Omit “rehabilitation program under the Veterans’ Vocational
20 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
21 program”.

22 **180 Paragraph 37AAA(b)**

23 Omit “rehabilitation program under the Veterans’ Vocational
24 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
25 program”.

26 **181 Subsection 115A(1)**

27 Insert:

1 **189 Paragraph 115H(4)(a)**

2 Omit “rehabilitation program or any part of such a program that has
3 been undertaken by the veteran under the Veterans’ Vocational
4 Rehabilitation Scheme”, substitute “VEA rehabilitation program or any
5 part of such a program that has been undertaken by the veteran”.

6 **190 Paragraph 115H(4)(b)**

7 Before “rehabilitation”, insert “VEA”.

8 **191 Paragraph 115H(5)(a)**

9 Omit “rehabilitation program or any part of such a program that has
10 been undertaken by the veteran under the Veterans’ Vocational
11 Rehabilitation Scheme”, substitute “VEA rehabilitation program or any
12 part of such a program that has been undertaken by the veteran”.

13 **192 Paragraph 115H(5)(b)**

14 Before “rehabilitation”, insert “VEA”.

15 **193 Subsection 115H(6)**

16 Omit “rehabilitation program under the Veterans’ Vocational
17 Rehabilitation Scheme”, substitute “VEA rehabilitation program”.

18 **194 At the end of section 115H**

19 Add:

20 (8) In this section:

21 *VEA rehabilitation program* means:

- 22 (a) a transferred VEA rehabilitation program; or
23 (b) a rehabilitation program that:
24 (i) was undertaken under this Act before the date of
25 commencement; and
26 (ii) is not a transferred VEA rehabilitation program.

27 **195 Subsection 115L(1)**

28 Omit “rehabilitation program under the Veterans’ Vocational
29 Rehabilitation Scheme”, substitute “VEA rehabilitation program (within
30 the meaning of section 115H)”.

1 **196 Paragraph 115L(3)(c)**

2 Omit “rehabilitation program under the Veterans’ Vocational
3 Rehabilitation Scheme”, substitute “VEA rehabilitation program”.

4 **197 Paragraph 199(da)**

5 Repeal the paragraph.

6 **Division 12—Motor Vehicle Compensation Scheme**

7 *Military Rehabilitation and Compensation Act 2004*

8 **198 After paragraph 212(1)(b)**

9 Insert:

10 (ba) the person is not participating in the Vehicle Assistance
11 Scheme under the VEA; and

12 **199 At the end of subsection 212(1)**

13 Add:

14 Note: The Commission is taken to have accepted liability for an injury or
15 disease in certain circumstances (see section 24A).

16 **Division 13—Financial and legal advice**

17 *Military Rehabilitation and Compensation Act 2004*

18 **200 After paragraph 423(d)**

19 Insert:

20 ; (da) compensation under an instrument made under section 424M
21 (financial and legal advice).

22 **201 After Part 5A of Chapter 11**

23 Insert:

1 **Part 5B—Financial and legal advice**
2

3 **424M Financial and legal advice**

- 4 (1) The Commission may, by legislative instrument, make provision
5 for and in relation to the obtaining of financial and legal advice by
6 persons for the purposes of this Act.
- 7 (2) Without limiting subsection (1), the instrument may:
8 (a) specify the circumstances in which persons must obtain
9 financial or legal advice (which must be circumstances that
10 relate to an entitlement to compensation or other benefits
11 under this Act); and
12 (b) require the advice to be obtained from:
13 (i) in the case of financial advice—a suitably qualified
14 financial adviser; and
15 (ii) in the case of legal advice—a practising lawyer; and
16 (c) provide for consequences to apply if the advice is not
17 obtained.
- 18 (3) Without limiting paragraph (2)(a), and despite any other provision
19 of this Act, the instrument may require financial or legal advice to
20 be obtained in respect of the choice that a person may make under
21 the following:
22 (a) Part 2 of Chapter 4 (permanent impairment);
23 (b) Part 6 of Chapter 4 (choice to receive a Special Rate
24 Disability Pension);
25 (c) Part 2 of Chapter 5 (compensation for member’s death for
26 wholly dependent partners);
27 but must not modify the requirement to obtain financial advice in
28 subsection 202(3).
- 29 (4) If the instrument requires a person to obtain financial or legal
30 advice, the instrument:
31 (a) must also make provision for and in relation to the payment
32 of compensation, by the Commonwealth, for costs incurred
33 by the person in obtaining the advice; and
34 (b) may specify the maximum amount of compensation payable
35 for such costs; and

- 1 (c) may provide for the indexation of that maximum amount.
- 2 (5) Subsection (4) applies subject to the following provisions (which
3 deal with compensation for the cost of financial and legal advice in
4 certain circumstances):
- 5 (a) sections 81 to 83;
6 (b) sections 205 to 207;
7 (c) Division 3 of Part 2 of Chapter 5.

1 **Schedule 2—Single ongoing Act**
2 **enhancements**

3 **Part 1—Amendments relating to allowances etc.**

4 **Division 1—Compensation for funeral expenses**

5 *Military Rehabilitation and Compensation Act 2004*

6 **1 Section 231**

7 Omit “for the cost of such a deceased member’s funeral”, substitute “in
8 respect of the funeral of certain deceased members and dependants of
9 deceased members”.

10 **2 Before section 265**

11 Insert:

12 **Division 1—Simplified outline of this Part**

13 **3 Section 265**

14 Repeal the section, substitute:

15 **265 Simplified outline of this Part**

16 This Part provides compensation in respect of the funeral of certain
17 deceased members and dependants of deceased members.

18 Division 2 provides compensation to pay for the cost of the funeral
19 of a deceased member in respect of whom section 12 applies.

20 Division 3 provides compensation in respect of the funeral of
21 certain other deceased members and certain dependants of
22 deceased members.

23 In certain cases, compensation will be payable in respect of the
24 funeral of a deceased member under both Divisions 2 and 3. In

1 such cases, the amount of compensation under Division 2 will be
2 reduced by the amount of compensation paid under Division 3.

3 **4 Before section 266**

4 Insert:

5 **Division 2—Deceased members to whom section 12 applies**

6 **5 After section 266**

7 Insert:

8 **266A No compensation under section 266 in certain cases**

9 The Commonwealth is not liable to pay compensation under
10 section 266 for the cost of a deceased member's funeral if:

- 11 (a) the deceased member died before the date of commencement;
12 and
13 (b) the claim for compensation under section 319 was made on
14 or after that date; and
15 (c) the Commonwealth is liable to pay compensation in respect
16 of the deceased member's funeral under section 268AB.

17 **6 After section 267**

18 Insert:

19 **267A Offsets**

- 20 (1) If the Commonwealth is liable to pay compensation in respect of a
21 deceased member's funeral under both sections 266 and 268AA,
22 the amount of compensation under section 266 must be reduced by
23 the amount of compensation paid under section 268AA to the
24 estate of the deceased member in respect of the deceased member's
25 funeral.
26 (2) If the Commonwealth is liable to pay compensation in respect of a
27 deceased member's funeral under both sections 266 and 268AB,
28 the amount of compensation under section 266 must be reduced by

1 the amount of compensation paid under section 268AB in respect
2 of the deceased member's funeral.

3 **7 At the end of Part 5 of Chapter 5**

4 Add:

5 **Division 3—Other deceased members and dependants of**
6 **deceased members**

7 **268AA Automatic payment of funeral compensation to estate of**
8 **certain deceased members**

9 The Commonwealth is liable to pay, to the estate of a deceased
10 member, compensation in respect of the deceased member's
11 funeral if, immediately before the deceased member died:

- 12 (a) the member was being paid a pension under Part II of the
13 VEA at the rate specified in subsection 22(4) of that Act; or
14 (b) the member was being paid a pension under Part II of the
15 VEA as a member to whom section 24 of that Act applied; or
16 (c) the member was being paid a pension under Part II of the
17 VEA at a rate that had been increased under section 27 of
18 that Act because the member was incapacitated from a
19 war-caused injury or a war-caused disease of a kind
20 described in any of items 1 to 8 of the table in
21 subsection 27(1) of that Act; or
22 (d) the Commission was satisfied that the member had, before
23 1 July 2004, been made a prisoner of war at a time when the
24 member was rendering operational service.

25 Note: A claim for compensation under section 319 is not required.

26 **268AB Funeral compensation for certain other deceased members**

- 27 (1) The Commonwealth is liable to pay compensation in respect of a
28 deceased member's funeral if:
29 (a) any of subsections (3) to (5) apply in respect of the deceased
30 member; and
31 (b) the Commonwealth is not liable to pay compensation in
32 respect of the deceased member's funeral under
33 section 268AA; and
-

- 1 (c) a claim for compensation has been made under section 319.
- 2 (2) The claim under section 319 may only be made:
- 3 (a) in respect of a dependant of the deceased member if the
- 4 dependant incurred the cost of the funeral; or
- 5 (b) by the deceased member’s legal personal representative.
- 6 (3) This subsection applies in respect of a deceased member if:
- 7 (a) the member’s death was war-caused (within the meaning of
- 8 the VEA); or
- 9 (b) the member died in indigent circumstances.
- 10 (4) This subsection applies in respect of a deceased member if:
- 11 (a) the member died:
- 12 (i) in a hospital or other institution; or
- 13 (ii) while travelling to or from a hospital or other
- 14 institution; or
- 15 (iii) after having been discharged from a hospital or other
- 16 institution in which the member was being treated for a
- 17 terminal illness; or
- 18 (iv) while being treated for a terminal illness at the
- 19 member’s home instead of at a hospital or other
- 20 institution; and
- 21 (b) if subparagraph (a)(i) or (ii) applies—treatment is or was
- 22 provided in the hospital or other institution; and
- 23 (c) in any case—the treatment is or was arranged by the
- 24 Commission under Chapter 6 of this Act or Part V of the
- 25 VEA.
- 26 (5) This subsection applies in respect of a deceased member if, after
- 27 the death of the member:
- 28 (a) a pension is granted to the member that is determined to be
- 29 payable, from a date before the member’s death:
- 30 (i) at a rate that is worked out under subsection 22(4) of the
- 31 VEA; or
- 32 (ii) at a rate that is worked out under section 24 of the VEA;
- 33 or

- 1 (iii) at a rate that is worked out under section 27 of the VEA
2 because the member was suffering from incapacity from
3 a war-caused injury or a war-caused disease of a kind
4 described in any of items 1 to 8 of the table in
5 subsection 27(1) of that Act; or
6 (b) the rate of a pension that was payable to the member under
7 Part II of the VEA is increased, as from a date before the
8 member's death because:
9 (i) subsection 22(4) or section 24 of the VEA applied to the
10 member as from that date; or
11 (ii) section 27 of the VEA applied to the member as from
12 that date because of incapacity from a war-caused injury
13 or a war-caused disease of a kind described in any of
14 items 1 to 8 of the table in subsection 27(1) of that Act;
15 or
16 (c) information is received which satisfies the Commission that
17 the member was, before 1 July 2004, made a prisoner of war
18 at a time when the member was rendering operational
19 service.

20 **268AC Funeral compensation for certain dependants of deceased**
21 **members**

- 22 (1) The Commonwealth is liable to pay compensation in respect of the
23 funeral of a dependant of a deceased member if:
24 (a) any of subsections (3) to (5) apply in respect of the
25 dependant; and
26 (b) a claim for compensation has been made under section 319.
27 (2) The claim under section 319 may only be made:
28 (a) by the deceased dependant's legal personal representative; or
29 (b) by another person approved by the Commission to make the
30 claim.
31 (3) This subsection applies in respect of a dependant of a deceased
32 member if:
33 (a) the dependant is not a reinstated pensioner (within the
34 meaning of the VEA); and
35 (b) the dependant died in indigent circumstances; and

- 1 (c) any of the following apply in respect of the deceased
2 member:
- 3 (i) the member's death was war-caused (within the
4 meaning of the VEA);
- 5 (ii) immediately before the member's death, the member
6 was being paid a pension under Part II of the VEA as a
7 member to whom section 24 of that Act applied;
- 8 (iii) immediately before the member's death, the member
9 was being paid a pension under Part II of the VEA at a
10 rate that had been increased under section 27 of that Act
11 because the member was incapacitated from a
12 war-caused injury or a war-caused disease of a kind
13 described in any of items 1 to 8 of the table in
14 subsection 27(1) of that Act.
- 15 (4) This subsection applies in respect of a dependant of a deceased
16 member if the dependant:
- 17 (a) is a reinstated pensioner (within the meaning of the VEA);
18 and
19 (b) died in indigent circumstances.
- 20 (5) This subsection applies in respect of a dependant of a deceased
21 member if:
- 22 (a) either:
- 23 (i) the dependant was a wholly dependent partner of the
24 deceased member; or
- 25 (ii) the dependant was both an eligible young person, and a
26 dependant of the deceased member, immediately before
27 the member's death; and
- 28 (b) the dependant died in indigent circumstances; and
29 (c) section 12 applies in respect of the deceased member.

30 **268AD Amount of funeral compensation**

31 *Amount for section 268AA*

- 32 (1) The amount of compensation payable under section 268AA is
33 \$3,000.

- 1 *Amount for section 268AB*
- 2 (2) The amount of compensation payable under section 268AB is the
3 sum of:
- 4 (a) the lesser of the following amounts:
- 5 (i) \$3,000;
- 6 (ii) an amount equal to the amount paid or payable in
7 respect of the funeral of the deceased member; and
- 8 (b) if the body of the deceased member was transported in the
9 circumstances mentioned in subsection (3)—an amount equal
10 to a reasonable charge for transporting the body of the
11 deceased member.
- 12 (3) For the purposes of paragraph (2)(b), the circumstances are as
13 follows:
- 14 (a) the deceased member died at a place other than the member’s
15 ordinary place of residence;
- 16 (b) the deceased member was absent from the member’s
17 ordinary place of residence for the purpose of obtaining
18 medical treatment;
- 19 (c) the Commission arranged for the provision of the treatment;
- 20 (d) a charge was made by the funeral director expressly for
21 transporting the body of the deceased member from the place
22 where the member died to the place where the member
23 ordinarily resided immediately before the member died;
- 24 (e) the charge made by the funeral director did not relate to
25 transporting the body of the deceased member:
- 26 (i) outside Australia; or
- 27 (ii) from one place in the metropolitan area of a capital city
28 to another place in the metropolitan area of that city.
- 29 (4) For the purposes of paragraph (3)(b), a deceased member is taken
30 to be absent from the member’s ordinary place of residence for the
31 purpose of obtaining medical treatment:
- 32 (a) if the member is travelling from the member’s ordinary place
33 of residence for the purpose of obtaining medical treatment;
34 or
- 35 (b) if the member is returning to the member’s ordinary place of
36 residence after having obtained medical treatment; or
-

- 1 (c) if the member is being provided with medical treatment at a
2 place other than the member's ordinary place of residence; or
3 (d) if the member is away from the member's ordinary place of
4 residence on the recommendation of the member's doctor by
5 way of treatment for an injury or disease.

6 *Amount for section 268AC*

- 7 (5) The amount of compensation payable under section 268AC in
8 respect of a deceased dependant of a deceased member is the lesser
9 of the following amounts:
10 (a) \$3,000;
11 (b) an amount equal to the amount paid or payable in respect of
12 the funeral of the deceased dependant.

13 *Amount paid or payable in respect of a funeral*

- 14 (6) For the purposes of subparagraph (2)(a)(ii) and paragraph (5)(b), if
15 a deceased member or deceased dependant (as the case may be)
16 was a member of a contributory funeral benefit fund before their
17 death, the amount paid or payable in respect of the funeral of the
18 deceased member or deceased dependant (as the case may be) is
19 the amount by which the cost of the funeral exceeds the amount of
20 the benefit payable from that fund in relation to the deceased
21 member or deceased dependant (as the case may be).

22 **268AE Whom funeral compensation is payable to**

- 23 (1) Compensation under section 268AB or 268AC in respect of a
24 deceased member's funeral or a deceased dependant's funeral is
25 payable to:
26 (a) the person who made the claim for compensation; or
27 (b) if that person so directs:
28 (i) the person who carried out the funeral; or
29 (ii) any other person who incurred the cost of the funeral.

30 Note 1: A special rule applies if there is a trustee under section 432.

31 Note 2: Compensation under section 268AA is payable to the estate of a
32 deceased member (see section 268AA).

1 (2) A payment under section 268AB or 268AC to a person who carried
2 out the funeral discharges any liability of any other person for the
3 cost of the funeral to the extent of the payment.

4 **8 Subsection 320(1) (note)**

5 After “266”, insert “, 268AB, 268AC”.

6 ***Safety, Rehabilitation and Compensation (Defence-related***
7 ***Claims) Act 1988***

8 **9 Subsection 13(1) (definition of *relevant amount*)**

9 Omit “paragraph 18(4)(a) or”.

10 **10 Subsections 17(2), (3) and (4)**

11 Omit “sections 16 and 18”, substitute “section 16”.

12 **11 Section 18**

13 Repeal the section.

14 **12 Section 60 (definition of *determination*)**

15 Omit “18,”.

16 **13 Subsections 124(8) and (9)**

17 Omit “or section 18”.

18 ***Veterans’ Entitlements Act 1986***

19 **14 Sections 98B, 99 and 100**

20 Repeal the sections.

21 **15 Paragraph 111(1)(c)**

22 Repeal the paragraph.

23 **16 Section 113**

24 Repeal the section.

1 **17 Paragraph 115(1)(b)**

2 Repeal the paragraph.

3 **18 Subsection 115(6)**

4 Repeal the subsection.

5 **Division 2—Acute support package**

6 ***Military Rehabilitation and Compensation Act 2004***

7 **19 Subsection 268B(2)**

8 After “(5),” insert “(5AA), (5AB),”.

9 **20 Paragraph 268B(3)(b)**

10 Repeal the paragraph, substitute:

- 11 (b) the person is receiving, or is eligible to receive:
- 12 (i) compensation for incapacity under Part 3 or 4 of
 - 13 Chapter 4; or
 - 14 (ii) a Special Rate Disability Pension; or
 - 15 (iii) a pension under Part II of the VEA as a person to whom
 - 16 section 23, 24 or 25 of that Act applies; or
 - 17 (iv) a veteran payment made under an instrument made
 - 18 under section 45SB of the VEA;

19 **21 Paragraph 268B(4)(b)**

20 Repeal the paragraph, substitute:

- 21 (b) the member or former member is receiving, or is eligible to
- 22 receive:
- 23 (i) compensation for incapacity under Part 3 or 4 of
 - 24 Chapter 4; or
 - 25 (ii) a Special Rate Disability Pension; or
 - 26 (iii) a pension under Part II of the VEA as a person to whom
 - 27 section 23, 24 or 25 of that Act applies; or
 - 28 (iv) a veteran payment made under an instrument made
 - 29 under section 45SB of the VEA;

1 **22 Subsection 268B(5)**

2 After “wholly dependent partner of a deceased member”, insert “(other
3 than a wholly dependent partner covered by subsection (5AA))”.

4 **23 At the end of paragraph 268B(5)(c)**

5 Add:

6 ; or (iii) the deceased member’s death resulted from an injury
7 (within the meaning of the DRCA).

8 **24 After subsection 268B(5)**

9 Insert:

10 (5AA) If the person is a war widow or war widower (both within the
11 meaning of the VEA), the criterion is that the person is under 65
12 years of age at the time the person’s eligibility for an acute support
13 package is determined.

14 (5AB) If the person was:

- 15 (a) the partner of a deceased member immediately before the
16 deceased member’s death; and
17 (b) partly dependent on the deceased member at the date of the
18 deceased member’s death;

19 the criteria are as follows:

- 20 (c) the person is under 65 years of age at the time the person’s
21 eligibility for an acute support package is determined;
22 (d) the deceased member’s death occurred no more than 2 years
23 before the day the person’s eligibility for the package is
24 determined;
25 (e) the deceased member’s death resulted from an injury (within
26 the meaning of the DRCA).

27 **Division 3—Household and attendant care**

28 ***Military Rehabilitation and Compensation Act 2004***

29 **25 At the end of subsections 214(1) and 217(1)**

30 Add:

1 Note: The Commission is taken to have accepted liability for an injury or
2 disease in certain circumstances (see section 24A).

3 **Division 4—Victoria Cross allowance and decoration**
4 **allowance**

5 *Military Rehabilitation and Compensation Act 2004*

6 **26 Section 3**

7 Omit “, a Victoria Cross allowance”.

8 **27 Subsection 5(1)**

9 Insert:

10 *allowance period* has the meaning given by subsection 230A(2).

11 **28 Section 65 (at the end of the paragraph beginning “This**
12 **Chapter”)**

13 Add “or have been awarded certain decorations in respect of service
14 rendered”.

15 **29 Section 65 (paragraph beginning “Part 7 provides”)**

16 After “MRCA supplement”, insert “, Victoria Cross allowance and
17 decoration allowance”.

18 **30 Section 211 (paragraph beginning “This Part provides”)**

19 After “compensation”, insert “and other benefits”.

20 **31 Section 211 (at the end of the paragraph beginning “This**
21 **Part provides”)**

22 Add “or have been awarded certain decorations in respect of service
23 rendered”.

24 **32 At the end of section 211**

25 Add:

1 Victoria Cross allowance is provided under Division 6 for persons
2 who have been awarded the Victoria Cross or the Victoria Cross
3 for Australia.

4 Division 7 allows the Minister to make a legislative instrument that
5 provides for the payment of decoration allowance.

6 **33 At the end of Part 7 of Chapter 4**

7 Add:

8 **Division 6—Victoria Cross allowance**

9 **230A Eligibility for Victoria Cross allowance**

- 10 (1) The Commonwealth is liable to pay an allowance, called Victoria
11 Cross allowance, to a person in respect of an allowance period if:
12 (a) before the start of the period, the person has been awarded
13 the Victoria Cross or the Victoria Cross for Australia; and
14 (b) at the start of the period:
15 (i) the person is living; and
16 (ii) the award has not been rescinded.

- 17 (2) In this section:

18 *allowance period* means the following:

- 19 (a) the period of 12 months starting on 20 September 2026;
20 (b) each subsequent period of 12 months starting on
21 20 September.

22 **230B Amount of Victoria Cross allowance**

23 The amount of the allowance under section 230A is \$5,373.

24 Note: The amount of \$5,373 is indexed under section 404A.

1 **Division 7—Decoration allowance**

2 **230C Decoration allowance**

- 3 (1) The Minister may, by legislative instrument, make provision for
4 and in relation to the payment of decoration allowance to a person
5 who has been awarded an eligible decoration.
- 6 (2) Without limiting subsection (1), an instrument under that
7 subsection may provide for the following:
- 8 (a) the circumstances in which the Commonwealth is liable to
9 pay decoration allowance;
 - 10 (b) the decorations that are eligible decorations;
 - 11 (c) the amount, or a method for working out the amount, of
12 decoration allowance;
 - 13 (d) indexation of the amount of decoration allowance;
 - 14 (e) the persons to whom decoration allowance is payable.

15 **34 At the end of Part 1 of Chapter 11**

16 Add:

17 **404A Indexation of Victoria Cross allowance**

- 18 (1) The dollar amount mentioned in section 230B (the *allowance*
19 *amount*), for an allowance indexation year in which the indexation
20 factor is greater than 1, is replaced by the amount worked out using
21 the following formula:

22
$$\frac{\text{The allowance amount for the previous allowance indexation year}}{\text{Indexation factor for the allowance indexation year}} \times \text{Indexation factor for the allowance indexation year}$$

- 23 (2) The amount worked out under subsection (1) is to be rounded up to
24 the nearest multiple of one dollar.
- 25 (3) The *indexation factor* for an allowance indexation year is the
26 number worked out using the following formula:

27
$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

- 1 (4) The indexation factor is to be worked out to 3 decimal places
2 (rounding up if the fourth decimal place is 5 or more).
- 3 (5) Amounts are to be worked out under this section:
4 (a) using only the index numbers published in terms of the most
5 recently published index reference period for the Consumer
6 Price Index; and
7 (b) disregarding index numbers published in substitution for
8 previously published index numbers (except where the
9 substituted numbers are published to take account of changes
10 in the index reference period).
- 11 (6) In this section:
12 *allowance indexation year* means the following:
13 (a) the period of 12 months starting on 20 September 2024;
14 (b) each subsequent period of 12 months starting on
15 20 September.
- 16 *base quarter* means the June quarter that has the highest index
17 number of the June quarters before the reference quarter (but not
18 earlier than the June quarter 2023).
- 19 *index number*, for a quarter, means the All Groups Consumer
20 Price Index number (being the weighted average of the 8 capital
21 cities) published by the Australian Statistician for that quarter.
- 22 *June quarter* means a period of 3 months starting on 1 April.
- 23 *reference quarter* means the June quarter immediately before the
24 allowance indexation year.

25 ***Veterans' Entitlements Act 1986***

26 **35 Paragraph 5H(8)(faa)**

27 Omit “section 102”, substitute “an instrument made under section 230C
28 of the MRCA”.

29 **36 Paragraph 5H(8)(faa)**

30 Omit “section 103”, substitute “section 230A of the MRCA”.

1 **37 Paragraph 52Z(3A)(f)**

2 Omit “section 102”, substitute “an instrument made under section 230C
3 of the MRCA”.

4 **38 Paragraph 52Z(3A)(f)**

5 Omit “section 103”, substitute “section 230A of the MRCA”.

6 **39 Paragraph 96(2)(f)**

7 Omit “subparagraph 102(1)(b)(ii) and”.

8 **40 Sections 102 and 103**

9 Repeal the sections.

10 **41 Paragraph 111(1)(d)**

11 Repeal the paragraph.

12 **42 Paragraphs 115(1)(c) and (d)**

13 Repeal the paragraphs.

14 **43 Subsection 121(7) (definition of *pension*)**

15 Omit “Victoria Cross allowance under section 103 or”.

16 **44 Subsection 177(6)**

17 Omit “, 102, 103”.

18 **45 Section 198FA**

19 Repeal the section.

20 **Division 5—Prisoner of war ex gratia payments**

21 ***Military Rehabilitation and Compensation Act 2004***

22 **46 Subsection 5(1) (after paragraph (d) of the definition of**
23 ***compensation*)**

24 Insert:

1 (da) prisoner of war recognition supplement under Part 3 of
2 Chapter 5AA;

3 **47 After Chapter 5**

4 Insert:

5 **Chapter 5AA—Compensation relating to**
6 **prisoners of war**

7 **Part 1—Preliminary**
8

9 **@268AF Simplified outline of this Chapter**

10 This Chapter provides compensation in respect of former members
11 and civilians who have been prisoners of war.
12 Part 2 provides compensation payments in respect of former
13 members and civilians interned by certain military forces during
14 designated war periods.
15 Under Part 3, a prisoner of war recognition supplement is payable
16 to former members and civilians who were interned by certain
17 military forces during designated war periods.

18 **@268AG Definitions**

19 (1) In this Chapter:

20 *civilian* means a person who is not a member or former member.

21 *compensation eligibility date*: see section @268AH.

22 *designated war period*: see section @268AH.

23 *enemy State* means:

24 (a) a European State that was at war with the Crown at any time
25 during the period starting on 3 September 1939 and ending at
26 the end of 11 May 1945; or

1 (b) a European ally (whether or not a State) of a State covered by
2 paragraph (a).

3 **interned** means:

4 (a) confined in a camp, building, prison, cave or other place
5 (including a vehicle); or

6 (b) restricted to residing within specified limits.

7 **military forces** means air forces, naval forces, land forces or other
8 military forces (however described).

9 **relevant military forces**: see section @268AH.

10 (2) For the purposes of this Chapter, the definition of **partner** in
11 section 5 has effect as if a reference to a member includes a
12 civilian.

13 **@268AH Meaning of relevant military forces, designated war period**
14 **and compensation eligibility date**

15 The following table sets out:

16 (a) the military forces that are **relevant military forces**; and

17 (b) the period that is the **designated war period** for those relevant
18 military forces; and

19 (c) the date that is the **compensation eligibility date** in respect of
20 those relevant military forces and that designated war period.
21

Relevant military forces, designated war period and compensation eligibility date

Item	Column 1 Relevant military forces	Column 2 Designated war period	Column 3 Compensation eligibility date
1	Military forces of an enemy State	the period starting on 3 September 1939 and ending at the end of 11 May 1945	1 January 2007
2	Military forces of North Korea	the period starting on 27 June 1950 and	1 January 2003

Schedule 2 Single ongoing Act enhancements
Part 1 Amendments relating to allowances etc.

Relevant military forces, designated war period and compensation eligibility date

Item	Column 1 Relevant military forces	Column 2 Designated war period	Column 3 Compensation eligibility date
		ending at the end of 19 April 1956	
3	Military forces of Japan	the period starting on 7 December 1941 and ending at the end of 29 October 1945	1 January 2001

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2

**Part 2—Compensation in respect of former
members and civilians interned by certain
military forces**

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@268AI Simplified outline of this Part

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This Part provides for compensation payments in respect of former members and civilians interned by certain military forces during designated war periods.

10

11

**@268AJ Compensation in respect of former members and civilians
interned by certain military forces**

12

Former members

13

(1) The Commonwealth is liable to pay compensation to a person if:

14

(a) the person is a former member; and

15

(b) the person was interned by relevant military forces at any time during the designated war period for the relevant military forces; and

16

17

18

(c) the person was alive on the compensation eligibility date for the relevant military forces and designated war period; and

19

1 (d) a claim for compensation in respect of the person has been
2 made under section 319.

3 *Partners of deceased members*

4 (2) The Commonwealth is liable to pay compensation to a person in
5 respect of a deceased member if:

- 6 (a) the deceased member was interned by relevant military
7 forces at any time during the designated war period for the
8 relevant military forces; and
- 9 (b) the deceased member died before the compensation
10 eligibility date for the relevant military forces and designated
11 war period; and
- 12 (c) the person was a partner of the deceased member
13 immediately before the member's death; and
- 14 (d) the person was alive at the start of the compensation
15 eligibility date for the relevant military forces and designated
16 war period; and
- 17 (e) a claim for compensation in respect of the deceased member
18 has been made under section 319.

19 *Civilians*

20 (3) The Commonwealth is liable to pay compensation to a person in
21 the person's own right as a civilian if:

- 22 (a) the person was interned by the relevant military forces
23 covered by item 1 or 3 of the table in section @268AH at any
24 time during the designated war period for the relevant
25 military forces; and
- 26 (b) the person was domiciled in Australia immediately before the
27 civilian's internment; and
- 28 (c) the person was alive at the start of the compensation
29 eligibility date for the relevant military forces and designated
30 war period; and
- 31 (d) a claim for compensation in respect of the person has been
32 made under section 319.

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Partners of deceased civilians

- (4) The Commonwealth is liable to pay compensation to a person in respect of a deceased civilian if:
- (a) the deceased civilian was interned by the relevant military forces covered by item 1 or 3 of the table in section @268AH at any time during the designated war period for the relevant military forces; and
 - (b) the deceased civilian was domiciled in Australia immediately before the civilian’s internment; and
 - (c) the deceased civilian died before the compensation eligibility date for the relevant military forces and designated war period; and
 - (d) the person was a partner of the deceased civilian immediately before the civilian’s death; and
 - (e) the person was alive at the start of the compensation eligibility date for the relevant military forces and designated war period; and
 - (f) a claim for compensation in respect of the deceased civilian has been made under section 319.

Dependants (other than partners and children) of deceased members

- (5) The Commonwealth is liable to pay compensation to a person in respect of a deceased member if:
- (a) the deceased member was interned by the relevant military forces covered by item 3 of the table in section @268AH at any time during the designated war period for the relevant military forces; and
 - (b) the deceased member died before the compensation eligibility date for the relevant military forces and designated war period; and
 - (c) the person was a dependant (within the meaning of the VEA), but not a partner or a child, of the deceased member immediately before the member’s death; and
 - (d) the person was alive at the start of the compensation eligibility date for the relevant military forces and designated war period; and

1 (e) a claim for compensation in respect of the deceased member
2 has been made under section 319.

3 *One payment only*

4 (6) The Commonwealth is not liable to pay compensation under
5 subsection (1), (2), (3), (4) or (5) in respect of a person if:

6 (a) compensation under any of those subsections has previously
7 been paid in respect of the person; or

8 (b) a payment under any of the following has previously been
9 made in respect of the person:

10 (i) the *Compensation (Japanese Internment) Act 2001*;

11 (ii) Schedule 5 to the *Social Security and Veterans' Affairs*
12 *Legislation Amendment (One-off Payments and Other*
13 *2007 Budget Measures) Act 2007*;

14 (iii) Part 2 of the *Veterans' Entitlements (Clarke Review) Act*
15 *2004*;

16 (iv) the *Veterans' Entitlements (Compensation—Japanese*
17 *Internment) Regulations 2001*.

18 **@268AK Amount of compensation**

19 The amount of compensation payable under section @268AJ is
20 \$25,000.

21 **Part 3—Prisoner of war recognition supplement**
22

23 **@268AL Simplified outline of this Part**

24 This Part provides for the payment of a prisoner of war recognition
25 supplement to former members and civilians who were interned by
26 certain military forces during designated war periods.

1 **@268AM Eligibility for prisoner of war recognition supplement**

2 *Former members*

- 3 (1) A person is eligible for prisoner of war recognition supplement
4 under this section if:
5 (a) the person is a former member; and
6 (b) the person was interned by relevant military forces at any
7 time during the designated war period for the relevant
8 military forces.

9 *Civilians*

- 10 (2) A person is eligible for prisoner of war recognition supplement
11 under this section if:
12 (a) the person was interned by the relevant military forces
13 covered by item 1 or 3 of the table in section @268AH at any
14 time during the designated war period for the relevant
15 military forces; and
16 (b) the person was domiciled in Australia immediately before the
17 civilian's internment.

18 *One supplement only*

- 19 (3) A person is not entitled to more than one prisoner of war
20 recognition supplement under this section.

21 **@268AN Rate of prisoner of war recognition supplement**

22 The rate of prisoner of war recognition supplement that is payable
23 under section @268AM is \$673.00 per fortnight.

24 Note: The amount of \$673.00 is indexed under section 404B.

25 **@268AO Payment of prisoner of war recognition supplement**

26 Prisoner of war recognition supplement under this Part is not
27 payable to a person unless the person makes a claim for
28 compensation under section 319.

1 **48 Section 343**

2 After “5”, insert “, 5AA”.

3 **49 At the end of Part 1 of Chapter 11**

4 Add:

5 **404B Indexation of prisoner of war recognition supplement**

6 (1) The dollar amount mentioned in section @268AN (the *supplement*
7 *amount*), for a supplement indexation year in which the indexation
8 factor is greater than 1, is replaced by the amount worked out using
9 the following formula:

10
$$\frac{\text{The supplement amount for the}}{\text{previous supplement indexation year}} \times \frac{\text{Indexation factor for the}}{\text{supplement indexation year}}$$

11 (2) The amount worked out under subsection (1) is to be rounded to
12 the nearest multiple of 10 cents (rounding 5 cents or more
13 upwards).

14 (3) The indexation factor for a supplement indexation year is the
15 number worked out using the following formula:

16
$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

17 (4) The indexation factor is to be worked out to 3 decimal places
18 (rounding up if the fourth decimal place is 5 or more).

19 (5) Amounts are to be worked out under this section:

20 (a) using only the index numbers published in terms of the most
21 recently published index reference period for the Consumer
22 Price Index; and

23 (b) disregarding index numbers published in substitution for
24 previously published index numbers (except where the
25 substituted numbers are published to take account of changes
26 in the index reference period).

27 (6) In this section:

1 *base quarter* means the June quarter that has the highest index
2 number of the June quarters before the reference quarter (but not
3 earlier than the June quarter 2023).

4 *index number*, for a quarter, means the All Groups Consumer
5 Price Index number (being the weighted average of the 8 capital
6 cities) published by the Australian Statistician for that quarter.

7 *June quarter* means a period of 3 months starting on 1 April.

8 *reference quarter* means the June quarter immediately before the
9 supplement indexation year.

10 *supplement indexation year* means the following:

- 11 (a) the period of 12 months starting on 20 September 2024;
12 (b) each subsequent period of 12 months starting on
13 20 September.

14 ***Social Security and Veterans' Affairs Legislation Amendment***
15 ***(One-off Payments and Other 2007 Budget***
16 ***Measures) Act 2007***

17 **50 Schedule 5**

18 Repeal the Schedule.

19 ***Veterans' Entitlements Act 1986***

20 **51 Paragraph 5H(8)(faaa)**

21 Omit "Part VIB", substitute "section @268AM of the MRCA".

22 **52 After paragraph 5H(8)(zy)**

23 Insert:

- 24 (zya) a payment under section @268AJ of the MRCA
25 (compensation in respect of former members and civilians
26 interned by certain military forces);

27 **53 Subsection 5Q(1) (definition of *Australia*)**

28 Omit "VIB,".

1 **54 Paragraph 52Z(3A)(fa)**

2 Omit “Part VIB”, substitute “section @268AM of the MRCA”.

3 **55 Part VIB**

4 Repeal the Part.

5 **56 Subsection 119(2) (paragraph (e) of the definition of *claim*)**

6 Omit “IIIAB; or”, substitute “IIIAB.”.

7 **57 Subsection 119(2) (paragraph (f) of the definition of *claim*)**

8 Repeal the paragraph.

9 **58 Subsection 121(4)**

10 Omit “Subject to subsection (4A), if”, substitute “If”.

11 **59 Subsection 121(4A)**

12 Repeal the subsection.

13 **60 Subsection 121(7) (definition of *pension*)**

14 Omit “prisoner of war recognition supplement under Part VIB,”.

15 **61 Subsection 198D(1) (paragraph (d) of the definition of**
16 ***relevant rate*)**

17 Omit “column 2); or”, substitute “column 2).”.

18 **62 Subsection 198D(1) (paragraph (e) of the definition of**
19 ***relevant rate*)**

20 Repeal the paragraph.

21 ***Veterans’ Entitlements (Clarke Review) Act 2004***

22 **63 Part 2**

23 Repeal the Part.

1 **Division 6—Education schemes**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **64 Subsection 5(1)**

4 Insert:

5 *VEA eligible child* has the meaning given by subsection
6 @257A(1).

7 *VEA eligible grandchild* has the meaning given by subsection
8 @257A(1).

9 **65 Division 6 of Part 3 of Chapter 5 (heading)**

10 Repeal the heading, substitute:

11 **Division 6—Education scheme for certain eligible young**
12 **persons and other children**

13 **66 Before section 258**

14 Insert:

15 **Subdivision A—Preliminary**

16 **@257A Definitions**

17 (1) In this Division:

18 *VEA eligible child* means:

- 19 (a) a child of a deceased member of the Forces, or of a deceased
20 member of a Peacekeeping Force, being a member:
- 21 (i) whose death was defence-caused (within the meaning of
22 the VEA); or
 - 23 (ii) who was, immediately before the member's death, a
24 member to whom subsection 22(4) or section 24 of the
25 VEA applied; or
 - 26 (iii) who was, immediately before the member's death, in
27 receipt of a pension under Part IV of the VEA in respect

- 1 of incapacity of a kind described in item 1, 2, 3, 4, 5 or
2 6 of the table in subsection 27(1) of that Act; or
- 3 (b) a child of a member of the Forces, or of a member of a
4 Peacekeeping Force, being a member:
- 5 (i) to whom subsection 22(4) or section 24 of the VEA
6 applies; or
- 7 (ii) who is in receipt of a pension under Part IV of the VEA
8 in respect of incapacity of a kind described in item 1, 2,
9 3, 4, 5 or 6 of the table in subsection 27(1) of that Act;
10 or
- 11 (c) a child of a deceased veteran, being a veteran:
- 12 (i) whose death was war-caused (within the meaning of the
13 VEA); or
- 14 (ii) who was, immediately before the veteran's death, a
15 veteran to whom subsection 22(4) or section 24 of the
16 VEA applied; or
- 17 (iii) who was, immediately before the veteran's death, in
18 receipt of a pension under Part II of the VEA in respect
19 of incapacity of a kind described in item 1, 2, 3, 4, 5 or
20 6 of the table in subsection 27(1) of that Act; or
- 21 (iv) who was a prisoner of war at a time when the veteran
22 was on operational service; or
- 23 (d) a child of a veteran, being a veteran:
- 24 (i) to whom subsection 22(4) or section 24 of the VEA
25 applies; or
- 26 (ii) who is in receipt of a pension under Part II of the VEA
27 in respect of incapacity of a kind described in item 1, 2,
28 3, 4, 5 or 6 of the table in subsection 27(1) of that Act;
29 or
- 30 (e) a child of a deceased veteran, being a child who is in receipt
31 of a pension under subsection 13(4) of the VEA; or
- 32 (f) a person determined under subsection @257C(4) of this Act
33 to be included in a class that has been determined by the
34 Commission under subsection @257B(1) of this Act.

35 ***VEA eligible grandchild*** means a person determined under
36 subsection @257C(4) to be included in a class of persons that has
37 been determined by the Commission under subsection @257B(2).

- 1 (2) If, after the death of a member of the Forces, or of a member of a
2 Peacekeeping Force, a pension is granted in respect of the member
3 under Part IV of the VEA, or the rate of the pension granted to the
4 member under Part IV of the VEA is increased, as from a date
5 before the death of the member in circumstances where:
- 6 (a) subsection 22(4) or section 24 of the VEA applied to the
7 member; or
- 8 (b) the member was suffering from an incapacity of a kind
9 described in item 1, 2, 3, 4, 5 or 6 of the table in
10 subsection 27(1) of the VEA;
- 11 then, the member is taken, for the purposes of paragraphs (a) and
12 (b) of the definition of *VEA eligible child* in subsection (1) of this
13 section, to have been:
- 14 (c) if paragraph (a) of this subsection applies—a member to
15 whom subsection 22(4) or section 24 of the VEA applied
16 immediately before the member’s death; or
- 17 (d) if paragraph (b) of this subsection applies—in receipt of that
18 pension or of pension at that increased rate, as the case may
19 be, immediately before the member’s death.
- 20 (3) If, after the death of a veteran, a pension is granted in respect of the
21 veteran under Part II of the VEA, or the rate of the pension granted
22 to the veteran under Part II of that Act is increased, as from a date
23 before the death of the veteran in circumstances where:
- 24 (a) subsection 22(4) or section 24 of the VEA applied to the
25 veteran; or
- 26 (b) the veteran was suffering from an incapacity of a kind
27 described in item 1, 2, 3, 4, 5 or 6 of the table in
28 subsection 27(1) of the VEA;
- 29 then, the veteran is taken, for the purposes of paragraphs (c) and
30 (d) of the definition of *VEA eligible child* in subsection (1) of this
31 section, to have been:
- 32 (c) if paragraph (a) of this subsection applies—a veteran to
33 whom subsection 22(4) or section 24 of the VEA applied
34 immediately before the veteran’s death; or
- 35 (d) if paragraph (b) of this subsection applies—in receipt of that
36 pension or of pension at that increased rate, as the case may
37 be, immediately before the veteran’s death.

1 *Extended meaning of child*

- 2 (4) A reference in subsection (1) to a child of a person (however
3 described) includes a reference to any child who is, or was
4 immediately before the death of the person, wholly or substantially
5 dependent on the person.
- 6 (5) For the purposes of subsection (4), if a person is, under a law of the
7 Commonwealth or of a State or Territory, liable to maintain a
8 child, the child is taken to be wholly or substantially dependent on
9 that person.

10 *Certain expressions have same meaning as in VEA*

- 11 (6) The following expressions have the same meaning when used in
12 this section as they have in the VEA:
13 (a) member of the Forces;
14 (b) member of a Peacekeeping Force;
15 (c) veteran.

16 **@257B Determination of classes for purposes of definitions of VEA**
17 ***eligible child and VEA eligible grandchild***

- 18 (1) The Commission may, by legislative instrument, determine a class
19 of persons for the purposes of paragraph (f) of the definition of
20 ***VEA eligible child*** in subsection @257A(1). However, the persons
21 must be the children of veterans (within the meaning of the VEA)
22 who rendered service before 1 July 2004.
- 23 (2) The Commission may, by legislative instrument, determine a class
24 of persons for the purposes of the definition of ***VEA eligible***
25 ***grandchild*** in subsection @257A(1). However, the persons must
26 be the grandchildren of veterans (within the meaning of the VEA)
27 who have rendered operational service in Vietnam that is covered
28 by section 6F of the VEA or section 446 or 450 of this Act.

29 *Variation or revocation*

- 30 (3) The Commission may, by legislative instrument, vary or revoke a
31 determination under subsection (1) or (2).

1 **@257C Determination that person is included in class determined**
2 **under section @257B**

3 *Application for determination*

4 (1) A person may make an application to the Commission for a
5 determination that the person is included in one of the following
6 classes of persons (a *determined class*):

7 (a) a class of persons determined by the Commission under
8 subsection @257B(1);

9 (b) a class of persons determined by the Commission under
10 subsection @257B(2).

11 (2) The application may be made on behalf of the person:

12 (a) with the person's approval; or

13 (b) by the person's legal personal representative; or

14 (c) if the person is unable, because of physical or mental
15 incapacity, to approve someone to make the application on
16 the person's behalf—by another person approved by the
17 Commission; or

18 (d) if the person is under the age of 18 years:

19 (i) by a parent or guardian of the person; or

20 (ii) by someone approved by a parent or guardian of the
21 person; or

22 (iii) if there is not a parent or guardian of the person alive, or
23 willing and able to make, or approve someone to make
24 such an application on behalf of the person—by another
25 person approved by the Commission.

26 (3) The application is to be lodged at a place approved by the
27 Commission under subsection 323(2) and is taken to have been
28 made on a day determined under that subsection.

29 *Determination that person is included in a class*

30 (4) If an application has been made under subsection (1) in respect of a
31 person, the Commission must determine:

32 (a) if the Commission is satisfied that the person falls within a
33 determined class—that the person is included in that
34 determined class; or

1 (b) otherwise—that the person is not included in a determined
2 class.

3 **Subdivision B—Education scheme for certain eligible young**
4 **persons and other children**

5 **67 Section 258 (at the end of the heading)**

6 Add “and other children”.

7 **68 After paragraph 258(1)(b)**

8 Insert:

9 ; and (c) a VEA eligible child; and

10 (d) a VEA eligible grandchild.

11 **69 After subsection 258(1)**

12 Insert:

13 (1A) If the Commission is taken to have accepted liability for an injury
14 sustained, or a disease contracted, by a member or former member
15 (the *original condition*) because of the operation of section 24A,
16 then paragraph (1)(a) of this section does not apply in respect of
17 the member or former member unless:

18 (a) the Commission has accepted liability for another injury or
19 disease of the member or former member (other than because
20 of the operation of section 24A of this Act); or

21 (b) the Commission is satisfied that:

22 (i) the member, or former member, has suffered additional
23 impairment as result of another injury or disease or as a
24 result of a deterioration in the original condition; and

25 (ii) the increase in the member’s, or former member’s,
26 overall impairment constitutes at least 5 impairment
27 points.

28 **70 Subsection 258(2)**

29 Omit “the eligible young person in order”, substitute “an eligible young
30 person, a VEA eligible child or a VEA eligible grandchild in order for
31 the person or child”.

1 **71 Subsection 258(3)**

2 After “persons” (wherever occurring), insert “, VEA eligible children or
3 VEA eligible grandchildren”.

4 **72 After paragraph 345(2)(da)**

5 Insert:

6 (db) a determination under section @257B (determination of
7 classes for purposes of definitions of *VEA eligible child* and
8 *VEA eligible grandchild*);

9 (dc) a determination under subsection @257C(4) (determination
10 that person is included in class determined under section
11 @257B);

12 **73 Paragraph 345(2)(e)**

13 After “persons”, insert “and other children”.

14 **74 Paragraph 354(2)(a)**

15 After “52(1),”, insert “@257C(4),”.

16 **75 Paragraph 354(2)(b)**

17 After “52(3),”, insert “@257C(4),”.

18 ***Veterans’ Entitlements Act 1986***

19 **76 Paragraph 5H(8)(fa)**

20 Repeal the paragraph.

21 **77 Paragraph 5H(8)(zx)**

22 After “persons”, insert “and other children”.

23 **78 Subsection 5Q(1) (definition of *Veterans’ Children*
24 *Education Scheme*)**

25 Repeal the definition.

26 **79 Paragraph 13(7)(h)**

27 Repeal the paragraph, substitute:

1 (h) under the scheme determined under section 258 of the
2 MRCA (education scheme for certain eligible young persons
3 and other children).

4 **80 Sections 67W and 67ZV**

5 Repeal the sections.

6 **81 Paragraph 70(10A)(e)**

7 Repeal the paragraph, substitute:

8 (e) under the scheme determined under section 258 of the
9 MRCA (education scheme for certain eligible young persons
10 and other children).

11 **82 Part VII**

12 Repeal the Part.

13 **83 Subsection 128A(2)**

14 Omit “, or an allowance under a scheme within the meaning of
15 Part VII,”.

16 **84 Subsection 175(5)**

17 Repeal the subsection.

18 **85 Paragraph 197(2)(c)**

19 Omit “or Part VII”.

20 **Division 7—Additional compensation for children of**
21 **severely impaired veterans**

22 *Military Rehabilitation and Compensation Act 2004*

23 **86 Subsection 80(1)**

24 Repeal the subsection, substitute:

25 (1) This section applies to a person (the *impaired person*) if:
26 (a) either or both of the following apply:

- 1 (i) the Commission has accepted liability for one or more
2 injuries or diseases of the person (other than because of
3 the operation of section 24A of this Act);
4 (ii) the person is covered by subsection (1A) of this section;
5 and
6 (b) the Commission has determined that the degree of
7 impairment suffered by the person as a result of one or more
8 service injuries or diseases constitutes at least 80 impairment
9 points.
- 10 (1A) A person is covered by this subsection if:
11 (a) the Commission is taken to have accepted liability for an
12 injury sustained, or a disease contracted, by the person (the
13 *original condition*) because of the operation of section 24A;
14 and
15 (b) the Commission is satisfied that:
16 (i) the person has suffered additional impairment as result
17 of another injury or disease or as a result of a
18 deterioration in the original condition; and
19 (ii) the increase in the person’s overall impairment
20 constitutes at least 5 impairment points.

21 **87 Subsection 80(2)**

22 Omit “to pay the impaired person”, substitute “to pay”.

23 **88 Paragraph 80(2)(b)**

24 Omit “either”, substitute “the latest of whichever of the following is
25 applicable”.

26 **89 Subparagraph 80(2)(b)(i)**

27 Omit “disease; or”, substitute “disease;”.

28 **90 Subparagraph 80(2)(b)(ii)**

29 Omit “otherwise”, substitute “if the person has more than one service
30 injury or disease”.

31 **91 At the end of paragraph 80(2)(b)**

32 Add:

1 ; (iii) if the person is covered by subsection (1A) of this
2 section—the date determined by the Commission to be
3 the date on which the increase in the person’s overall
4 impairment constitutes at least 5 impairment points.

5 **92 At the end of section 80**

6 Add:

7 (4) The Commonwealth is only liable to pay the amount specified in
8 subsection (2) once for each eligible young person or child of the
9 impaired person.

10 **93 After section 80**

11 Insert:

12 **80A Whom the additional amount is payable to**

13 An additional amount under section 80 in respect of an eligible
14 young person or child of the impaired person is payable to:

- 15 (a) if the impaired person has primary responsibility for the daily
16 care of the eligible young person or child—the impaired
17 person; or
18 (b) otherwise—the person who has primary responsibility for the
19 daily care of the eligible young person or child.

20 **Division 8—Special assistance**

21 ***Military Rehabilitation and Compensation Act 2004***

22 **94 Paragraph 423(d)**

23 Repeal the paragraph (not including the notes), substitute:

24 (d) assistance or benefits granted under section 424 (special
25 assistance);

26 **95 Subsection 424(1)**

27 Omit “(1)”.

1 **96 Subsection 424(2)**

2 Repeal the subsection.

3 **Division 9—Repeals**

4 ***Compensation (Japanese Internment) Act 2001***

5 **97 The whole of the Act**

6 Repeal the Act.

1 **Part 2—Amendments relating to treatment**

2 **Division 1—Travel for treatment arrangements**

3 ***Military Rehabilitation and Compensation Act 2004***

4 **98 Section 289 (definition of *compensable treatment*)**

5 Repeal the definition, substitute:

6 *compensable treatment* means:

- 7 (a) treatment to which a person is entitled under Part 3; or
8 (b) treatment in respect of which compensation is payable under
9 Division 1A of this Part; or
10 (c) treatment in respect of which compensation is payable under
11 section 16 of the DRCA; or
12 (d) treatment to which a person is entitled under Part V of the
13 VEA.

14 **99 Subparagraph 290(1)(b)(iii)**

15 Omit “unavailable; or”, substitute “unavailable; and”.

16 **100 Subparagraph 290(1)(b)(iv)**

17 Repeal the subparagraph.

18 **101 Subparagraph 290(2)(c)(iii)**

19 Omit “unavailable; or”, substitute “unavailable; and”.

20 **102 Subparagraph 290(2)(c)(iv)**

21 Repeal the subparagraph.

22 **103 After section 291**

23 Insert:

24 **291A Scheme may provide for advance payments**

- 25 (1) The Commission may, in writing, determine a scheme for and in
26 relation to the making of advance payments to persons in respect of

Schedule 2 Single ongoing Act enhancements
Part 2 Amendments relating to treatment

1 compensation a person is expected to become entitled to be paid
2 under section 290 or 291 in respect of a journey or
3 accommodation.

- 4 (2) Without limiting subsection (1), the scheme may provide for the
5 following:
6 (a) how applications for advance payments are made under the
7 scheme;
8 (b) investigating and determining those applications.

9 *Scheme must be approved by the Minister*

- 10 (3) The scheme has no effect unless the Minister has approved it in
11 writing.

12 *Variation or revocation of scheme*

- 13 (4) The Commission may, by written determination, vary or revoke the
14 scheme that is in force under this section.
15 (5) A determination under subsection (4) has no effect unless the
16 Minister has approved it in writing.

17 *Legislative instruments*

- 18 (6) A determination under subsection (1) or (4) made by the
19 Commission and approved by the Minister is a legislative
20 instrument made by the Minister on the day on which the
21 determination is approved.

22 **104 At the end of section 297**

23 Add:

24 Note: The Commission is taken to have accepted liability for an injury or
25 disease in certain circumstances (see section 24A).

26 **105 After paragraph 415(1)(b)**

27 Insert:

- 28 (ba) any amount by which an advance payment (under the scheme
29 referred to in section 291A) in respect of compensation a
30 person is expected to become entitled to under section 290 or

1 291 exceeds the amount of compensation that the person
2 becomes entitled to under section 290 or 291; or

3 **106 After paragraph 423(caa)**

4 Insert:
5 (cab) advance payments under the scheme referred to in
6 section 291A;

7 ***Safety, Rehabilitation and Compensation (Defence-related***
8 ***Claims) Act 1988***

9 **107 Subsections 16(6) to (9)**

10 Repeal the subsections.

11 **108 Subsection 144B(6)**

12 Repeal the subsection.

13 ***Veterans' Entitlements Act 1986***

14 **109 Section 110**

15 Repeal the section.

16 **110 Paragraph 111(1)(g)**

17 Omit "allowance;"; substitute "allowance.".

18 **111 Paragraph 111(1)(h)**

19 Repeal the paragraph.

20 **112 Subsection 112(3)**

21 Repeal the subsection.

22 **113 Paragraph 112(4)(b)**

23 Omit "or".

24 **114 Paragraph 112(4)(c)**

25 Repeal the paragraph.

1 **115 Subsection 112(4)**

2 Omit “, (2) or (3)”, substitute “or (2)”.

3 **Division 2—Treatment arrangements**

4 ***Military Rehabilitation and Compensation Act 2004***

5 **116 Section 278**

6 Omit:

7

The Commission can arrange for treatment under this Part in 8 accordance with arrangements it has with hospitals and doctors etc. 9 or in accordance with a determination it makes under Division 4 of 10 this Part.

11 substitute:

12

The Commission can determine that specified classes of persons 13 are eligible to be provided with specified kinds of treatment under 14 this Part.

15

The Commission can arrange for treatment under this Part in 16 accordance with arrangements it has with hospitals and doctors etc. 17 or in accordance with a determination it makes under Division 3A 18 or 4 of this Part.

19 **117 Paragraphs 279(a) and 280(b)**

20 After “disease”, insert “(other than because of the operation of
21 section 24A)”.

22 **118 Subsection 281(1)**

23 Omit “A person is”, substitute “Subject to subsections (2) and (3), a
24 person is”.

25 **119 Subsection 281(2)**

26 Omit “However, if”, substitute “If”.

1 **120 At the end of section 281**

2 Add:

- 3 (3) If an injury sustained, or a disease contracted, by the person (the
4 **original condition**) is covered by subsection (4), then the person is
5 only entitled to treatment under subsection (1) if:
6 (a) the Commission has accepted liability for another injury or
7 disease of the person (other than because of the operation of
8 section 24A); or
9 (b) the Commission is satisfied that:
10 (i) the person has suffered additional impairment as a result
11 of another injury or disease or as a result of a
12 deterioration in the original condition; and
13 (ii) the increase in the person's overall impairment
14 constitutes at least 5 impairment points.
- 15 (4) The original condition is covered by this subsection if:
16 (a) before the date of commencement, the person made a claim
17 for compensation under the DRCA in respect of the original
18 condition; and
19 (b) as a result of the determination of that claim (including any
20 reconsideration or review of a decision made in relation to
21 that claim), liability to pay compensation in respect of the
22 original condition was accepted.

23 **121 After Division 3 of Part 3 of Chapter 6**

24 Insert:

25 **Division 3A—Entitlement to treatment in other**
26 **circumstances**

27 **284A Specified treatment for specified members and others**

- 28 (1) The Commission may, by legislative instrument, determine the
29 following:
30 (a) that a member or former member included in a specified
31 class is eligible to be provided with treatment of a specified
32 kind under this Part;

- 1 (b) that a person who is the dependant of a member or former
2 member and who is in a specified class is eligible to be
3 provided with treatment of a specified kind under this Part;
4 (c) that a person who was the dependant of a member or former
5 member and who is in a specified class is eligible to be
6 provided with treatment of a specified kind under this Part;
7 (d) that a person who is not covered by paragraph (a), (b) or (c)
8 and who is in a specified class is eligible to be provided with
9 treatment of a specified kind under this Part.
- 10 (2) An instrument under subsection (1) has effect according to its
11 terms, despite any other provision of this Act.

12 **122 Subsection 287(1)**

13 Repeal the subsection, substitute:

- 14 (1) The Commission may arrange for treatment to be provided to a
15 person who is entitled to treatment under this Part in accordance
16 with one or more of the following:
17 (a) a determination under section 284A;
18 (b) the arrangements made under section 285;
19 (c) a treatment determination under section 286.

20 **123 Subsection 287(2)**

21 Omit “the determination”, substitute “a determination mentioned in
22 subsection (1)”.

23 **124 At the end of Division 4 of Part 3 of Chapter 6**

24 Add:

25 **287B Provision of services under the Veteran Suicide Prevention**
26 **pilot**

- 27 (1) A person is eligible to be provided with treatment under this Part,
28 being treatment that is the provision of services under the program
29 established by the Commonwealth and known as the Veteran
30 Suicide Prevention pilot, if the person is included in a class of
31 persons determined in an instrument under subsection (2).

- 1 (2) The Commission may, by legislative instrument, determine a class
2 of persons for the purposes of subsection (1).
- 3 (3) Despite subsection 14(2) of the *Legislation Act 2003*, an instrument
4 under subsection (2) of this section may make provision in relation
5 to a matter by applying, adopting or incorporating, with or without
6 modification, any matter contained in an instrument or other
7 writing as in force or existing from time to time.

8 **287C Provision of counselling services and psychiatric assessment**

- 9 (1) The Commission may, with the approval of the Minister, arrange
10 for the provision of:
11 (a) counselling services for:
12 (i) members, former members and dependants of members
13 and former members; and
14 (ii) a person in a class in respect of which a determination
15 under paragraph 284A(1)(c) has been made; and
16 (iii) a person included in a class of persons specified in an
17 instrument under subsection (2) of this section; and
18 (b) psychiatric assessment of a person in a class in respect of
19 which a determination under paragraph 284A(1)(b) or (c) has
20 been made.
- 21 (2) The Commission may, by legislative instrument, specify a class of
22 persons for the purposes of subparagraph (1)(a)(iii).

23 ***Veterans' Entitlements Act 1986***

24 **125 Subsection 85(1) (note)**

25 Omit “sections 85A and 85B”, substitute “section 85A”.

26 **126 Subsection 85(2) (note 2)**

27 Omit “sections 85A and 85B”, substitute “section 85A”.

28 **127 Section 85B**

29 Repeal the section.

1 **Part 3—Presumptive liability**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **128 Section 22 (at the end of the paragraph beginning “There**
4 **are 2 standards”)**

5 Add “, unless the presumption in subsection 27A(1) or (2) (that certain
6 injuries and diseases are attributable to defence service) is relied on to
7 make the decision.”.

8 **129 Section 22 (paragraph beginning “The more beneficial”)**

9 Omit “all other decisions”, substitute “most other decisions”.

10 **130 At the end of subsection 23(1)**

11 Add:

12 Note 3: Section 335 does not apply when determining whether a person’s
13 injury or disease is a service injury or a service disease if the
14 presumption in subsection 27A(1) or (2) (that certain injuries and
15 diseases are attributable to defence service) is relied on (see
16 subsection 335(4)).

17 **131 After paragraph 27(b)**

18 Insert:

19 Note: Certain injuries and diseases are taken to be attributable to defence
20 service (see subsections 27A(1) and (2)).

21 **132 After section 27**

22 Insert:

23 **27A Presumption that certain injuries and diseases are attributable**
24 **to defence service**

25 *Injuries taken to be attributable to defence service*

26 (1) If:

27 (a) a person has sustained an injury; and

- 1 (b) the injury is of a kind specified in a determination under
2 subsection (3) to be an injury attributable to defence service
3 of a kind specified in the determination; and
4 (c) the person was, at the time the injury was sustained, a
5 member rendering defence service of that kind;
6 the injury is, for the purposes of paragraph 27(b), taken to be
7 attributable to defence service rendered by the person while a
8 member, unless the contrary is established.

9 *Diseases taken to be attributable to defence service*

- 10 (2) If:
11 (a) a person has contracted a disease; and
12 (b) the disease is of a kind specified in a determination under
13 subsection (3) to be a disease attributable to defence service
14 of a kind specified in the determination; and
15 (c) the person was, at any time before the disease was
16 contracted, a member rendering defence service of that kind;
17 the disease is, for the purposes of paragraph 27(b), taken to be
18 attributable to defence service rendered by the person while a
19 member, unless the contrary is established.

20 *Determination by the Commission*

- 21 (3) The Commission may, by written determination, specify the
22 following:
23 (a) one or more kinds of injury that are attributable to one or
24 more kinds of defence service;
25 (b) one or more kinds of disease that are attributable to one or
26 more kinds of defence service.
27 (4) Without limiting subsection (3), kinds of defence service may be
28 specified by reference to the period during which the service was
29 rendered.
30 (5) To avoid doubt, a determination under subsection (3) may specify
31 a kind of injury, or a kind of disease, irrespective of whether a
32 Statement of Principles is, or has been, determined in respect of
33 that kind of injury or that kind of disease.

1

Variation or revocation of determination

2

- (6) The Commission may, by written determination, vary or revoke a determination under subsection (3).

3

4

Determination etc. must be approved by the Minister

5

- (7) A determination, and any variation or revocation of a determination, under subsection (3) has no effect unless the Minister had approved the determination, variation or revocation in writing.

6

7

8

9

Legislative instruments

10

- (8) A determination, and any variation or revocation of a determination, under subsection (3) prepared by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination, variation or revocation is approved.

11

12

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15

133 Section 324

16

Before “If a claim”, insert “(1)”.

17

134 At the end of section 324

18

Add:

19

- (2) Subsection (1) does not require the Commission to investigate matters relating to whether an injury or disease is attributable to defence service if the presumption in subsection 27A(1) or (2) is relied on for the purposes of determining that the injury or disease is a service injury or a service disease, as the case may be.

20

21

22

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24

Note: Subsections 27A(1) and (2) contain a presumption that certain injuries and diseases are attributable to defence service unless the contrary is established.

25

26

27

135 Section 332 (at the end of the paragraph beginning “There are 2 standards”)

28

29

Add “, unless the presumption in subsection 27A(1) or (2) (that certain injuries and diseases are attributable to defence service) is relied on to make the decision.”.

30

31

1 **136 Section 332 (paragraph beginning “The more beneficial”)**

2 Omit “all other decisions”, substitute “most other decisions”.

3 **137 Section 333**

4 Before “After the Commission”, insert “(1)”.

5 **138 At the end of section 333**

6 Add:

7 (2) Subsection (1) does not require the Commission to consider
8 matters relating to whether an injury or disease is attributable to
9 defence service if the presumption in subsection 27A(1) or (2) is
10 relied on for the purposes of determining that the injury or disease
11 is a service injury or a service disease, as the case may be.

12 Note: Subsections 27A(1) and (2) contain a presumption that certain injuries
13 and diseases are attributable to defence service unless the contrary is
14 established.

15 **139 Subsection 335(1) (before the note)**

16 Insert:

17 Note 1: See subsection (4) about the application of this section.

18 **140 Subsection 335(1)(note)**

19 Omit “Note:”, substitute “Note 2:”.

20 **141 Subsection 335(3) (before the note)**

21 Insert:

22 Note 1: See subsection (4) about the application of this section.

23 **142 Subsection 335(3) (note)**

24 Omit “Note:”, substitute “Note 2:”.

25 **143 At the end of section 335**

26 Add:

1 *Section not apply to certain determinations*

2 (4) This section does not apply in relation to the determination that a
3 person’s injury or disease is a service injury or a service disease, as
4 the case may be, if the presumption in subsection 27A(1) or (2) is
5 relied on for the purposes of making the determination.

6 Note: Subsections 27A(1) and (2) contain a presumption that certain injuries
7 and diseases are attributable to defence service unless the contrary is
8 established.

9 **144 Section 336**

10 Omit “Nothing in section 335, or in any other provision of this Act,”,
11 substitute “Except as provided by subsections 27A(1) and (2), nothing
12 in this Act”.

13 **145 After subsection 338(2)**

14 Insert:

15 (2A) Subsection (2) does not apply if the presumption in
16 subsection 27A(1) or (2) is relied on for the purposes of
17 determining the claim or making a decision on the reconsideration
18 or review of a determination relating to the claim.

19 Note: Subsections 27A(1) and (2) contain a presumption that certain injuries
20 and diseases are attributable to defence service unless the contrary is
21 established.

22 **146 After subsection 339(2)**

23 Insert:

24 (2A) Subsection (2) does not apply if the presumption in
25 subsection 27A(1) or (2) is relied on for the purposes of
26 determining the claim or making a decision on the reconsideration
27 or review of a determination relating to the claim.

28 Note: Subsections 27A(1) and (2) contain a presumption that certain injuries
29 and diseases are attributable to defence service unless the contrary is
30 established.

31 **147 Section 341**

32 Repeal the section, substitute:

1 **340A Subsection 27A(3) determination to be applied on review of a**
2 **decision**

3 (1) This section applies if:

4 (a) the Commission, the Board or the Tribunal is reconsidering
5 or reviewing a determination (the *original claim*
6 *determination*) in relation to a claim under section 319; and

7 (b) at the time the original claim determination was made, a
8 determination under subsection 27A(3) (the *earlier*
9 *presumption determination*) was in force in respect of:

10 (i) the kind of injury sustained by the person in respect of
11 whom the claim was made; or

12 (ii) the kind of disease contracted by the person in respect
13 of whom the claim was made; and

14 (c) at the time the decision on the reconsideration or review is
15 made, a different determination under subsection 27A(3) (the
16 *current presumption determination*) is in force in respect of
17 that kind of injury or disease; and

18 (d) the presumption in subsection 27A(1) or (2) is relied on for
19 the purposes of making the decision on the reconsideration or
20 review.

21 (2) When making its decision on the reconsideration or review, the
22 Commission, the Board or the Tribunal is to apply whichever of
23 the earlier presumption determination or the current presumption
24 determination will result in a more favourable outcome for the
25 claimant.

26 (3) To avoid doubt, the earlier presumption determination may be
27 applied even if it is no longer in force.

28 **341 Statement of Principles to be applied on review of a decision**

29 (1) This section applies if:

30 (a) the Commission, the Board or the Tribunal is reconsidering
31 or reviewing a determination (the *original claim*
32 *determination*) in relation to a claim to which section 338 or
33 339 applies; and

- 1 (b) at the time the original claim determination was made, a
2 Statement of Principles (the *earlier Statement of Principles*)
3 was in force in respect of:
4 (i) the kind of injury sustained by the person in respect of
5 whom the claim was made; or
6 (ii) the kind of disease contracted by the person in respect
7 of whom the claim was made; or
8 (iii) the kind of death suffered by the person in respect of
9 whom the claim was made; and
10 (c) at the time the decision on the reconsideration or review is
11 made, a different Statement of Principles (the *current*
12 *Statement of Principles*) is in force in respect of that kind of
13 injury, disease or death.
- 14 (2) Subject to sections 340 and 340A, when making its decision on the
15 reconsideration or review, the Commission, the Board or the
16 Tribunal is to apply whichever of the earlier Statement of
17 Principles or the current Statement of Principles will result in a
18 more favourable outcome for the claimant.
- 19 (3) To avoid doubt, the earlier Statement of Principles may be applied
20 even if it is no longer in force.

21 **148 Before paragraph 345(2)(a)**

22 Insert:

- 23 (aa) a determination under subsection 27A(3) (presumption
24 that certain injuries and diseases are attributable to
25 defence service);

1 **Part 4—Additional disablement amount**

2 *Military Rehabilitation and Compensation Act 2004*

3 **149 Subsection 5(1) (after paragraph (b) of the definition of**
4 ***clean energy underlying payment*)**

5 Insert:

6 (ba) Additional Disablement Amount under Division 3A of Part 7
7 of Chapter 4; or

8 **150 Subsection 5(1) (after paragraph (b) of the definition of**
9 ***compensation*)**

10 Insert:

11 (ba) Additional Disablement Amount under Division 3A of Part 7
12 of Chapter 4;

13 **151 Subsection 5(1) (definition of *energy supplement*)**

14 After “209A”, insert “, @220D”.

15 **152 After subsection 12(2)**

16 Insert:

17 *Deceased members eligible for Additional Disablement Amount*

18 (2A) This section applies in respect of a deceased member if the
19 member satisfied the eligibility criteria in section @220A
20 (Additional Disablement Amount) during some period of the
21 member’s life.

22 **153 Section 65 (paragraph beginning “Part 7”)**

23 Before “MRCA supplement”, insert “an Additional Disablement
24 Amount,”.

25 **154 After paragraph 199(1)(b)**

26 Insert:

27 (ba) either:

28 (i) the person is not pension age or older; or

- 1 (ii) the person is pension age or older but section 121
2 applies to the person;

3 **155 Section 211**

4 Before:

5 MRCA supplement is provided under Division 4.

6 Insert:

7 An Additional Disablement Amount is provided under Division 3A
8 for certain persons who are pension age or older and have suffered
9 a serious impairment as a result of a service injury or disease.

10 **156 After Division 3 of Part 7 of Chapter 4**

11 Insert:

12 **Division 3A—Additional Disablement Amount**

13 **@220A Eligibility for Additional Disablement Amount**

14 The Commonwealth is liable to pay an Additional Disablement
15 Amount to a person if:

- 16 (a) the Commission has accepted liability for one or more
17 service injuries or diseases of the person; and
18 (b) the person is not receiving any of the following:
19 (i) compensation for incapacity under Part 3 or 4 of this
20 Chapter;
21 (ii) a Special Rate Disability Pension;
22 (iii) a pension under Part II of the VEA as a veteran to
23 whom subsection 22(4), or section 23, 24, 25 or 27, of
24 that Act applies; and
25 (c) the person is pension age or older; and
26 (d) the Commission has determined under Part 2 of this Chapter
27 that an impairment suffered by the person as a result of one
28 or more service injuries or diseases constitutes 70 or more
29 impairment points and the effect of the injuries or diseases on

1 the person's lifestyle constitutes 6 or more impairment
2 points.

3 Note: The Commission is taken to have accepted liability for an injury or
4 disease in certain circumstances (see section 24A).

5 **@220B Amount of Additional Disablement Amount**

6 The maximum weekly amount of Additional Disablement Amount
7 that is payable under section @220A is one half of the fortnightly
8 rate at which a pension is payable from time to time under
9 subsection 22(4) of the VEA.

10 **@220C Offsets**

11 (1) The maximum weekly amount of Additional Disablement Amount
12 that could be payable to a person is reduced in accordance with this
13 section.

14 *Permanent impairment compensation*

15 (2) There is a reduction that is made by reference to amounts payable
16 or paid to the person under Part 2 of this Chapter (permanent
17 impairment). However, a payment received for eligible young
18 persons, financial advice, legal advice or energy supplement under
19 that Part does not reduce the maximum weekly amount of
20 Additional Disablement Amount that could be payable to the
21 person.

22 (3) The maximum weekly amount of an Additional Disablement
23 Amount that could be payable to a person is reduced by the sum of:
24 (a) any weekly amounts that are being paid to the person under
25 Part 2 of this Chapter; and
26 (b) if the person has chosen to convert all or part of one or more
27 weekly amounts that were payable to the person under that
28 Part to lump sums—those weekly amounts or those parts of
29 those weekly amounts.

30 (4) Subsection (3) applies to a person to whom section 389 or 402
31 applies as if the person were being paid the weekly amounts under

Schedule 2 Single ongoing Act enhancements
Part 4 Additional disablement amount

1 Part 2 of this Chapter that the person would be paid if that section
2 did not apply to the person.

3 Note: Section 389 provides that compensation under Part 2 of Chapter 4 is
4 not payable to a person who chooses to institute proceedings for
5 damages against the Commonwealth. Under section 402,
6 compensation under this Act is not payable to a person who recovers
7 damages from a third party.

8 *Commonwealth superannuation*

9 (5) There is a reduction if the person:
10 (a) has retired voluntarily, or has been compulsorily retired, from
11 the person's work; and
12 (b) receives either or both a pension or lump sum under a
13 Commonwealth superannuation scheme as a result of the
14 retirement.

15 (6) The amount of the reduction under subsection (5) is 60% of the
16 reduction that would apply to the person under section 134, 135 or
17 136 if the person were receiving compensation worked out under
18 Division 2 of Part 4 of this Chapter.

19 *Relationship with subsection 415(4)*

20 (7) This section does not limit the application of subsection 415(4) in
21 relation to an Additional Disablement Amount.

22 Note: Subsection (7) has the effect that if the maximum weekly amount of
23 an Additional Disablement Amount is reduced in accordance with this
24 section, that amount may be further reduced in accordance with
25 subsection 415(4).

26 **@220D Energy supplement for Additional Disablement Amount**

27 (1) The Commonwealth is liable to pay an energy supplement to a
28 person for a day if:
29 (a) an Additional Disablement Amount:
30 (i) is payable to the person for the day; or
31 (ii) would be payable to the person for the day apart from
32 section @220C and paragraph 398(3)(b); and
33 (b) the person resides in Australia on the day; and
34 (c) on the day the person either:

- 1 (i) is in Australia; or
2 (ii) is temporarily absent from Australia and has been so for
3 a continuous period not exceeding 6 weeks.

4 Note: Section 424L may affect the person's entitlement to the energy
5 supplement.

6 (2) The daily rate of the supplement is $\frac{1}{7}$ of \$10.75.

7 **157 Subparagraph 242(1)(a)(iii)**

8 Omit "and".

9 **158 At the end of paragraph 242(1)(a)**

10 Add:

- 11 (iv) Division 3A of Part 7 of Chapter 4 (Additional
12 Disablement Amount); and

13 **159 Subparagraph 255(1)(c)(iii)**

14 Omit "and".

15 **160 At the end of paragraph 255(1)(c)**

16 Add:

- 17 (iv) Division 3A of Part 7 of Chapter 4 (Additional
18 Disablement Amount); and

19 **161 After subparagraph 258(1)(a)(i)**

20 Insert:

- 21 (ia) a member or former member who satisfies the eligibility
22 criteria in section @220A (Additional Disablement
23 Amount), or who has satisfied those criteria during
24 some period of the member's life;

25 ***Veterans' Entitlements Act 1986***

26 **162 After paragraph 5H(8)(zs)**

27 Insert:

- 28 (zsa) a payment of an Additional Disablement Amount under
29 Division 3A of Part 7 of Chapter 4 of the MRCA;

1 (zsb) if subsection @220C(5) of the MRCA applies to a person—
2 an amount per fortnight, worked out under section 5IA of
3 this Act, that would, apart from this paragraph, be income of
4 the person;

5 Note: Subsection @220C(5) of the MRCA reduces an Additional
6 Disablement Amount by reference to amounts of Commonwealth
7 superannuation that the person has received or is receiving.

8 **163 Paragraph 5H(8)(zsg) (note)**

9 After “(zr)”, insert “, (zsb)”.

10 **164 After section 5I**

11 Insert:

12 **5IA Additional Disablement Amount reduction amount**

13 For the purposes of paragraphs 5H(8)(zsb) and 5Z(3A)(ib), the
14 amount per fortnight is:

15
$$\frac{\text{Additional Disablement Amount}}{\text{reduction amount}} \times \frac{10}{6}$$

16 where:

17 *Additional Disablement Amount reduction amount* means the
18 amount by which the Additional Disablement Amount (as reduced
19 under subsection @220C(3) of the MRCA) is reduced under
20 subsection @220C(6) of the MRCA (but not below zero).

21 **165 After paragraph 5Z(3A)(i)**

22 Insert:

23 (ia) a payment of an Additional Disablement Amount under
24 Division 3A of Part 7 of Chapter 4 of the MRCA;

25 (ib) if subsection @220C(5) of the MRCA applies to a person—
26 an amount per fortnight, worked out under section 5IA of this
27 Act;

28 **166 Subsection 5Z(3A) (after note 1)**

29 Insert:

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2
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Note 1A: Subsection @220C(5) of the MRCA reduces an Additional
Disablement Amount by reference to amounts of Commonwealth
superannuation that the person has received or is receiving.

1 **Schedule 3—Review pathway**

2 **Part 1—Amendments commencing 60 days after**
3 **Royal Assent**

4 **Division 1—Main amendments**

5 *Military Rehabilitation and Compensation Act 2004*

6 **1 Section 3**

7 After “Chapters 7 and 8.”, insert “The Veterans’ Review Board is dealt
8 with in Chapter 8A.”.

9 **2 Subsection 5(1)**

10 Insert:

11 *alternative dispute resolution processes* means procedures and
12 services for the resolution of disputes, and includes the following:

- 13 (a) conferencing;
- 14 (b) mediation;
- 15 (c) neutral evaluation;
- 16 (d) case appraisal;
- 17 (e) conciliation;
- 18 (f) procedures or services prescribed in an instrument under
19 subsection (1A);

20 but does not include the following:

- 21 (g) arbitration;
- 22 (h) court procedures or services.

23 Paragraphs (b) to (f) of this definition do not limit paragraph (a) of
24 this definition.

25 **3 Subsection 5(1) (definition of Board)**

26 Omit “constituted under the *Veterans’ Entitlements Act 1986*”,
27 substitute “continued in existence by section @359B”.

1 **4 Subsection 5(1)**

2 Insert:

3 ***Board member*** means the Principal Member, a Senior Member or
4 another member of the Board.

5 ***Conference Registrar*** means a Conference Registrar of the Board.

6 ***Deputy Registrar*** means a Deputy Registrar of the Board.

7 ***National Registrar*** means the National Registrar of the Board.

8 ***paid work*** means work for financial gain or reward (whether as an
9 employee, a self-employed person or otherwise).

10 ***Principal Member*** means the Principal Member of the Board.

11 ***Registrar*** means a Registrar of the Board.

12 ***Senior Member*** means a Senior Member of the Board.

13 ***Services member*** means a Board member who, when appointed or
14 re-appointed as a Board member, was a person selected from lists
15 submitted in accordance with a request made under
16 subsection @359C(3).

17 **5 After subsection 5(1)**

18 Insert:

19 (1A) The Minister may, by legislative instrument, prescribe procedures
20 or services for the purposes of paragraph (f) of the definition of
21 ***alternative dispute resolution processes*** in subsection (1).

22 **6 Subsection 345(1)**

23 Insert:

24 ***acute support package instrument*** means an instrument made
25 under:

26 (a) section 268B of this Act; or

27 (b) section 41B of the *Safety, Rehabilitation and Compensation*
28 (*Defence-related Claims*) Act 1988; or

1 (c) section 115S of the *Veterans' Entitlements Act 1986*.

2 **7 Subsection 345(1) (at the end of the definition of *reviewable***
3 ***determination*)**

4 Add:

5 ; or (d) a decision by the Principal Member under subsection
6 @353C(4), (7) or (9) to dismiss an application for review.

7 **8 Section 345B**

8 Omit “under an instrument made under section 268B (about acute
9 support packages)”, substitute “or the Repatriation Commission under
10 an acute support package instrument”.

11 **9 Before paragraph 345B(a)**

12 Insert:

13 (aa) a reference to an original determination were a reference to
14 the decision; and

15 **10 Part 4 of Chapter 8**

16 Repeal the Part, substitute:

17 **Part 4—Review by the Board**

18 **Division 1—Preliminary**

19 **@352 Definitions**

20 In this Part:

21 ***applicant*** means a person who makes an application for review.

22 ***application for review*** means an application under section @352A.

23 ***relevant documentary medical evidence***, in relation to an
24 application for review of an original determination made in respect
25 of a person, means certificates, reports or other documents from:

26 (a) a medical practitioner; or

27 (b) a hospital, or similar institution, in which the person received
28 medical treatment;

1 about a medical condition of the person and reasonably used in
2 support of the application.

3 *review* means a review by the Board under this Part.

4 **Division 2—Applications for review**

5 **@352A Applications for review**

6 The claimant may make an application to the Board for review of
7 an original determination.

8 Note: Applications may also be made to the Board for review of:

- 9 (a) certain determinations under the *Safety, Rehabilitation and*
10 *Compensation (Defence-related Claims) Act 1988* (see section 62
11 of that Act); and
12 (b) certain decisions under the *Veterans' Entitlements Act 1986* (see
13 section 134 of that Act).

14 **@352B Application requirements**

- 15 (1) An application for review must:
16 (a) be in writing; and
17 (b) be given to the Board within 12 months after the day on
18 which notice of the original determination was given to the
19 person making the application.
20 (2) An application for review may set out the reasons for the
21 application.

22 **@352C Notifying Commission of application**

23 If an application for review is made to the Board, the Board must,
24 as soon as practicable after receiving the application, give the
25 Commission written notice of the application.

26 **@352D Commission to prepare report**

- 27 (1) Within 28 days after the Board notifies the Commission under
28 section @352C of an application for review of an original
29 determination, the Commission must:

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) cause a report to be prepared that refers to the evidence on
2 which the original determination was based; and
3 (b) subject to subsection (2), cause a copy of the report to be
4 served on the applicant.
- 5 (2) If the report contains or refers to any information, opinion or other
6 matter that, in the opinion of the Commission:
7 (a) is of a confidential nature; or
8 (b) might be prejudicial to the physical or mental health or
9 well-being of the applicant to communicate to the applicant;
10 the document served on the applicant must not contain or refer to
11 that information, opinion or other matter.
- 12 (3) If a copy of a report is served on an applicant in accordance with
13 subsection (1), the applicant may, within 28 days after service of
14 the report or within such further period as the applicant may
15 request in writing before the expiration of that period, give to the
16 Commission in writing any comments the applicant wishes to
17 make concerning the report.
- 18 (4) The Commission must forward the following material to the
19 Principal Member of the Board:
20 (a) all of the relevant documents, including any comments given
21 to the Commission by the applicant concerning the report
22 served on the applicant;
23 (b) if a further investigation has been made in consequence of
24 the comments of the applicant—a supplementary report
25 referring to any evidence obtained in that further
26 investigation.
- 27 (5) The material must be forwarded:
28 (a) if the applicant gives comments in accordance with
29 subsection (3) and no further investigation is made in
30 consequence of those comments—as soon as practicable after
31 receipt of those comments; or
32 (b) if a further investigation is made in consequence of
33 comments given by the applicant—as soon as practicable
34 after the completion of that further investigation; or
35 (c) in any other case—as soon as practicable after the expiration
36 of the period or extended period referred to in subsection (3).
-

1 **@352E Ongoing requirement for lodging material documents with**
2 **Board**

3 If:

- 4 (a) an application for review is made to the Board; and
5 (b) before the Board determines the review:
6 (i) a party to the review obtains possession of a document;
7 and
8 (ii) the document is relevant to the review; and
9 (iii) a copy of the document has not already been lodged
10 with the Board;

11 the party must, subject to any directions given under
12 subsection @359CL(2), lodge a copy of the document with the
13 Board as soon as practicable after obtaining possession.

14 **Division 3—Proceedings before the Board**

15 **@352F Principal Member or Senior Member to preside at hearing**

- 16 (1) If the Principal Member is included in the Board members
17 constituting the Board for the purpose of a review, the Principal
18 Member is to preside at any hearing of the review.
19 (2) If the Principal Member is not included in the Board members
20 constituting the Board for the purpose of a review, the Senior
21 Member who is included in those Board members is to preside at
22 any hearing of the review.

23 Note: Section @359CJ deals with the constitution of the Board for the
24 purposes of a review.

25 **@352G Parties to review before Board**

- 26 (1) The parties to a review are:
27 (a) the applicant for the review; and
28 (b) the Commission.
29 The Chief of the Defence Force may also choose to be a party to
30 the review.

- 31 (2) A party to a review may:
-

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) appear in person, or be represented by a person other than a
2 legal practitioner, at any hearing of the review; and
3 (b) make such submissions, in writing, to the Board as the party,
4 or the party's representative, considers relevant to the review.
- 5 (3) A person is not entitled to ask for or receive any fee or other
6 reward, or any payment for expenses, for representing a party to a
7 review.
- 8 (4) In this section, *legal practitioner* includes a person who:
9 (a) holds a degree of Bachelor of Laws, Master of Laws or
10 Doctor of Laws or Bachelor of Legal Studies; or
11 (b) is otherwise qualified for admission as a barrister, solicitor,
12 or barrister and solicitor, of the High Court or of the Supreme
13 Court of a State or Territory.

14 **@352H Notice of hearing etc.**

- 15 (1) As soon as practicable after receiving the relevant documents
16 relating to a review of an original determination, the Principal
17 Member must cause to be served on each party to the review a
18 notice:
19 (a) informing the party that the Board is to review the original
20 determination; and
21 (b) requesting the party to inform the Principal Member, in
22 writing, within a reasonable time specified in the notice,
23 whether:
24 (i) the party wishes to appear on the hearing of the review;
25 and
26 (ii) if the party wishes to appear, whether the party intends
27 to appear on the hearing in person, or be represented as
28 mentioned in section @352G.
- 29 (2) If either party to a review informs the Principal Member that the
30 party wishes to appear on the hearing of the review, the Principal
31 Member must:
32 (a) cause a date, time and place to be fixed for the hearing of the
33 review; and
34 (b) cause notice of the date, time and place so fixed to be served
35 on each party to the review.

- 1 (3) The Principal Member may defer fixing a date, time and place for
2 the hearing of a review until the parties to the review have
3 informed the Principal Member that they are ready to proceed at a
4 hearing.
- 5 (4) If a party to a review does not inform the Principal Member, within
6 the time specified in the notice served on the party under
7 subsection (1), that the party wishes to appear on the hearing of the
8 review, the review may be heard and determined in the absence of
9 that party.

10 **@352J Procedure of Board**

11 *Directions hearings*

- 12 (1) A Board member may hold a directions hearing in relation to a
13 review.

14 *Directions before hearing commences*

- 15 (2) Before the hearing of a review has commenced, any of the
16 following persons may give directions in relation to the procedure
17 to be followed in connection with the review:
- 18 (a) a Board member;
 - 19 (b) the National Registrar;
 - 20 (c) a Registrar;
 - 21 (d) a Deputy Registrar;
 - 22 (e) a Conference Registrar.
- 23 (3) Without limiting subsection (2), a direction under that subsection
24 may:
- 25 (a) require any person who is a party to the review to provide
26 further information in relation to the review; or
 - 27 (b) require the Commission to provide a statement of the
28 grounds on which the application for review will be resisted
29 at the hearing of the review; or
 - 30 (c) require any person who is a party to the review to provide a
31 statement of matters or contentions upon which reliance is
32 intended to be placed at the hearing of the review.

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Directions by Principal Member

- (4) The Principal Member:
 - (a) may give general directions as to the procedure of the Board with respect to reviews before it, including reviews the hearings of which have not been commenced; and
 - (b) may give directions as to the procedure of the Board with respect to a particular review before the Board, either before or after the hearing of the review has commenced.
- (5) The power of the Principal Member under subsection (4) includes the power to give directions:
 - (a) as to the manner of communication of documents, including electronic documents, that are required or permitted to be communicated to the Board; and
 - (b) as to the time at which such documents are to be taken to have been so communicated.
- (6) Without limiting the documents to which subsection (5) applies, those documents include:
 - (a) documents, comments and supplementary reports forwarded to the Principal Member under subsection @352D(4); and
 - (b) notices given to the Principal Member by a party to a review for the purposes of section @352H; and
 - (c) documents produced to the Board under section @352Q for the purposes of the hearing of a review; and
 - (d) further documents and reports of investigations or examinations forwarded to the Board as a consequence of a request made under subsection (8) of this section; and
 - (e) documents withdrawing or discontinuing applications for review communicated to the Board under subsection @353C(2).

Direction by presiding member

- (7) The presiding member in respect of a review may, in respect of a matter not dealt with by directions under subsection (4), give directions as to the procedure to be followed on a hearing of the review, either before or after the hearing of the review has commenced.

1

Requests by Principal Member

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(8) The Principal Member may, in relation to a review, request the Commission:

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(a) to obtain, and give to the Principal Member, further documents; or

5

6

(b) to arrange for the making of any investigation or medical examination and to give to the Principal Member a report of the investigation or examination.

7

8

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(9) If a request is made under subsection (8), the Board may adjourn any hearing of the review to which the request relates.

10

11

Limits on powers

12

(10) A direction under subsection (2), (4) or (7) must not be inconsistent with:

13

14

(a) section @352H (notice of hearing etc.); or

15

(b) directions under subsection @359CL(2).

16

(11) In giving a direction or making a request under this section, the Principal Member or a presiding member must have regard to the Board's objective in section @359BA.

17

18

19

Note: A direction under subsection (2), (4) or (7) that is given in writing is not a legislative instrument (see section @353U).

20

21

@352K Participation by telephone etc.

22

A Board member holding a directions hearing, or the Board in the hearing of a review, may allow a person to participate by:

23

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(a) telephone; or

25

(b) closed-circuit television; or

26

(c) any other means of communication.

27

@352L Obligations of parties etc.

28

A party to a review, and any person representing such a party, must use their best endeavours to assist the Board to fulfil the Board's objective in section @359BA.

29

30

1 **@352M Questions to be decided by majority of Board**

2 (1) A question before the Board on a review is to be decided according
3 to the opinion of a majority of the Board members constituting the
4 Board for the purposes of the review.

5 (2) If:

6 (a) the Board is constituted for the purposes of a review by 2
7 Board members only; and

8 (b) the 2 Board members cannot agree on a question arising in
9 the review;

10 the Board must adjourn the review and refer the matter to the
11 Principal Member for the giving of any necessary directions, or the
12 taking of any other action, under section @359CM or @359CN.

13 **@352N Hearing to be in private except in special circumstances**

14 (1) Subject to this section, the hearing of a review must be in private.

15 (2) The presiding member for a review may give directions (whether
16 in writing or otherwise) as to the persons who may be present at
17 any hearing of the review.

18 (3) If requested to do so by the applicant for a review, the presiding
19 member for the review may permit a hearing, or a part of a hearing,
20 of the review to take place in public.

21 Note: A direction under subsection (2) that is given in writing is not a
22 legislative instrument (see section @353U).

23 **@352P Powers of Board**

24 (1) The Board may:

25 (a) take evidence on oath or affirmation for the purposes of a
26 review; or

27 (b) adjourn a hearing of a review from time to time.

28 (2) The presiding member for a review may:

29 (a) require a person appearing at a hearing of the review for the
30 purpose of giving evidence to take an oath or to make an
31 affirmation; and

32 (b) administer an oath or affirmation to a person so appearing.

- 1 (3) The applicant for a review by the Board of an original
2 determination is a competent and compellable witness in the
3 hearing of the review of that determination by the Board.
- 4 (4) The oath or affirmation to be taken or made by a person for the
5 purposes of this section is an oath or affirmation that the evidence
6 that the person will give will be true.
- 7 (5) The power of the Board under paragraph (1)(a) to take evidence on
8 oath or affirmation for the purposes of a review:
9 (a) may be exercised on behalf of the Board by:
10 (i) the presiding member for the review; or
11 (ii) by another person (whether a Board member or not)
12 authorised by the presiding member; and
13 (b) may be exercised within or outside Australia; and
14 (c) if the Board directs that the power is to be exercised subject
15 to any limitations specified by the Board—is subject to any
16 limitations so specified.
- 17 (6) If a person (the *authorised person*) is authorised, in accordance
18 with subparagraph (5)(a)(ii), to take evidence for the purposes of a
19 review:
20 (a) the authorised person has, for the purposes of taking that
21 evidence, all the powers of the Board under subsection (1)
22 and all the powers of the presiding member under
23 subsection (2); and
24 (b) for the purposes of the exercise of those powers by the
25 authorised person, this Part has effect as if a reference to the
26 Board, or to the presiding member, in relation to the review
27 included a reference to the authorised person.

28 **@352Q Board may summon persons to give evidence or produce**
29 **documents**

- 30 (1) If the presiding member for a review has reasonable grounds to
31 believe that a person has information, or a document or thing,
32 relevant to the review, the presiding member may, in writing,
33 summon the person to do either or both of the following on the
34 day, and at the time and place, specified in the summons:

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- 1 (a) appear at a hearing of the review to give evidence;
2 (b) produce any document or other thing specified in the
3 summons.

- 4 (2) The day specified in the summons must be at least 14 days after the
5 day the summons is given to the person.

6 **@352R Information may be made available to parties**

- 7 (1) If, after relevant documents relating to a review have been
8 forwarded to the Principal Member in accordance with
9 subsection @352D(4) and before the commencement of the
10 hearing of the review, a party to the review gives any information
11 to the Board for the purposes of the review, the Board must make
12 that information available to each other party to the review.
- 13 (2) However, if the Board is of the opinion that:
14 (a) any information under the control of the Board is of a
15 confidential nature; or
16 (b) it might be prejudicial to the physical or mental health or
17 well-being of the applicant to communicate any such
18 information to the applicant;
19 the Board may refrain from making it available to the applicant,
20 but may make it available to a person representing the applicant.
- 21 (3) Subsection (1) does not apply to information given by a party to a
22 review who is not the Commission unless the Board is of the
23 opinion that the information contains, or foreshadows the
24 presentation of, evidence or a submission that has not been
25 considered by the Commission in connection with the review.

26 **@352S Board not bound by technicalities etc.**

- 27 (1) The Board, in conducting a review, in hearing a review or in
28 making a decision on a review of an original determination:
29 (a) is not bound to act in a formal manner and is not bound by
30 any rules of evidence, but may inform itself on any matter in
31 such manner as it thinks just; and
32 (b) must act according to substantial justice and the substantial
33 merits of the case, without regard to legal form and
34 technicalities; and
-

- 1 (c) without limiting paragraphs (a) and (b), must take into
2 account any difficulties that, for any reason, lie in the way of
3 ascertaining the existence of any fact, matter, cause or
4 circumstance, including any reason attributable to:
5 (i) the effects of the passage of time, including the effect of
6 the passage of time on the availability of witnesses; and
7 (ii) the absence of, or a deficiency in, relevant official
8 records, including an absence or deficiency resulting
9 from the fact that an occurrence that happened during
10 the defence service of a member was not reported to the
11 appropriate authorities.
- 12 (2) The Commission may make available to the Board:
13 (a) any Statements of Principles applied by the Commission; and
14 (b) such other material as the Commission considers may be of
15 assistance to the Board in the exercise of its powers or the
16 performance of its functions under this Act.
- 17 (3) Nothing in this section authorises the Commission to direct the
18 Board with respect to its consideration of a particular review.

19 **@352T Board may remit matters to Commission for further**
20 **consideration**

- 21 (1) At any stage of a review of an original determination, the Board
22 may remit the original determination to the Commission for the
23 Commission to reconsider the original determination.

24 *Role of Commission*

- 25 (2) If an original determination is remitted to the Commission, the
26 Commission must reconsider the determination and must:
27 (a) confirm the determination; or
28 (b) vary the determination; or
29 (c) revoke the determination and make a new determination in
30 substitution for the determination revoked.
- 31 (3) If the Commission confirms the determination, the review resumes.
- 32 (4) If the Commission varies the determination:

- 1 (a) the application for review is taken to be an application for
2 review of the determination as varied; and
3 (b) the person who made the application may:
4 (i) proceed with the application for review of the
5 determination as varied; or
6 (ii) withdraw the application.
- 7 (5) If the Commission revokes the determination and makes a new
8 determination in substitution for the determination revoked:
9 (a) the application is taken to be an application for review of the
10 new determination; and
11 (b) the person who made the application may:
12 (i) proceed with the application for review of the new
13 determination; or
14 (ii) withdraw the application.

15 Division 4—Alternative dispute resolution processes

16 @352U Referral of review for alternative dispute resolution process

- 17 (1) If an application is made to the Board for review of an original
18 determination, the Principal Member may, in writing:
19 (a) direct the holding of a conference of the parties to the review,
20 or their representatives, in relation to the review, any part of
21 the review or any matter arising out of the review; or
22 (b) direct that the review, any part of the review or any matter
23 arising out of the review, be referred for a particular
24 alternative dispute resolution process (other than
25 conferencing).
- 26 (2) The Principal Member may, in writing, direct the holding of
27 conferences of the parties to a review or their representatives in the
28 case of applications made to the Board for review of original
29 determinations of a kind specified in the direction.
- 30 (3) The Principal Member may, in writing, direct that reviews be
31 referred for a particular alternative dispute resolution process
32 (other than conferencing) in the case of applications made to the
33 Board for review of original determinations of a kind specified in
34 the direction.

- 1 (4) A direction may be given under paragraph (1)(a) or (b):
2 (a) whether or not a direction has previously been given under
3 paragraph (1)(a) or (b) in relation to the review; and
4 (b) whether or not a direction under subsection (2) or (3) has
5 applied.

- 6 (5) If a direction under this section is applicable to:
7 (a) a review; or
8 (b) a part of a review; or
9 (c) a matter arising out of a review;
10 each party must act in good faith in relation to the conduct of the
11 alternative dispute resolution process concerned.

12 Note: A direction under this section is not a legislative instrument (see
13 section @353U).

14 **@352V Directions by Principal Member**

- 15 (1) The Principal Member may give written directions about
16 alternative dispute resolution processes.
- 17 (2) Directions under subsection (1) may relate to the following:
18 (a) the procedure to be followed in the conduct of an alternative
19 dispute resolution process;
20 (b) the person who is to conduct an alternative dispute resolution
21 process;
22 (c) the procedure to be followed when an alternative dispute
23 resolution process ends.
- 24 (3) Subsection (2) does not limit subsection (1).
- 25 (4) A person is not entitled to conduct an alternative dispute resolution
26 process unless the person is:
27 (a) a Board member; or
28 (b) the National Registrar, a Registrar, a Deputy Registrar or a
29 Conference Registrar; or
30 (c) a person engaged under section @353.

- 1 (5) The National Registrar, a Registrar or a Deputy Registrar, in
2 conducting an alternative dispute resolution process, does so in the
3 capacity of a Conference Registrar.

4 **@352W Agreement about the terms of a decision etc.**

- 5 (1) If:
6 (a) in the course of an alternative dispute resolution process
7 under this Division, agreement is reached between the parties
8 to a review or their representatives as to the terms of a
9 decision of the Board:
10 (i) in the review; or
11 (ii) in relation to a part of the review; or
12 (iii) in relation to a matter arising out of the review;
13 that would be acceptable to the parties; and
14 (b) the terms of the agreement are reduced to writing, signed by
15 or on behalf of the parties and lodged with the Board; and
16 (c) 7 days pass after lodgement, and none of the parties has
17 notified the Board in writing that the party wishes to
18 withdraw from the agreement; and
19 (d) the Board is satisfied that a decision in the terms of the
20 agreement or consistent with those terms would be within the
21 powers of the Board;
22 the Board may, if it appears to it to be appropriate to do so, act in
23 accordance with whichever of subsection (2) or (3) is relevant in
24 the particular case.
- 25 (2) If the agreement reached is an agreement as to the terms of a
26 decision of the Board in the review, the Board may, without
27 holding a hearing of the review, make a decision in accordance
28 with those terms.
- 29 (3) If the agreement relates to:
30 (a) a part of the review; or
31 (b) a matter arising out of the review;
32 the Board may, in its decision on the review, give effect to the
33 terms of the agreement without dealing at the hearing of the review
34 with the part of the review, or the matter arising out of the review,
35 to which the agreement relates.

1 *Variation or revocation of decision*

- 2 (4) The Board may vary or revoke so much of a decision as it made in
3 accordance with subsection (2) or (3) if:
4 (a) the parties, or their representatives, reach agreement on the
5 variation or revocation; and
6 (b) the terms of the agreement are reduced to writing, signed by
7 or on behalf of the parties and lodged with the Board; and
8 (c) the variation or revocation appears appropriate to the Board;
9 and
10 (d) in the case of a variation—the Board is satisfied that it would
11 have been within the powers of the Board to have made the
12 decision as varied.

13 **@352X Evidence not admissible**

- 14 (1) Evidence of anything said, or any act done, at an alternative
15 dispute resolution process under this Division is not admissible:
16 (a) in any court; or
17 (b) in any proceedings before a person authorised by a law of the
18 Commonwealth or of a State or Territory to hear evidence; or
19 (c) in any proceedings before a person authorised by the consent
20 of the parties to hear evidence.

21 *Exceptions*

- 22 (2) Subsection (1) does not apply so as to prevent, at the hearing of a
23 review before the Board, the admission of particular evidence if the
24 parties to the review agree to the evidence being admissible at the
25 hearing.
- 26 (3) Subsection (1) does not apply so as to prevent, at the hearing of a
27 review before the Board, the admission of:
28 (a) a case appraisal report prepared by a person conducting an
29 alternative dispute resolution process under this Division; or
30 (b) a neutral evaluation report prepared by a person conducting
31 an alternative dispute resolution process under this Division;

1 unless a party to the review notifies the Board before the hearing
2 begins that the party objects to the report being admissible at the
3 hearing.

4 **@352Y Eligibility of person conducting alternative dispute**
5 **resolution process to sit as a member of the Board**

6 If:

- 7 (a) an alternative dispute resolution process under this Division
8 in relation to a review is conducted by a Board member; and
9 (b) a party to the review notifies the Board before the hearing
10 that the party objects to that Board member participating in
11 the hearing;

12 that Board member is not entitled to be a member of the Board as
13 constituted for the purposes of the review.

14 **@352Z Participation by telephone etc.**

15 The person conducting an alternative dispute resolution process
16 under this Division may allow a person to participate by:

- 17 (a) telephone; or
18 (b) closed-circuit television; or
19 (c) any other means of communication.

20 **@353 Engagement of persons to conduct alternative dispute**
21 **resolution processes**

22 (1) The National Registrar may, on behalf of the Commonwealth,
23 engage persons to conduct one or more kinds of alternative dispute
24 resolution processes under this Division.

25 (2) The National Registrar must not engage a person under
26 subsection (1) unless the National Registrar is satisfied, having
27 regard to the person's qualifications and experience, that the person
28 is a suitable person to conduct the relevant kind or kinds of
29 alternative dispute resolution processes under this Division.

1 **Division 5—Decisions of the Board**

2 **@353A Decision of Board**

- 3 (1) On review of an original determination, the Board must have
4 regard to:
- 5 (a) the evidence that was before the Commission when the
6 determination was made; and
- 7 (b) any further evidence before the Board on the review that was
8 not before the Commission, being further evidence relevant
9 to the review.
- 10 (2) It is the duty of the Board, in reviewing an original determination,
11 to satisfy itself with respect to, or to determine, as the case
12 requires, all matters relevant to the review.
- 13 (3) For the purpose of reviewing an original determination, the Board
14 may exercise all the powers and discretions that are conferred on
15 the Commission by:
- 16 (a) this Act; and
17 (b) if the determination was made under another Act—that other
18 Act;
- 19 in like manner as they are required to be exercised by the
20 Commission.
- 21 (4) On review of an original determination, the Board must make a
22 decision, in writing:
- 23 (a) affirming the original determination; or
24 (b) varying the original determination; or
25 (c) setting aside the original determination and:
- 26 (i) making a decision in substitution for the original
27 determination; or
28 (ii) making a decision in substitution for the original
29 determination and, in relation to the substituted
30 decision, remitting one or more matters to the
31 Commission for consideration in accordance with any
32 directions or recommendations of the Board; or

- 1 (iii) remitting one or more matters to the Commission for
2 reconsideration in accordance with any directions or
3 recommendations of the Board.

4 **@353B Board to give notice of decision and reasons to parties**

5 *Notice of decision*

- 6 (1) The Board must give a copy of its decision under section @353A
7 to each party to the review.

8 *Reasons*

- 9 (2) The Board must give reasons either orally or in writing for its
10 decision under section @353A.

- 11 (3) If the Board does not give reasons in writing for its decision:

12 (a) a party to the review may, within 28 days after the day a copy
13 of the decision is given to the party, request the Board for a
14 written statement of the Board's reasons for its decision; and

15 (b) the Board must comply with any request within 28 days after
16 receiving the request.

- 17 (4) If the Board gives reasons in writing for its decision, those reasons
18 must include its findings on material questions of fact and a
19 reference to the evidence or other material on which those findings
20 were based.

- 21 (5) If the Board gives reasons in writing for its decision and the
22 reasons contain or refer to any information, opinion or other matter
23 that, in the Board's opinion:

24 (a) is of a confidential nature; or

25 (b) might be prejudicial to the physical or mental health or
26 wellbeing of the applicant for the review to communicate to
27 the applicant;

28 any written statement of the Board's reasons for the decision given
29 to the applicant (or a person authorised by the applicant) must not
30 contain or refer to that information, opinion or other matter.

1 *Notice of review right*

- 2 (6) The Board must give the applicant for the review (or a person
3 authorised by the applicant) notice of the right under
4 subsection 354(1) (about review by the Tribunal).

5 *Filing of decision*

- 6 (7) The Board must file its decision under section @353A, and any
7 written statement of its reasons for the decision, with the records of
8 the case.

9 **@353C Dismissal of applications**

10 *Dismissal if parties consent*

- 11 (1) If each party to the review of an original determination consents,
12 the Principal Member may dismiss the application for review
13 without proceeding to review the original determination or, if the
14 Board has started to review the original determination, without
15 completing the review.

16 *Dismissal if applicant discontinues or withdraws application*

- 17 (2) A person who has made an application to the Board for a review of
18 an original determination may, in writing, notify the Board that the
19 application is withdrawn or discontinued.
- 20 (3) If notification is so given, the Principal Member is taken to have
21 dismissed the application without proceeding to review the original
22 determination.

23 *Dismissal if applicant fails to appear*

- 24 (4) If the applicant for the review of an original determination fails to
25 appear in person, or to appear by a representative, at:
26 (a) a directions hearing for the review; or
27 (b) an alternative dispute resolution process held under
28 Division 4 in relation to the application; or
29 (c) the hearing of the review;

- 1 the Principal Member may dismiss the application without
2 proceeding to review the original determination.
- 3 (5) For the purposes of subsection (4):
4 (a) a person is taken to appear in person or by a representative at
5 an alternative dispute resolution process if the person or
6 representative participates in it by a means allowed under
7 section @352Z; and
8 (b) a person is taken to appear in person or by a representative at
9 a directions hearing, or the hearing of the review, if the
10 person or representative participates in it by a means allowed
11 under section @352K.
- 12 (6) The Principal Member must, before exercising a power under
13 subsection (4), be satisfied that appropriate notice was given to the
14 applicant for the review of the time and place of the directions
15 hearing, the alternative dispute resolution process or the hearing of
16 the review.

17 *Dismissal if original determination not reviewable*

- 18 (7) If:
19 (a) the applicant for the review of an original determination is
20 notified in writing by the National Registrar that the original
21 determination does not appear to be reviewable by the Board;
22 and
23 (b) before the end of the period prescribed in an instrument
24 under subsection (8), the person is unable to show that the
25 original determination is so reviewable;
26 the Principal Member may dismiss the application without
27 proceeding to review the original determination.
- 28 (8) The Minister must, by legislative instrument, prescribe a period for
29 the purposes of paragraph (7)(b).

30 *Dismissal if applicant fails to proceed or fails to comply with*
31 *Board's direction*

- 32 (9) If the applicant for the review of an original determination fails
33 within a reasonable time:
34 (a) to proceed with the application; or
-

1 (b) to comply with a direction given to the applicant under this
2 Part or Chapter 8A in relation to the application;
3 the Principal Member may dismiss the application without
4 proceeding to review the original determination.

5 *Notice requirements*

- 6 (10) If the Principal Member dismisses an application under
7 subsection (4), (7) or (9), the Principal Member must:
8 (a) notify each party to the review of the dismissal; and
9 (b) the notice must include a statement to the effect that, if the
10 person is dissatisfied with the decision:
11 (i) application may, subject to the *Administrative Appeals*
12 *Tribunal Act 1975*, be made to the Tribunal under Part 5
13 of this Chapter for review of the decision; and
14 (ii) except where subsection 28(4) of the *Administrative*
15 *Appeals Tribunal Act 1975* applies, the person may
16 request a statement under section 28 of that Act.
- 17 (11) A failure to comply with paragraph (10)(b) does not affect the
18 validity of the decision.

19 **@353D Consequence of dismissal of application**

20 If an application is dismissed under section @353C, the review to
21 which the application relates is taken to be concluded unless the
22 application is reinstated under section @353E.

23 **@353E Circumstances in which application may be reinstated**

- 24 (1) If the Principal Member dismisses an application under subsection
25 @353C(4):
26 (a) the applicant may, within 28 days after receiving notification
27 of the dismissal, apply to the Principal Member for
28 reinstatement of the application; and
29 (b) if the Principal Member considers it appropriate to do so, the
30 Principal Member may reinstate the application and give
31 such directions as appear to the Principal Member to be
32 appropriate in the circumstances.

- 1 (2) If it appears to the Principal Member that an application has been
2 dismissed under section @353C in error, the Principal Member
3 may, on the application of a party to the review or on the Principal
4 Member's own initiative, reinstate the application and give such
5 directions as appear to the Principal Member to be appropriate in
6 the circumstances.

7 **@353F Date of operation of decision by Board**

- 8 (1) The Board must specify in its decision on a review of an original
9 determination the date from which its decision is to operate.
- 10 (2) Subsection (1) does not apply if the Board affirms the original
11 determination under review.

12 **@353G Correction of errors in decisions or statements of reasons**

- 13 (1) If, after making a decision, the Board is satisfied that there is an
14 obvious error in the text of the decision or in a written statement of
15 reasons for the decision, the Board may direct the National
16 Registrar, a Registrar or a Deputy Registrar to alter the text of the
17 decision or statement in accordance with the directions of the
18 Board.
- 19 (2) If the text of a decision or statement is so altered, the altered text is
20 taken to be the decision of the Board or the statement of reasons
21 for the decision, as the case may be.
- 22 (3) Examples of obvious errors in the text of a decision or statement of
23 reasons are where:
- 24 (a) there is an obvious clerical or typographical error in the text
25 of the decision or statement of reasons; or
26 (b) there is an inconsistency between the decision and the
27 statement of reasons.
- 28 (4) The powers of the Board under this section may be exercised by
29 the Principal Member or by the Board member who presided in
30 respect of the review to which the decision relates.

1 **Division 6—Offences**

2 **@353H Offence—failure of witness to attend**

- 3 (1) A person commits an offence if:
4 (a) the person has been served with a summons under section
5 @352Q to appear at a hearing; and
6 (b) the person:
7 (i) fails to appear as required by the summons; or
8 (ii) fails to appear and report from day to day; and
9 (c) has not been excused or released by the Board from further
10 attendance.

11 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

- 12 (2) An offence under this section is an offence of strict liability.
13 (3) Subsection (1) does not apply if the person has a reasonable
14 excuse.

15 Note: The defendant bears an evidential burden in relation to the matter in
16 subsection (3). See subsection 13.3(3) of the *Criminal Code*.

17 **@353J Offence—failure to take an oath, make an affirmation or**
18 **answer a question etc.**

- 19 (1) A person commits an offence if:
20 (a) the person is required under section @352P to take an oath or
21 make an affirmation; and
22 (b) the person fails to comply with the requirement.

23 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

- 24 (2) A person commits an offence if:
25 (a) the person appears as a witness before the Board; and
26 (b) the Board member presiding at the proceeding has required
27 the person to answer a question; and
28 (c) the person fails to answer the question.

29 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

- 1 (3) A person commits an offence if:
2 (a) the person has been served with a summons under section
3 @352Q; and
4 (b) the summons required the person to produce a document; and
5 (c) the person fails to comply with the requirement.

6 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

7 (4) An offence against subsection (1), (2) or (3) is an offence of strict
8 liability.

9 (5) Subsections (1), (2) and (3) do not apply if the person has a
10 reasonable excuse.

11 Note: A defendant bears an evidential burden in relation to the matter in
12 subsection (5). See subsection 13.3(3) of the *Criminal Code*.

13 **@353K Offence—giving false or misleading evidence**

- 14 A person commits an offence if:
15 (a) the person gives evidence before the Board; and
16 (b) the person does so knowing that the evidence is false or
17 misleading in a material particular.

18 Penalty: Imprisonment for 12 months or 60 penalty units, or both.

19 **@353L Offence—contempt of Board**

20 *Insulting a person*

- 21 (1) A person commits an offence if:
22 (a) the person engages in conduct; and
23 (b) the person's conduct insults another person in, or in relation
24 to, the exercise of the other person's powers or functions
25 under this Part or Chapter 8A.

26 Penalty: Imprisonment for 6 months.

27 *Interrupting proceedings of the Board*

- 28 (2) A person commits an offence if:
29 (a) the person engages in conduct; and

1 (b) the person’s conduct interrupts the proceedings of the Board.

2 Penalty: Imprisonment for 6 months.

3 *Creating a disturbance*

4 (3) A person commits an offence if:

5 (a) the person engages in conduct; and

6 (b) the person’s conduct creates a disturbance in or near a place
7 where the Board is sitting.

8 Penalty: Imprisonment for 6 months.

9 *Taking part in creating or continuing a disturbance*

10 (4) A person commits an offence if:

11 (a) the person takes part in creating or continuing a disturbance;
12 and

13 (b) the disturbance is in or near a place where the Board is
14 sitting.

15 Penalty: Imprisonment for 6 months.

16 *Contempt of Board*

17 (5) A person commits an offence if:

18 (a) the person engages in conduct; and

19 (b) the person’s conduct would, if the Board were a court of
20 record, constitute a contempt of that court.

21 Penalty: Imprisonment for 6 months.

22 **Division 7—Other matters**

23 **@353M Immunity**

24 *Board members*

25 (1) A Board member has, in performing duties as a Board member, the
26 same protection and immunity as a Justice of the High Court.

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Registrars

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- (2) The National Registrar, a Registrar, a Deputy Registrar or a Conference Registrar has, in performing duties as such a person, the same protection and immunity as a Justice of the High Court.

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Alternative dispute resolution practitioners

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- (3) An alternative dispute resolution practitioner has, in performing duties as an alternative dispute resolution practitioner under this Part, the same protection and immunity as a Justice of the High Court.

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Party representatives

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- (4) A person representing a party at a hearing of a review before the Board has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

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Witnesses

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- (5) Subject to this Part, a person summoned to attend, or appearing, before the Board as a witness has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities, as a witness in proceedings in the High Court.

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Definition

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- (6) In this section:

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alternative dispute resolution practitioner means a person who conducts an alternative dispute resolution process under Division 4.

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@353N Medical expenses

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- (1) The Commonwealth may, subject to this section, pay to an applicant for a review an amount to cover the medical expenses incurred by the applicant in respect of relevant documentary medical evidence submitted to the Board for the purposes of the review.

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- 1 (2) Subsection (1) does not apply to any relevant documentary medical
2 evidence obtained before the day on which a copy or notice of the
3 original determination that is subject to review was served on the
4 applicant.
- 5 (3) The applicant is not to be paid:
6 (a) if the applicant has submitted to the Board for the purposes
7 of the review relevant documentary medical evidence relating
8 to only one medical condition—more than the prescribed
9 amount for medical expenses; or
10 (b) if the applicant has submitted to the Board for the purposes
11 of the review relevant documentary medical evidence relating
12 to more than one medical condition—more than the
13 prescribed amount for the medical expenses incurred in
14 respect of the evidence relating to any one of those
15 conditions.
- 16 (4) An amount is not payable in respect of medical expenses unless:
17 (a) the person who has incurred the expenses; or
18 (b) any person approved by that person or by the Commission;
19 applies in writing to the Commission for payment under
20 subsection (5).
- 21 (5) The application for payment must:
22 (a) be in accordance with a form approved by the Commission;
23 and
24 (b) be made within 3 months after the relevant documentary
25 medical evidence was submitted to the Board; and
26 (c) be lodged at a place approved by the Commission under
27 subsection 323(2).
- 28 (6) An application for payment lodged at a place approved by the
29 Commission under subsection 323(2) is taken to have been made
30 on a day determined under that subsection.

31 **@353P Travelling expenses for obtaining medical evidence**

- 32 (1) If an applicant has had to travel to obtain any relevant documentary
33 medical evidence submitted to the Board, the applicant is, subject

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- 1 to this section, entitled to be paid in relation to that travel the
2 travelling expenses that are prescribed.
- 3 (2) If:
- 4 (a) the applicant is accompanied by an attendant when travelling
5 to obtain the evidence; and
- 6 (b) the Commission is of the view that it is reasonable for the
7 applicant to be so accompanied by an attendant;
8 the attendant is, subject to this section, entitled to be paid in
9 relation to that travel the travelling expenses that are prescribed.
- 10 (3) Travelling expenses are not payable in respect of travel outside
11 Australia.
- 12 (4) Travelling expenses are not payable unless:
- 13 (a) the person who has incurred the expenses; or
14 (b) any person approved by that person or by the Commission;
15 applies in writing to the Commission for payment under
16 subsection (5).
- 17 (5) The application for payment must:
- 18 (a) be in accordance with a form approved by the Commission;
19 and
20 (b) be made within:
- 21 (i) 12 months after the completion of the travel; or
22 (ii) if the Commission thinks that there are exceptional
23 circumstances that justify extending that period—such
24 further period as the Commission allows; and
25 (c) be lodged at a place approved by the Commission under
26 subsection 323(2).
- 27 (6) An application for payment lodged at a place approved by the
28 Commission under subsection 323(2) is taken to have been made
29 on a day determined under that subsection.
- 30 (7) The Commonwealth is to pay the travelling expenses to which a
31 person is entitled under this section.

1 **@353Q Other travelling expenses**

2 *Applicant attending hearing*

- 3 (1) Subject to such conditions as are prescribed, an applicant for a
4 review is entitled, if the applicant travels in Australia for the
5 purpose of attending a hearing of the review, to receive such
6 travelling expenses in connection with that travel as are prescribed.

7 *Attendant accompanying applicant*

- 8 (2) Subject to such conditions as are prescribed, an attendant who
9 travels in Australia for the purpose of accompanying an applicant
10 to a hearing of a review is entitled to be paid such travelling
11 expenses in connection with that travel as are prescribed.

12 *Persons who make claim on behalf of claimant*

- 13 (3) If:
14 (a) a claim is made under section 319 by a person who, under
15 subsection 320(2), is entitled to make the claim; and
16 (b) the person travels within Australia, with the approval of the
17 Commission, for the purpose of attending a hearing of a
18 review of an original determination in respect of the claim;
19 the person is, subject to such conditions as are prescribed, entitled
20 to be paid such travelling expenses in connection with that travel as
21 are prescribed.

22 *Expenses are payable by the Commonwealth*

- 23 (4) Travelling expenses to which a person is entitled to under this
24 section are payable by the Commonwealth.

25 *Meaning of Australia*

- 26 (5) In this section:

27 *Australia*, when used in a geographical sense, includes the external
28 Territories.

1 **@353R Applications for other travelling expenses**

- 2 (1) If a person who has travelled in Australia is entitled to be paid
3 travelling expenses under section @353Q in connection with that
4 travel, application for payment of travelling expenses in respect of
5 that travel may be made:
6 (a) by that person; or
7 (b) with the approval of that person; or
8 (c) if that person is, by reason of physical or mental ailment or of
9 that person's death, unable to approve another person to
10 make the application on the person's behalf—with the
11 approval of the Commission, by another person on behalf of
12 that person.
- 13 (2) An application under subsection (1) must be:
14 (a) in writing; and
15 (b) in accordance with a form approved by the Commission; and
16 (c) accompanied by such evidence available to the applicant as
17 the applicant considers may be relevant to the application;
18 and
19 (d) made within:
20 (i) 12 months after the completion of the travel to which
21 the application relates; or
22 (ii) if the Commission thinks that there are exceptional
23 circumstances that justify extending that period—such
24 further period as the Commission allows.
- 25 (3) An application under subsection (1) must be:
26 (a) unless paragraph (b) applies—lodged at a place approved by
27 the Commission under subsection 323(2); and
28 (b) if it is an application in respect of travel referred to in
29 subsection @353Q(1) or (2)—either:
30 (i) communicated to the Board in accordance with the
31 directions of the Principal Member given under
32 subsection @352J(4); or
33 (ii) lodged at a place approved by the Commission under
34 subsection 323(2).
- 35 (4) If an application is communicated to the Board in accordance with
36 the directions of the Principal Member given under
-

1 subsection @352J(4), it is taken to have been made on a day
2 determined in accordance with those directions.

3 (5) If an application is lodged at a place approved by the Commission
4 under subsection 323(2), it is taken to have been made on a day
5 determined under that subsection.

6 **@353S Advance of travelling expenses for obtaining medical**
7 **evidence**

8 (1) If the Commission is satisfied that:
9 (a) it is reasonable to expect that a person may become entitled
10 to travelling expenses under section @353P or @353Q; and
11 (b) it is appropriate, in all the circumstances, that the person
12 should be paid an advance on account of those expenses;
13 the Commission may authorise the payment of that advance to the
14 person.

15 (2) If:
16 (a) a person has received an advance on account of any
17 travelling expenses that the person is likely to incur; and
18 (b) the person:
19 (i) does not incur those travelling expenses; or
20 (ii) incurs travelling expenses that are less than the amount
21 of the advance;
22 the person is liable to repay to the Commonwealth:
23 (c) the amount of the advance; or
24 (d) the difference between the amount of the advance and the
25 amount of the travelling expenses;
26 as the case requires.

27 **@353T Fees for witnesses**

28 (1) A person, other than the applicant, summoned to appear as a
29 witness at a hearing before the Board is entitled to be paid, in
30 respect of the person's attendance, fees, and allowances for
31 expenses, fixed by or in accordance with the regulations in respect
32 of the attendance.

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (2) Subject to subsection (3), the fees and allowances are to be paid:
2 (a) in a case where the witness was summoned at the request of
3 the applicant—by the applicant; or
4 (b) in any other case—by the Commonwealth.
- 5 (3) The Board may, in its discretion, order that the fees and allowances
6 of a witness referred to in paragraph (2)(a) are to be paid, in whole
7 or in part, by the Commonwealth.

8 **@353U Instruments that are not legislative instruments**

- 9 The following are not legislative instruments:
10 (a) a direction under subsection @352J(2), (4) or (7) that is
11 given in writing (procedure of Board);
12 (b) a direction under subsection @352N(2) that is given in
13 writing (hearing to be in private except in special
14 circumstances);
15 (c) a direction under section @352U (referral of review for
16 alternative dispute resolution process);
17 (d) a direction under section @352V (directions by Principal
18 Member).

19 **11 Paragraph 357(6B)(c)**

20 Omit “subsection 148(4B) of the *Veterans’ Entitlements Act 1986*”,
21 substitute “subsection @352J(2)”.

22 **12 After Chapter 8**

23 Insert:

24 **Chapter 8A—Veterans’ Review Board**

25 **Part 1—Simplified outline of this Chapter**
26

27 **@359A Simplified outline of this Chapter**

28

The Veterans’ Review Board is continued in existence under Part 2 29 of this Chapter. Part 2 also sets out the Board’s objective.
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Part 3 deals with the administration of the Board, and includes provisions relating to Board members, acting Board members and procedures of the Board.

Part 4 deals with staff, delegations of the Principal Member and the requirement for Board members to take an oath or make an affirmation.

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Board members and acting Board members.

9
10 **Part 2—Establishment of Board**

11 **@359B Establishment**

- 12 (1) The Veterans’ Review Board that was, immediately before the
13 commencement of this section, in existence by virtue of the
14 *Veterans’ Entitlements Act 1986*, is continued in existence under
15 the same name.
- 16 (2) The Board consists of:
- 17 (a) a Principal Member; and
 - 18 (b) such number of Senior Members as are appointed in
19 accordance with this Act; and
 - 20 (c) such number of other members as are appointed in
21 accordance with this Act.

22 **@359BA Board’s objective**

- 23 In carrying out its functions, the Board must pursue the objective
24 of providing a mechanism of review that:
- 25 (a) is accessible; and
 - 26 (b) is fair, just, economical, informal and quick; and
 - 27 (c) is proportionate to the importance and complexity of the
28 matter; and
 - 29 (d) promotes public trust and confidence in the decision-making
30 of the Board.

1 **Part 3—Administration**

2 **Division 1—Membership**

3 **@359C Appointment of members**

4 *Appointment by Governor-General*

- 5 (1) The members of the Board are to be appointed by the
6 Governor-General by written instrument.

7 Note: A Board member may be reappointed (see section 33AA of the *Acts*
8 *Interpretation Act 1901*).

- 9 (2) The Board must, at all times, have among its members persons
10 selected from lists submitted to the Minister in accordance with
11 subsection (3).

- 12 (3) The Minister may, from time to time, request organisations
13 representing veterans throughout Australia to submit to the
14 Minister lists of names of persons from which the organisation
15 concerned recommends that a selection be made of persons to
16 serve as Services members of the Board.

17 *Period of appointment*

- 18 (4) A Board member holds office for the period specified in the
19 instrument of appointment. The period must not exceed 5 years.

20 *Basis of appointment*

- 21 (5) The Principal Member is to be appointed on a full-time basis.

- 22 (6) A Board member other than the Principal Member may be
23 appointed on a full-time basis or on a part-time basis.

24 **@359CA Acting appointments**

25 The Minister may, by written instrument, appoint a person to act as
26 a Board member:

- 1 (a) during a vacancy in the office of a Board member (whether
2 or not an appointment has previously been made to the
3 office); or
4 (b) during any period, or during all periods, when the Board
5 member:
6 (i) in the case of a full-time Board member—is absent from
7 duty or from Australia; or
8 (ii) in the case of a full-time or part-time Board member—
9 is, for any reason, unable to perform the duties of the
10 office.

11 Note: For rules that apply to acting appointments, see sections 33AB and
12 33A of the *Acts Interpretation Act 1901*.

13 **@359CB Remuneration**

- 14 (1) A Board member is to be paid the remuneration that is determined
15 by the Remuneration Tribunal. If no determination of that
16 remuneration by the Tribunal is in operation, the Board member is
17 to be paid the remuneration that is prescribed by the regulations.
18 (2) A Board member is to be paid the allowances that are prescribed
19 by the regulations.
20 (3) This section has effect subject to the *Remuneration Tribunal Act*
21 *1973*.

22 **@359CC Leave of absence**

- 23 (1) A full-time Board member has the recreation leave entitlements
24 that are determined by the Remuneration Tribunal.
25 (2) The Minister may grant a full-time Board member leave of
26 absence, other than recreation leave, on the terms and conditions as
27 to remuneration or otherwise that the Minister determines.

28 **@359CD Other paid work**

29 A full-time Board member must not engage in paid work outside
30 the duties of the Board member without the Minister's approval.

1 **@359CE Other terms and conditions**

2 A Board member holds office on the terms and conditions (if any)
3 in relation to matters not covered by this Act that are determined
4 by the Governor-General.

5 **@359CF Resignation**

6 (1) A Board member may resign the Board member's appointment by
7 giving the Governor-General a written resignation.

8 (2) The resignation takes effect on the day it is received by the
9 Governor-General or, if a later day is specified in the resignation,
10 on that later day.

11 **@359CG Termination of appointment**

12 (1) The Governor-General may terminate the appointment of a Board
13 member:

- 14 (a) for misbehaviour; or
15 (b) if the Board member is unable to perform the duties of the
16 Board member's office because of physical or mental
17 incapacity.

18 (2) The Governor-General must terminate the appointment of a Board
19 member if:

- 20 (a) the Board member:
21 (i) becomes bankrupt; or
22 (ii) applies to take the benefit of any law for the relief of
23 bankrupt or insolvent debtors; or
24 (iii) compounds with the Board member's creditors; or
25 (iv) makes an assignment of the Board member's
26 remuneration for the benefit of the Board member's
27 creditors; or
28 (b) in the case of a full-time Board member—the Board member:
29 (i) is absent, except on leave of absence, for 14 consecutive
30 days or for 28 days in any 12 months; or
31 (ii) engages, except with the Minister's approval, in paid
32 work outside the duties of the member's office (see
33 section @359CD); or
-

- 1 (c) the Board member fails, without reasonable excuse, to
2 comply with section @359CI (disclosure of interests).

3 **@359CH Suspension of Board members**

- 4 (1) The Minister may suspend the appointment of a Board member:
5 (a) for misbehaviour; or
6 (b) if the Board member is unable to perform the duties of the
7 Board member's office because of physical or mental
8 incapacity.
- 9 (2) If the Minister suspends the appointment of a Board member, the
10 Governor-General may, on the recommendation of the Minister:
11 (a) terminate the appointment of the Board member under
12 subsection @359CG(1); or
13 (b) direct that the suspension of the Board member continue for
14 such further period as the Governor-General specifies; or
15 (c) direct that the suspension of the Board member terminate.
- 16 (3) The suspension of the appointment of a Board member does not
17 affect any entitlement of the Board member to be paid
18 remuneration and allowances.

19 **@359CI Disclosure of interests**

- 20 (1) This section applies in relation to a Board member who is one of
21 the Board members who constitute, or are deemed to constitute, the
22 Board for the purposes of a review by the Board under Part 4 of
23 Chapter 8.
- 24 (2) If the Board member has or acquires an interest, pecuniary or
25 otherwise, that could conflict with the proper performance of the
26 Board member's functions in relation to the review, the Board
27 member must disclose the interest to the applicant in the review
28 and to the Commission.
- 29 (3) The disclosure must be made as soon as possible after the relevant
30 facts have come to the Board member's knowledge.

- 1 (4) The Board member must not take part in the review, or exercise
2 any powers in relation to the review, unless the applicant in the
3 review, and the Commission, consent to the Board member doing
4 so.
- 5 (5) If the Principal Member becomes aware that the Board member has
6 or acquires an interest, pecuniary or otherwise, that could conflict
7 with the proper performance of the Board member's functions in
8 relation to the review:
- 9 (a) if the Principal Member considers that the Board member
10 should not take part, or should not continue to take part, in
11 the review—the Principal Member must give a direction to
12 the Board member accordingly; or
- 13 (b) in any other case—the Principal Member must cause the
14 interest of the Board member to be disclosed to the applicant
15 in the review and to the Commission.

16 Division 2—Procedures of the Board

17 @359CJ Constitution of Board for exercise of powers

- 18 (1) Subject to subsections (2) and (3), for the purposes of a review by
19 the Board under Part 4 of Chapter 8, the Board must be constituted
20 by:
- 21 (a) the Principal Member or a Senior Member; and
22 (b) a Services member; and
23 (c) one other Board member.
- 24 (2) The Board may, for the purposes of a particular review, be
25 constituted by:
- 26 (a) the Principal Member; and
27 (b) a Senior Member; and
28 (c) a Services member.
- 29 (3) The Board may, for the purposes of a particular review, or of a
30 review included in a particular class of reviews, be constituted by:
- 31 (a) the Principal Member or a Senior Member; or
32 (b) one Board member, not being the Principal Member or a
33 Senior Member;

1 only.

2 **@359CK Management of administrative affairs of Board**

- 3 (1) The Principal Member is responsible for managing the
4 administrative affairs of the Board.
- 5 (2) In the management of the administrative affairs of the Board, the
6 Principal Member is assisted by the National Registrar.
- 7 (3) The National Registrar has power to do all things necessary or
8 convenient to be done for the purpose of assisting the Principal
9 Member.
- 10 (4) In particular, the National Registrar may act on behalf of the
11 Principal Member in relation to the administrative affairs of the
12 Board.
- 13 (5) The Principal Member may give the National Registrar written
14 directions regarding the exercise of the National Registrar's powers
15 under this Act.

16 Note: A direction under subsection (5) is not a legislative instrument (see
17 section @359DD).

18 **@359CL Arrangement of business of Board**

- 19 (1) The Principal Member is responsible for ensuring the expeditious
20 and efficient discharge of the business of the Board.
- 21 (2) Without limiting subsection (1), the Principal Member may give
22 written directions as to:
- 23 (a) the operations of the Board generally; and
24 (b) the operations of the Board at a particular place; and
25 (c) the procedure of the Board generally; and
26 (d) the procedure of the Board at a particular place; and
27 (e) the conduct of reviews by the Board under Part 4 of
28 Chapter 8; and
29 (f) the arrangement of the business of the Board; and
30 (g) the places in Australia at which the Board may sit; and

1 (h) the provision of documents under section @352E, including
2 documents that are or are not required to be lodged under that
3 section.

4 Note: A direction under subsection (2) is not a legislative instrument (see
5 section @359DD).

6 **@359CM Board members to constitute Board for purposes of a**
7 **review**

8 (1) This section applies in relation to reviews by the Board under
9 Part 4 of Chapter 8.

10 (2) The Principal Member may give directions, from time to time, in
11 writing, as to the persons who are to constitute the Board:

12 (a) for the purpose of a particular review or particular reviews;
13 or

14 (b) for the purposes of reviews listed for hearing at a specified
15 place during a specified period, or during specified periods,
16 being reviews so listed for hearing by, or in accordance with
17 the directions of, the Principal Member.

18 (3) If the Board, constituted in accordance with a direction given under
19 subsection (2):

20 (a) completes its hearing of a review listed for hearing at the
21 place and during a period specified in that direction; but

22 (b) does not make its decision on the review;

23 then, unless the Principal Member otherwise directs, the Board
24 members who constitute the Board in accordance with that
25 direction, by force of this subsection, continue to constitute the
26 Board for the purpose of making a decision in writing on that
27 review.

28 Note: A direction under this section is not a legislative instrument (see
29 section @359DD).

30 **@359CN Board member ceasing to be Board member etc.**

31 (1) If one of the Board members constituting the Board, by virtue of a
32 direction under section @359CM, for the purposes of a review by
33 the Board under Part 4 of Chapter 8:

34 (a) ceases to be a Board member; or

- 1 (b) ceases, for any reason, to be available for the purposes of a
2 review at the place where the review is to be, or is being,
3 heard or continued;
- 4 the 2 remaining Board members are deemed to constitute the Board
5 by virtue of the direction given under section @359CM until the
6 Principal Member re-allocates the review, under that section, for
7 further hearing.
- 8 (2) If the Board member referred to in subsection (1) is the Principal
9 Member or a Senior Member, the Principal Member must direct
10 which of the 2 remaining Board members is to preside at any
11 hearing of the review.
- 12 (3) If:
- 13 (a) the hearing of a review has been commenced but has not
14 been completed before the Board; and
- 15 (b) the review has not been re-allocated as mentioned in
16 subsection (1);
- 17 the review may be listed for further hearing at a particular place
18 and time in accordance with directions given by the Principal
19 Member with respect to the listing of reviews for hearing or further
20 hearing and, if it is so listed:
- 21 (c) the Board constituted by the Board members directed to
22 constitute the Board for the hearing of reviews listed for
23 hearing at that place during the period in which that time
24 occurs may continue the hearing of the review and decide the
25 review; and
- 26 (d) the review is deemed to have been re-allocated for further
27 hearing and decision accordingly.
- 28 (4) The Board to which a review is deemed to have been re-allocated
29 under subsection (3) may, but need not, include a Board member
30 who was one of the Board members who constituted the Board for
31 the purpose of hearing the review before the re-allocation took
32 place.
- 33 (5) If a review re-allocated as mentioned in subsection (1), or deemed
34 to have been re-allocated under subsection (3), had been
35 commenced, but had not been completed, before the re-allocation
36 took place, the Board as constituted for the purpose of that review
-

1 by virtue of that re-allocation may, in the review before it, have
2 regard to any record of the review before the Board as previously
3 constituted.

4 **Part 4—Other matters**

5

6 **@359D Staff**

- 7 (1) Any staff required to assist the Board are to be persons engaged
8 under the *Public Service Act 1999* and made available for the
9 purpose by the Secretary.
- 10 (2) Without limiting subsection (1), the staff required to assist the
11 Board may include one or more of the following:
- 12 (a) a National Registrar;
 - 13 (b) Registrars;
 - 14 (c) Deputy Registrars;
 - 15 (d) Conference Registrars.

16 **@359DA Delegation by Principal Member**

- 17 (1) The Principal Member may, in writing, delegate all or any of the
18 Principal Member's functions or powers under this Act to:
- 19 (a) a Senior Member; or
 - 20 (b) an acting Senior Member.
- 21 (2) The Principal Member may, in writing, delegate all or any of the
22 Principal Member's functions or powers under the following
23 provisions to the National Registrar:
- 24 (a) section @352H (notice of hearing etc.);
 - 25 (b) section @352J (procedure of Board);
 - 26 (c) section @353C (dismissal of applications);
 - 27 (d) section @353E (circumstances in which application may be
28 reinstated);
 - 29 (e) section @359CL (arrangement of business of Board);
 - 30 (f) section @359CM (Board members to constitute Board for
31 purposes of a review);

- 1 (g) section @359CN (Board member ceasing to be Board
2 member etc.).
- 3 (3) The Principal Member may, in writing, delegate all or any of the
4 Principal Member's functions or powers under
5 subsection @352J(8) (requests by Principal Member),
6 section @353C (dismissal of applications) or section @353E
7 (circumstances in which application may be reinstated) to:
8 (a) a Registrar; or
9 (b) a Deputy Registrar; or
10 (c) a Conference Registrar.
- 11 (4) In performing a delegated function or exercising a delegated
12 power, the delegate must comply with any written directions of the
13 Principal Member.
- 14 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
15 provisions relating to delegations.

16 **@359DB Annual report**

- 17 The Principal Member must, as soon as practicable after the end of
18 each financial year, prepare and give to the Minister, for
19 presentation to the Parliament, a report on the Board's activities
20 during the financial year.
- 21 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
22 contains extra rules about annual reports.

23 **@359DC Oath or affirmation of office**

- 24 (1) A person who is appointed or re-appointed as a Board member, or
25 to act as a Board member, must take an oath or make an
26 affirmation, in the applicable form set out in the following table,
27 before discharging the duties of the office.

28

Form of oath or affirmation		
Item	If the person is	the applicable form is ...
	...	
1	taking an oath	I, _____, do swear that I will be faithful and bear true allegiance to (<i>insert name of the Sovereign</i>),

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

Form of oath or affirmation

Item	If the person is	the applicable form is ...
	...	<i>(insert applicable pronoun, such as 'His' or 'Her')</i> Heirs and Successors according to law, that I will well and truly serve <i>(insert applicable pronoun, such as 'Him' or 'Her')</i> in the office of Principal Member (or Senior Member or member) of the Veterans' Review Board and that I will faithfully and impartially perform the duties of that office without fear or favour, affection or ill-will. So help me, God.
2	making an affirmation	I, _____, do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to <i>(insert name of the Sovereign)</i> , <i>(insert applicable pronoun, such as 'His' or 'Her')</i> Heirs and Successors according to law, that I will well and truly serve <i>(insert applicable pronoun, such as 'Him' or 'Her')</i> in the office of Principal Member (or Senior Member or member) of the Veterans' Review Board and that I will faithfully and impartially perform the duties of that office without fear or favour, affection or ill-will.

1

2

(2) The oath must be taken, or the affirmation must be made, before a justice of the peace or a commissioner for taking affidavits.

3

4

@359DD Instruments that are not legislative instruments

5

The following are not legislative instruments:

6

(a) a direction under subsection @359CK(5) (management of administrative affairs of Board);

7

8

(b) a direction under subsection @359CL(2) (arrangement of business of Board);

9

10

(c) a direction under section @359CM (Board members to constitute Board for purposes of a review).

11

1 **13 Paragraph 423(ca)**

2 Omit “section 353 because of the application of subsections 132(5), (6),
3 (9), (10), (11), (11A), (11B) and (11C) of the *Veterans’ Entitlements*
4 *Act 1986*”, substitute “sections @353P, @353Q and @353S”.

5 **14 After paragraph 423(ca)**

6 Insert:

7 (cb) fees and allowances of witnesses payable under section
8 @353T;

9 **15 Section 437A**

10 Before “The Minister”, insert “(1)”.

11 **16 Section 437A**

12 Omit “his or her functions or powers under this Act”, substitute “the
13 Minister’s functions or powers under this Act (other than section
14 @359CA or @359CC)”.

15 **17 At the end of section 437A**

16 Add:

17 (2) The Minister may, by writing, delegate all or any of the Minister’s
18 powers under section @359CA or @359CC to the Principal
19 Member of the Board.

20 ***Safety, Rehabilitation and Compensation (Defence-related***
21 ***Claims) Act 1988***

22 **18 Subsection 3A(3) (note)**

23 Omit “Part VI”, substitute “section 62 (reconsideration and review of
24 determinations etc.)”.

25 **19 Subsection 3A(4)**

26 Omit “Part VI (about reconsideration and review of determinations)”,
27 substitute “section 62 (reconsideration and review of determinations
28 etc.)”.

1 **20 Subsection 4(1)**

2 Insert:

3 *Board* has the same meaning as in the MRCA.

4 **21 Subsection 4(1) (definition of *proceeding under Part VI*)**

5 Repeal the definition.

6 **22 Subsection 4(12)**

7 Repeal the subsection.

8 **23 Subsection 26(4)**

9 Repeal the subsection, substitute:

10 (4) This section does not apply if an application for review of the
11 determination under section 24 or 25 has been made under Part 4
12 of Chapter 8 of the MRCA (see section 62 of this Act).

13 **24 Subsection 41B(1) (note)**

14 Omit “(see section 60A)”, substitute “under Part 4 of Chapter 8 of the
15 MRCA (see section 345B of that Act)”.

16 **25 Subsection 60(1)**

17 Omit “(1)”.

18 **26 Subsection 60(1) (definition of *decision*)**

19 Repeal the definition.

20 **27 Subsection 60(1) (definition of *reviewable decision*)**

21 Omit “or section 62”.

22 **28 Subsection 60(2)**

23 Repeal the subsection.

24 **29 Section 60A**

25 Repeal the section.

1 **30 Paragraph 61(1)(c)**

2 Omit “request a reconsideration of the determination under
3 subsection 62(2)”, substitute “make an application for review of the
4 determination by the Board under Part 4 of Chapter 8 of the MRCA (see
5 section 62 of this Act)”.

6 **31 Sections 62 to 67**

7 Repeal the sections, substitute:

8 **62 Reconsideration and review of determinations etc.**

- 9 (1) Section 347 of the MRCA applies in relation to a determination as
10 if it were an original determination made by the Commission.

11 Note: This means that the Commission may, on its own initiative, reconsider
12 a determination.

- 13 (2) If a determination (the *reconsideration determination*) is made
14 under subsection 347(3) of the MRCA because of the operation of
15 subsection (1) of this section, section 346 of the MRCA applies in
16 relation to the reconsideration determination as if:

- 17 (a) the reconsideration determination were an original
18 determination made by the Commission; and
19 (b) a person in respect of whom the reconsideration
20 determination was made were the claimant.

21 Note: This means that the Commission must give notice of the
22 reconsideration determination.

- 23 (3) Part 4 of Chapter 8 of the MRCA applies in relation to a
24 determination, a reconsideration determination and a reviewable
25 decision as if:

- 26 (a) the determination, reconsideration determination or
27 reviewable decision were an original determination; and
28 (b) a person in respect of whom the determination,
29 reconsideration determination or reviewable decision was
30 made were the claimant; and
31 (c) paragraph @353Q(3)(a) of that Part referred to a claim made
32 by a person under Part V of this Act on behalf of another
33 person.

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 Note: This means that a determination, a reconsideration determination and
2 a reviewable decision may be reviewed by the Board under Part 4 of
3 Chapter 8 of the MRCA.

4 (4) If the Board reviews a determination, reconsideration
5 determination or reviewable decision (the *DRCA determination*)
6 under Part 4 of Chapter 8 of the MRCA, Part 5 of that Chapter
7 applies in relation to the determination made by the Board on
8 review as if:

9 (a) the Board's determination on review were a reviewable
10 determination; and

11 (b) a person in respect of whom the DRCA determination was
12 made were the claimant.

13 Note: This means that the Board's determination on review of a DRCA
14 determination may be reviewed by the Administrative Appeals
15 Tribunal under Part 5 of Chapter 8 of the MRCA.

16 **32 Subsection 111(5)**

17 Repeal the subsection.

18 **33 Sections 129 and 129A**

19 Repeal the sections, substitute:

20 **129A Reconsideration and review of certain determinations under**
21 **1971 Act**

22 Part VI of this Act applies in relation to a determination under the
23 1971 Act that had effect immediately before the commencing day
24 as if:

25 (a) the person in respect of whom the determination was made
26 were a claimant under this Act; and

27 (b) the determination were a determination by the MRCC within
28 the meaning of Part VI of this Act.

29 **34 Subsection 151A(1B)**

30 Omit "reconsideration or review under Part VI", substitute
31 "reconsideration under section 347 of the MRCA, or the review under
32 Part 4 of Chapter 8 of the MRCA,".

1 ***Veterans' Entitlements Act 1986***

2 **35 Subsection 5Q(1) (definition of *Board*)**

3 Repeal the definition, substitute:

4 *Board* has the same meaning as in the MRCA.

5 **36 Subsection 5T(1) (note)**

6 Omit “the Veterans’ Review Board,”.

7 **37 Subsection 5T(1) (note)**

8 Omit “IX,”.

9 **38 Paragraph 22(5)(c)**

10 Omit “subsection 31(6)”, substitute “section 31”.

11 **39 Division 6 of Part II**

12 Repeal the Division, substitute:

13 **Division 6—Reconsideration of decisions by Commission**

14 **31 Commission may initiate reconsideration of decisions**

15 (1) This section applies in relation to any decision of the Commission
16 in respect of the following claims or applications (including a
17 decision under section 20 or 21 but not a decision under
18 subsection 19A(1)):

- 19 (a) a claim for a pension under section 14;
20 (b) an application for a pension, or for an increased pension,
21 under section 15;
22 (c) an application for attendant allowance under section 98.

23 (2) Section 347 of the MRCA applies in relation to the decision as if:

- 24 (a) the decision were an original determination made by the
25 Commission; and
26 (b) a reference in that section to the Commission were a
27 reference to the Repatriation Commission.

1 Note: This means that the Commission may, on its own initiative, reconsider
2 the decision.

3 (3) If a determination (the *reconsideration determination*) is made
4 under subsection 347(3) of the MRCA because of the operation of
5 subsection (2) of this section, section 346 of the MRCA applies in
6 relation to the reconsideration determination as if:

7 (a) the reconsideration determination were an original
8 determination made by the Commission; and

9 (b) a person in respect of whom the reconsideration
10 determination was made were the claimant; and

11 (c) a reference in that section to the Commission were a
12 reference to the Repatriation Commission.

13 Note: This means that the Commission must give notice of the
14 reconsideration determination.

15 **40 Subsection 32(1)**

16 Omit “its review under section 31”, substitute “its reconsideration under
17 section 31”.

18 **41 Subparagraph 32(1)(c)(ii)**

19 Repeal the subparagraph, substitute:

20 (ii) in the case of a reconsideration under section 31—a
21 person likely to be affected by the reconsideration or the
22 Secretary;

23 **42 Paragraph 32(1)(c)**

24 Omit “or the review”, substitute “or the reconsideration”.

25 **43 Subparagraph 32(1)(d)(ii)**

26 Repeal the subparagraph, substitute:

27 (ii) in the case of a reconsideration under section 31—the
28 person likely to be affected by the reconsideration;

29 **44 Paragraph 32(1)(d)**

30 Omit “of the review”, substitute “of the reconsideration”.

31 **45 Paragraph 32(1)(d)**

32 Omit “or the review”, substitute “or the reconsideration”.

1 **46 Paragraph 32(2)(b)**

2 Repeal the paragraph, substitute:

3 (b) for the purpose of a reconsideration under section 31—a
4 person likely to be affected by the reconsideration;

5 **47 Paragraph 32(5)(b)**

6 Omit “review under section 31”, substitute “reconsideration under
7 section 31”.

8 **48 Subsection 32(9)**

9 Omit “review”, substitute “reconsideration”.

10 **49 Paragraphs 34(1)(c) to (e)**

11 Repeal the paragraphs.

12 **50 Paragraph 34(2)(b)**

13 Omit “, (c), (d) or (e)”.

14 **51 Subsection 115S(1) (note)**

15 Omit “135A”, substitute “345B of the MRCA”.

16 **52 Paragraph 119(1)(c)**

17 Omit “review”, substitute “reconsideration”.

18 **53 Paragraph 119(1)(d)**

19 Repeal the paragraph.

20 **54 Subsection 126(4)**

21 Omit “section 135 or 175”, substitute “section 175 of this Act or Part 4
22 or 5 of Chapter 8 of the MRCA (because of the operation of section 134
23 of this Act)”.

24 **55 Subparagraphs 129A(1)(a)(ii) and (d)(ii)**

25 Repeal the subparagraphs.

1 **56 Paragraphs 132(1)(b) to (d)**

2 Omit “review”, substitute “reconsideration”.

3 **57 Subsection 132(2)**

4 Omit “review”, substitute “reconsideration”.

5 **58 Subsections 132(5) and (6)**

6 Repeal the subsections.

7 **59 Subsection 132(9)**

8 Repeal the subsection, substitute:

9 (9) If:

10 (a) a claim for a pension:

11 (i) is made on behalf of the claimant by a person who is a
12 dependant of the claimant or who is approved under
13 paragraph 16(b), (c) or (d) to make the claim on behalf
14 of the claimant; or

15 (ii) is prosecuted by a person who is the legal personal
16 representative of the claimant, or by a person approved
17 under section 126, following the death of the claimant;
18 and

19 (b) that person travels within Australia with the approval of the
20 Commission for the purpose of an investigation, by the
21 Department or the Commission, of the claim;

22 the person is, subject to such conditions as are prescribed, entitled
23 to be paid such travelling expenses in connection with that travel as
24 are prescribed.

25 **60 Subsection 132(11A)**

26 Repeal the subsection, substitute:

27 (11A) An application must be lodged at an office of the Department in
28 Australia in accordance with section 5T.

29 **61 Subsection 132(11B)**

30 Repeal the subsection.

1 **62 Subsection 132(12)**

2 Omit “or 135”.

3 **63 Section 132A**

4 Repeal the section.

5 **64 Part IX (heading)**

6 Repeal the heading, substitute:

7 **Part IX—Review of decisions by Board**

8

9 **65 Division 1 of Part IX (heading)**

10 Repeal the heading.

11 **66 Subsection 133(1)**

12 Omit “(1)”.

13 **67 Subsection 133(1)**

14 Repeal the following definitions:

- 15 (a) definition of *alternative dispute resolution processes*;
- 16 (b) definition of *applicant*;
- 17 (c) definition of *application*;
- 18 (d) definition of *Conference Registrar*.

19 **68 Subsection 133(1)**

20 Insert:

21 *decision* means:

- 22 (a) any decision of the Commission in respect of the following
- 23 claims or applications (including a decision under section 20
- 24 or 21 but not a decision under subsection 19A(1)):
 - 25 (i) a claim for a pension under section 14;
 - 26 (ii) an application for a pension, or for an increased
 - 27 pension, under section 15;

- 1 (iii) an application for attendant allowance under section 98;
2 or
3 (b) a determination made by the Commission under
4 subsection 347(3) of the MRCA because of the operation of
5 subsection 31(2) of this Act.

6 **69 Subsection 133(1)**

7 Repeal the following definitions:

- 8 (a) definition of *Deputy Registrar*;
9 (b) definition of *member*;
10 (c) definition of *National Registrar*;
11 (d) definition of *Principal Member*;
12 (e) definition of *Registrar*;
13 (f) definition of *relevant documentary medical evidence*;
14 (g) definition of *review*;
15 (h) definition of *Senior Member*;
16 (i) definition of *Services member*.

17 **70 Subsection 133(2)**

18 Repeal the subsection.

19 **71 Section 133A**

20 Repeal the section.

21 **72 Division 2 of Part IX**

22 Repeal the Division.

23 **73 Division 3 of Part IX (heading)**

24 Repeal the heading.

25 **74 Before section 135**

26 Insert:

27 **134 Review of decisions by the Board**

- 28 (1) Subject to this Part, Part 4 of Chapter 8 of the MRCA applies in
29 relation to a decision as if:

- 1 (a) the decision were an original determination; and
- 2 (b) a person in respect of whom the decision was made were the
- 3 claimant; and
- 4 (c) a reference in that Part to the Commission were a reference to
- 5 the Repatriation Commission; and
- 6 (d) a reference in that Part to subsection 323(2) were a reference
- 7 to section 5T of this Act; and
- 8 (e) paragraph @353Q(3)(a) of that Part referred to a claim for a
- 9 pension made by a person mentioned in paragraph 132(9)(a)
- 10 of this Act.

11 Note: This means that a decision may be reviewed by the Board under Part 4
12 of Chapter 8 of the MRCA.

- 13 (2) Subject to Part X of this Act, if the Board reviews a decision (the
- 14 **VEA decision**) under Part 4 of Chapter 8 of the MRCA, Part 5 of
- 15 that Chapter applies in relation to the determination made by the
- 16 Board on review as if:
 - 17 (a) the Board’s determination on review were a reviewable
 - 18 determination; and
 - 19 (b) a person in respect of whom the VEA decision was made
 - 20 were the claimant; and
 - 21 (c) a reference in that Part to the Commission were a reference to
 - 22 the Repatriation Commission.

23 Note: This means that the Board’s determination on review of a VEA
24 decision may be reviewed by the Administrative Appeals Tribunal
25 under Part 5 of Chapter 8 of the MRCA.

26 **75 Section 135 (heading)**

27 Repeal the heading, substitute:

28 **135 Application for review—timing requirements**

29 **76 Subsections 135(1) to (4)**

30 Repeal the subsections.

31 **77 Subsections 135(5) and (5A)**

32 Omit “subsection (1), (2) or (3)”, substitute “Part 4 of Chapter 8 of the
33 MRCA”.

1 **78 Subsections 135(6) and (7)**

2 Repeal the subsections.

3 **79 Section 135A**

4 Repeal the section.

5 **80 Section 136 (heading)**

6 Repeal the heading, substitute:

7 **136 Application for review—who may make an application**

8 **81 Subsection 136(1)**

9 Repeal the subsection.

10 **82 Subsection 136(2)**

11 Omit “under subsection (1)”, substitute “for review under Part 4 of
12 Chapter 8 of the MRCA”.

13 **83 Subsection 136(3)**

14 Omit “under subsection (1) of this section”, substitute “for review under
15 Part 4 of Chapter 8 of the MRCA”.

16 **84 Subsection 136(4)**

17 Repeal the subsection.

18 **85 Sections 137 to 140A**

19 Repeal the sections, substitute:

20 **137 Variation of pension assessment pending completion of review**

21 If:

- 22 (a) a request has been made under subsection @352J(8) of the
23 MRCA (requests by Principal Member) in relation to a
24 review; and
25 (b) under subsection @352J(9) of that Act, the Board adjourns a
26 hearing of the review; and
27 (c) the review is of a decision with respect to a pension
28 assessment;
-

1 the Board may vary the pension assessment pending the
2 completion of the review, having regard to the records and
3 evidence on which the Commission reached that decision.

4 **86 Divisions 4 and 4A of Part IX**

5 Repeal the Divisions.

6 **87 Division 5 of Part IX (heading)**

7 Repeal the heading.

8 **88 Sections 146 to 153**

9 Repeal the sections.

10 **89 Sections 155 and 155A**

11 Repeal the sections.

12 **90 Division 6 of Part IX (heading)**

13 Repeal the heading.

14 **91 Subsection 156(1)**

15 Omit “under this Part”.

16 **92 Subparagraph 157(2)(a)(ii)**

17 Omit “at an office of the Department in Australia”, substitute “by the
18 Board”.

19 **93 Paragraph 157(2)(b)**

20 Repeal the paragraph, substitute:

21 (b) if the substituted decision, or the varied decision, as the case
22 may be, is a decision of a kind specified in subsection (3)—
23 the Board must remit the matter to the Commission to fix the
24 date from which the Board’s decision is to operate, being the
25 date of the first available pension pay-day occurring after the
26 date on which a copy of the Board’s decision is given to the
27 Commission under section @353B of the MRCA;

1 **94 Subsection 157(4A)**

2 Omit “subparagraph 139(3)(c)(iii)”, substitute “subparagraph
3 @353A(4)(c)(iii) of the MRCA”.

4 **95 Divisions 7 and 8 of Part IX**

5 Repeal the Divisions.

6 **96 At the end of subsection 174(1)**

7 Add:

8 Note: See subsection 134(2) for decisions of the Board that are reviewable
9 by the Administrative Appeals Tribunal.

10 **97 Subsections 175(1), (1AA) and (3)**

11 Repeal the subsections.

12 **98 Subsection 176(2)**

13 Repeal the subsection.

14 **99 Subsection 176(3)**

15 Repeal the subsection, substitute:

16 (3) Section 28 of the *Administrative Appeals Tribunal Act 1975* does
17 not apply to or in relation to a person whose interests are affected
18 by a reviewable decision if:

19 (a) the decision is of a kind referred to in subsection 175(2),
20 (2A), (2D) or (4); and

21 (b) the person has been served with a copy of that decision, and
22 with the statement related to that decision, in accordance with
23 section 57E, 64F, 118ZX or 140 of this Act, whichever was
24 applicable.

25 **100 Subsection 176(7)**

26 Repeal the subsection.

27 **101 Subsection 177(2)**

28 Omit “made under subsection 175(1)”.

1 **102 Subparagraphs 177(2)(b)(i) and (ii)**

2 Omit “under subsection 175(1)”, substitute “for review by the
3 Tribunal”.

4 **103 Subsection 177(3)**

5 Omit “176(7), (8)”, substitute “176(8)”.

6 **104 Subsection 178(1)**

7 Omit “reviewable”.

8 **105 Subsections 212(1) to (3)**

9 Repeal the subsections, substitute:

10 (1) The Minister may, by writing, delegate all or any of the Minister’s
11 powers under this Act to:

12 (a) a commissioner; or

13 (b) an APS employee.

14 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
15 provisions relating to delegations.

16 **106 Subsections 215(4) to (6)**

17 Repeal the subsections.

18 **107 Schedule 4**

19 Repeal the Schedule.

20 **Division 2—Application and transitional provisions**

21 ***Military Rehabilitation and Compensation (Consequential
22 and Transitional Provisions) Act 2004***

23 **108 Subsection 4(1)**

24 Insert:

25 *Simplification Act* means the *Veterans’ Entitlements, Treatment
26 and Support (Simplification and Harmonisation) Act 2024*.

1 **109 After Part 4**

2 Insert:

3 **Part 5—Transitional provisions relating to reviews**
4 **by the Veterans’ Review Board**

5 **Division 1—Preliminary**

6 **25 Definitions**

7 In this Part:

8 *new law* means the MRCA, the DRCA and the VEA as amended
9 by Part 1 of Schedule 3 to the Simplification Act.

10 *old law* means the MRCA, the DRCA and the VEA as in force
11 immediately before the review pathway commencement day.

12 *old VEA* means the VEA, as in force immediately before the
13 review pathway commencement day.

14 *review pathway commencement day* means the day on which
15 Part 1 of Schedule 3 to the Simplification Act commences.

16 **Division 2—Application of new review pathway**

17 **26 Original determinations under the MRCA**

18 Subject to this Part, the amendments of the MRCA made by Part 1
19 of Schedule 3 to the Simplification Act apply in relation to an
20 original determination that is made on or after the review pathway
21 commencement day, whether the claim to which the determination
22 relates was made before, on or after that day.

23 **27 Determinations under the DRCA**

24 Subject to this Part, the amendments of the DRCA made by Part 1
25 of Schedule 3 to the Simplification Act apply in relation to a
26 determination that is made under the DRCA on or after the review

1 pathway commencement day, whether the claim to which the
2 determination relates was made before, on or after that day.

3 **28 Decisions under the VEA**

4 Subject to this Part, the amendments of the VEA made by Part 1 of
5 Schedule 3 to the Simplification Act apply in relation to a decision
6 that is made under the VEA on or after the review pathway
7 commencement day, whether the claim or application to which the
8 decision relates was made before, on or after that day.

9 **Division 3—Continuation of Board**

10 **29 Members of the Board**

- 11 (1) This section applies to a person who was, immediately before the
12 review pathway commencement day, holding office as a member
13 of the Board under section 158 of the old VEA.
- 14 (2) The person is taken, on and after the review pathway
15 commencement day, to have been appointed under section @359C
16 of the MRCA:
- 17 (a) for the balance of the person’s term of appointment that
18 remained immediately before that day; and
- 19 (b) on terms and conditions (including remuneration) that are
20 equal to, or better than, the terms and conditions that applied
21 to the person immediately before that day.

22 Note: The person’s remuneration will not be better than their remuneration
23 as a member of the Board under section 158 of the old VEA unless a
24 higher level of remuneration is determined by the Remuneration
25 Tribunal.

26 **30 Acting members of the Board**

- 27 (1) This section applies to a person who was appointed to act as a
28 member of the Board under section 161 of the old VEA if the
29 appointment was in force immediately before the review pathway
30 commencement day.

- 1 (2) The person is taken, on and after the review pathway
2 commencement day, to have been appointed under
3 section @359CA of the MRCA:
4 (a) for the balance of the person’s term of appointment that
5 remained immediately before that day; and
6 (b) on terms and conditions (including remuneration) that are
7 equal to, or better than, the terms and conditions that applied
8 to the person immediately before that day.

9 **31 Leave of absence**

- 10 (1) This section applies to a leave of absence if:
11 (a) the leave of absence was granted under section 162 of the old
12 VEA before the review pathway commencement day; and
13 (b) the period of leave is, or includes, that day.
14 (2) On and after the review pathway commencement day, the leave of
15 absence is taken to have been granted under section @359CC of
16 the MRCA.

17 **32 Staff**

- 18 (1) This section applies to a person who, immediately before the
19 review pathway commencement day, was engaged and made
20 available to assist the Board under section 172 of the old VEA.
21 (2) The person is taken, on and after the review pathway
22 commencement day, to be engaged and made available to assist the
23 Board under section @359D of the MRCA.
24 (3) The repeal of section 172 of the old VEA does not affect the
25 continuity of employment of the person.

26 **33 Delegations by Principal Member**

27 A delegation under section 166 of the old VEA that is in force
28 immediately before the review pathway commencement day
29 continues in force (and may be dealt with) on and after that day as
30 if the delegation had been made under section @359DA of the
31 MRCA.

1 **34 Delegations by Minister to Principal Member**

2 A delegation under paragraph 212(1)(b) of the old VEA that is in
3 force immediately before the review pathway commencement day
4 continues in force (and may be dealt with) on and after that day as
5 if the delegation had been made under subsection 437A(2) of the
6 MRCA.

7 **35 Board annual reports**

8 *For the financial year ending before review pathway*
9 *commencement day*

- 10 (1) Subsection (2) applies if:
- 11 (a) the review pathway commencement day occurs after the end
12 of a financial year; and
- 13 (b) the report referred to in subsection 215(4) of the old VEA
14 had not been prepared for the financial year before the review
15 pathway commencement day.
- 16 (2) Despite the repeal of subsections 215(4) to (6) of the old VEA by
17 Part 1 of Schedule 3 to the Simplification Act, those subsections
18 continue to apply in relation to the report for the financial year as if
19 that repeal had not happened.

20 *For the financial year in which review pathway commencement*
21 *day occurs*

- 22 (3) Subsection (4) applies:
- 23 (a) if the review pathway commencement day occurs during a
24 financial year; and
- 25 (b) in relation to the operations of the Board during the part of
26 the financial year before the review pathway commencement
27 day.
- 28 (4) The first annual report prepared by the Principal Member under
29 section @359DB of the MRCA must cover those operations.

1 **Division 4—Other matters**

2 **36 Effect of things done by, or in relation to, the Board**

3 A thing done by, or in relation to, the Board under a law of the
4 Commonwealth before the review pathway commencement day is
5 not affected by the amendments made by Part 1 of Schedule 3 to
6 the Simplification Act.

7 **37 Reviews in progress**

- 8 (1) This section applies if a review by the Board is pending
9 immediately before the review pathway commencement day.
- 10 (2) The Board must, as far as possible, continue the review under the
11 new law.
- 12 (3) Anything done in, or in relation to, the review before the review
13 pathway commencement day continues to have effect for the
14 purposes of, or in relation to, the review (as the case requires) on
15 and after that day.
- 16 (4) Anything done in, or in relation to, the review before the review
17 pathway commencement day that was valid under, or done in
18 accordance with, the old law is taken to be valid under, or to have
19 been done in accordance with, the new law for the purposes of the
20 review on and after the review pathway commencement day.

21 **38 Continued effect of certain instruments**

- 22 (1) If:
- 23 (a) before the review pathway commencement day, an
24 instrument was made under, or for the purposes of, a
25 provision of the old VEA mentioned in column 1 of an item
26 of the following table; and
- 27 (b) immediately before the review pathway commencement day,
28 the instrument is in force;
- 29 the instrument continues to have effect, on and after the review
30 pathway commencement day, as if it had been made under the
31 provision of the MRCA mentioned in column 2 of the item.

32

Continued effect of certain instruments

Item	Column 1 Provision of the old VEA	Column 2 Provision of the MRCA
1	subsection 132(5)	subsection @353Q(1)
2	subsection 132(6)	subsection @353Q(2)
3	subsection 132(9)	subsection @353Q(3)
4	paragraph 155(7)(b)	subsection @353C(8)
5	paragraph 170A(3)(a)	paragraph @353N(3)(a)
6	paragraph 170A(3)(b)	paragraph @353N(3)(b)
7	subsection 170B(2)	subsection @353P(2)
8	subsection 171(1)	subsection @353T(1)

1

2

(2) If:

3

(a) before the review pathway commencement day, an instrument was made under subsection 132(9) of the old VEA; and

4

5

6

(b) immediately before the review pathway commencement day, the instrument is in force;

7

8

the instrument continues to have effect, on and after the review pathway commencement day, as if it had been made under subsection 132(9) of the VEA as substituted by Part 1 of Schedule 3 to the Simplification Act.

9

10

11

12 **39 Transitional regulations**

13

(1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the enactment of Schedule 3 to the Simplification Act.

14

15

16

17

(2) This Part does not limit the regulations that may be made for the purposes of subsection (1).

18

1 **Part 2—Amendments commencing later**

2 ***Military Rehabilitation and Compensation Act 2004***

3 **110 Subsection 345(1) (paragraph (b) of the definition of**
4 ***acute support package instrument*)**

5 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
6 *Claims) Act 1988*”, substitute “DRCA”.

7 **111 Subsection 345(1) (paragraph (c) of the definition of**
8 ***acute support package instrument*)**

9 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

10 **112 Section 345B**

11 Omit “or the Repatriation Commission”.

12 **113 Section 352A (paragraph (a) of the note)**

13 Omit “*Safety, Rehabilitation and Compensation (Defence-related*
14 *Claims) Act 1988*”, substitute “DRCA”.

15 **114 Section 352A (paragraph (b) of the note)**

16 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

17 **115 Subsection 359B(1)**

18 Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.

19 ***Safety, Rehabilitation and Compensation (Defence-related***
20 ***Claims) Act 1988***

21 **116 Subsection 62(3)**

22 Omit “, a reconsideration determination and a reviewable decision”,
23 substitute “and a reconsideration determination”.

24 **117 Paragraphs 62(3)(a) and (b)**

25 Omit “, reconsideration determination or reviewable decision”,
26 substitute “or reconsideration determination”.

1 **118 Subsection 62(3) (note)**

2 Omit “, a reconsideration determination and a reviewable decision”,
3 substitute “and a reconsideration determination”.

4 **119 Subsection 62(4)**

5 Omit “, reconsideration determination or reviewable decision”,
6 substitute “or reconsideration determination”.

7 ***Veterans’ Entitlements Act 1986***

8 **120 Subsection 31(2)**

9 Repeal the subsection, substitute:

10 (2) Section 347 of the MRCA applies in relation to the decision as if
11 the decision were an original determination made by the
12 Commission.

13 Note: This means that the Commission may, on its own initiative, reconsider
14 the decision.

15 **121 Paragraph 31(3)(b)**

16 Omit “claimant; and”, substitute “claimant.”.

17 **122 Paragraph 31(3)(c)**

18 Repeal the paragraph.

19 **123 Paragraph 134(1)(c)**

20 Repeal the paragraph.

21 **124 Paragraph 134(2)(b)**

22 Omit “claimant; and”, substitute “claimant.”.

23 **125 Paragraph 134(2)(c)**

24 Repeal the paragraph.

1 **Schedule 4—Merging commissions**
2

3 ***Military Rehabilitation and Compensation Act 2004***

4 **1 Section 3 (paragraph beginning “The procedure”)**

5 Omit “Military Rehabilitation and Compensation Commission”,
6 substitute “Repatriation Commission”.

7 **2 Subsection 5(1)**

8 Insert:

9 *appointed Commissioner* means a Commissioner other than the
10 President.

11 **3 Subsection 5(1) (definition of *appointed Commission***
12 ***member*)**

13 Repeal the definition.

14 **4 Subsection 5(1) (definition of *Commission*)**

15 Omit “the Military Rehabilitation and Compensation Commission
16 established by section 361”, substitute “the Repatriation Commission
17 continued in existence by section @360B”.

18 **5 Subsection 5(1) (definition of *Commission Chair*)**

19 Repeal the definition.

20 **6 Subsection 5(1)**

21 Insert:

22 *Commissioner* means an appointed Commissioner or the President.

23 **7 Subsection 5(1) (definition of *Commission member*)**

24 Repeal the definition.

25 **8 Subsection 5(1)**

26 Insert:

27 *President* means the President of the Commission.

1 **9 Subsection 5(1) (definition of *Repatriation Commission*)**

2 Repeal the definition.

3 **10 Subsection 5(1) (definition of *trust funds*)**

4 After “of compensation” (wherever occurring), insert “or other
5 benefits”.

6 **11 Subsection 5(1) (definition of *trust funds*)**

7 After “the compensation”, insert “, benefits”.

8 **12 Subsections 49(1), 59(1), 83(1), 207(1) and 220(1) (note)**

9 Omit “a trustee is appointed”, substitute “there is a trustee”.

10 **13 Subsections 224(1), (5) and (6) (note)**

11 Omit “a trustee is appointed”, substitute “there is a trustee”.

12 **14 Subsection 230(1) (note)**

13 Omit “a trustee is appointed”, substitute “there is a trustee”.

14 **15 Section 238 (note)**

15 Omit “a trustee is appointed”, substitute “there is a trustee”.

16 **16 Subsections 241(1) and 244(1) (note)**

17 Omit “a trustee is appointed”, substitute “there is a trustee”.

18 **17 Subsections 248(1), (5) and (6) (note)**

19 Omit “a trustee is appointed”, substitute “there is a trustee”.

20 **18 Subsection 257(1) (note)**

21 Omit “a trustee is appointed”, substitute “there is a trustee”.

22 **19 Section 264 (note)**

23 Omit “a trustee is appointed”, substitute “there is a trustee”.

24 **20 Subsections 268(1), 288G(1) and 296(1) (note)**

25 Omit “a trustee is appointed”, substitute “there is a trustee”.

1 **21 Section 299 (note)**

2 Omit “a trustee is appointed”, substitute “there is a trustee”.

3 **22 Subsections 303(1), (5) and (6) (note)**

4 Omit “a trustee is appointed”, substitute “there is a trustee”.

5 **23 Chapter 9**

6 Repeal the Chapter, substitute:

7 **Chapter 9—Repatriation Commission**

8 **Part 1—Simplified outline of this Chapter**

9

10 **@360A Simplified outline of this Chapter**

11

The Repatriation Commission is continued in existence under Part 2 of this Chapter. Part 2 also sets out the Commission’s functions and powers. The Commission’s functions and powers include the functions and powers of the former Military Rehabilitation and Compensation Commission.

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Part 3 deals with the administration of the Commission, and includes provisions relating to Commissioners, acting Commissioners and meetings of the Commission.

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Part 4 deals with staff, contractors, delegations of the Commission and the Commission’s annual report.

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21

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Commissioners and acting Commissioners.

22

Part 2—Establishment of Commission

@360B Establishment

- (1) The Repatriation Commission that was, immediately before the commencement of this section, in existence by virtue of the VEA, is continued in existence under the same name.
- (2) The Commission:
 - (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- (3) Debts incurred by the Commission in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

@360BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Commission

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of *Department of State* in section 8 of that Act, the Commission is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the Commissioners are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

@360BB Functions of the Commission

The functions of the Commission are:

- (a) to make decisions and determinations under this Act, the DRCA and the VEA in relation to the following:
 - (i) acceptance of liability;
 - (ii) the payment or provision of compensation;

- 1 (iii) the provision of services for treatment and
2 rehabilitation;
- 3 (iv) granting pensions, allowances and other benefits; and
- 4 (b) to minimise the duration and severity of service injuries and
5 service diseases by arranging quickly under this Act for the
6 rehabilitation of members and former members who suffered
7 those injuries and diseases; and
- 8 (c) to otherwise arrange for the provision of treatment,
9 rehabilitation and other services in accordance with this Act,
10 the DRCA and the VEA; and
- 11 (d) to promote the return to suitable work (defence or civilian)
12 by persons who suffered a service injury or service disease;
13 and
- 14 (e) to promote research into:
- 15 (i) the health of members and former members; and
- 16 (ii) the prevention of injury and disease; and
- 17 (iii) the rehabilitation of persons from injury and disease;
18 and
- 19 (f) to provide advice and information relating to the operation of
20 this Act, the DRCA and the VEA to:
- 21 (i) the Minister; and
- 22 (ii) the Defence Minister; and
- 23 (iii) the Secretary of the Department; and
- 24 (iv) the Secretary of the Defence Department; and
- 25 (v) the Chief of the Defence Force;
- 26 either on request or on the Commission's own initiative; and
- 27 (g) such other functions as are conferred on the Commission by
28 this or any other law of the Commonwealth.

29 **@360BC Powers of the Commission**

- 30 (1) The Commission has power to do all things necessary or
31 convenient to be done for, or in connection with, the performance
32 of its functions.
- 33 (2) The Commission's powers include, but are not limited to, the
34 following:
- 35 (a) the power to enter into contracts;

- 1 (b) the power to erect buildings and structures and carry out
2 works;
3 (c) the power to do anything incidental to any of its functions.

4 **Part 3—Administration**

5 **Division 1—Membership etc.**

6 **@360C Membership**

- 7 (1) The Commission consists of the following:
8 (a) the President of the Commission;
9 (b) one Commissioner who meets the requirements in
10 subsection (3);
11 (c) one Commissioner who meets the requirements in
12 subsection (5);
13 (d) one Commissioner who meets the requirements
14 subsection (6);
15 (e) one Commissioner who meets the requirements in
16 subsection (7);
17 (f) one Commissioner who meets the requirements in
18 subsection (8);
19 (g) up to 3 other Commissioners.
- 20 (2) The President of the Commission must be the Secretary.
- 21 *Repatriation Commissioner*
- 22 (3) A person meets the requirements of this subsection if the Minister
23 is satisfied that the person has been selected from lists submitted to
24 the Minister in accordance with subsection (4).
- 25 (4) The Minister may, from time to time, request organisations
26 representing veterans to submit to the Minister lists of names of
27 persons from which the organisation concerned recommends that a
28 selection be made of a person to serve as the Repatriation
29 Commissioner.

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Veteran Family Advocate Commissioner

(5) A person meets the requirements of this subsection if the Minister is satisfied the person will represent families of veterans.

Commissioner representing Comcare

(6) A person meets the requirements of this subsection if:

- (a) the person is nominated by the SRC Minister; and
- (b) the person is:
 - (i) the Chief Executive Officer of Comcare; or
 - (ii) a person described in subsection 89E(1) of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (iii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the SRC Minister.

Commissioner representing the Commonwealth Superannuation Corporation

(7) A person meets the requirements of this subsection if:

- (a) the person is nominated by the Minister administering the *Governance of Australian Government Superannuation Schemes Act 2011*; and
- (b) the person is:
 - (i) a director of the Commonwealth Superannuation Corporation; or
 - (ii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the Minister mentioned in paragraph (a).

Commissioner nominated by the Defence Minister

(8) A person meets the requirements of this subsection if:

- (a) the person is nominated by the Defence Minister; and
- (b) either of the following apply:
 - (i) the person is a Permanent Forces member;
 - (ii) the person is engaged under the *Public Service Act 1999* and performing duties in the Defence Department.

1 **@360CA Appointment of Commissioners**

2 The appointed Commissioners are to be appointed by the
3 Governor-General, by written instrument.

4 Note: The *appointed Commissioners* are the Commissioners other than the
5 President (see section 5).

6 **@360CB Period and basis of appointment**

7 (1) An appointed Commissioner mentioned in paragraph @360C(1)(b)
8 or (c) is to be appointed on a full-time basis.

9 (2) Each other appointed Commissioner is to be appointed on a
10 part-time basis.

11 (3) An appointed Commissioner holds office for the period specified
12 in the instrument of appointment. The period must not exceed 5
13 years.

14 Note: An appointed Commissioner may be reappointed (see section 33AA
15 of the *Acts Interpretation Act 1901*).

16 **@360CC Acting appointments**

17 *Acting by operation of law*

- 18 (1) The person acting as the Secretary is to act as the President:
- 19 (a) during a vacancy in the office of the President (whether or
20 not an appointment has previously been made to the office);
21 or
- 22 (b) during any period, or during all periods, when the President:
- 23 (i) is absent from duty; or
24 (ii) is, for any reason, unable to perform the duties of the
25 office.

26 Note: For the appointment of a person to act as the Secretary, see section 61
27 of the *Public Service Act 1999*.

28 *Acting appointments*

- 29 (2) Subject to subsection (3), the Minister may, by written instrument,
30 appoint a person to act as an appointed Commissioner:
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- 1 (a) during a vacancy in the office of an appointed Commissioner
2 (whether or not an appointment has previously been made to
3 the office); or
4 (b) during any period, or during all periods, when an appointed
5 Commissioner:
6 (i) is absent from duty; or
7 (ii) is suspended under section @360CJ; or
8 (iii) is, for any reason, unable to perform the duties of the
9 office.

10 Note: For rules that apply to acting appointments, see sections 33AB and
11 33A of the *Acts Interpretation Act 1901*.

- 12 (3) The Minister must not:
13 (a) appoint a person to act as a Commissioner mentioned in
14 paragraph @360C(1)(b) unless the person meets the
15 requirements in subsection 360C(3); or
16 (b) appoint a person to act as a Commissioner mentioned in
17 paragraph @360C(1)(c) unless the person meets the
18 requirements in subsection 360C(5); or
19 (c) appoint a person to act as a Commissioner mentioned in
20 paragraph @360C(1)(d) unless the person meets the
21 requirements in subsection 360C(6); or
22 (d) appoint a person to act as a Commissioner mentioned in
23 paragraph @360C(1)(e) unless the person meets the
24 requirements in subsection 360C(7); or
25 (e) appoint a person to act as a Commissioner mentioned in
26 paragraph @360C(1)(f) unless the person meets the
27 requirements in subsection 360C(8).

28 **@360CD Remuneration**

29 *President*

- 30 (1) The President is not to be paid remuneration or allowances in the
31 capacity of President.
32 (2) For the purpose of the payment of allowances to the Secretary, the
33 Secretary's duties are taken to include the Secretary's duties as
34 President.

1 Note: The President of the Commission must be the Secretary (see
2 subsection @360C(2)).

3 *Appointed Commissioners*

4 (3) An appointed Commissioner is to be paid the remuneration that is
5 determined by the Remuneration Tribunal. If no determination of
6 that remuneration by the Tribunal is in operation, the
7 Commissioner is to be paid the remuneration that is prescribed by
8 the regulations.

9 (4) An appointed Commissioner is to be paid the allowances that are
10 prescribed by the regulations.

11 (5) Subsections (3) and (4) have effect subject to the *Remuneration*
12 *Tribunal Act 1973*.

13 Note: Subsection 7(11) of the *Remuneration Tribunal Act 1973* significantly
14 limits the entitlement of certain appointed Commissioners to
15 remuneration under this section, because it provides that generally a
16 person who holds a Commonwealth office, or is employed by the
17 Commonwealth, on a full-time basis is not entitled to remuneration for
18 a part-time office.

19 **@360CE Leave of absence**

20 (1) A full-time appointed Commissioner has the recreation leave
21 entitlements that are determined by the Remuneration Tribunal.

22 (2) The Minister may grant a full-time appointed Commissioner leave
23 of absence, other than recreation leave, on the terms and conditions
24 as to remuneration or otherwise that the Minister determines.

25 (3) The Minister may grant leave of absence to a part-time appointed
26 Commissioner on the terms and conditions that the Minister
27 determines.

28 **@360CF Other paid work**

29 A full-time appointed Commissioner must not engage in paid work
30 outside the duties of the Commissioner without the Minister's
31 approval.

- 1 (ii) is absent, except on leave of absence, for 14 consecutive
 2 days or for 28 days in any 12 months; or
 3 (c) the Commissioner fails, without reasonable excuse, to
 4 comply with the Commissioner's obligations under:
 5 (i) section @360CK (disclosure of interests); or
 6 (ii) section 29 of the *Public Governance, Performance and*
 7 *Accountability Act 2013* (which deals with the duty to
 8 disclose interests) or rules made for the purposes of that
 9 section.

10 **@360CJ Suspension of appointment**

- 11 (1) The Minister may suspend an appointed Commissioner from
 12 office:
 13 (a) for misbehaviour; or
 14 (b) if the Commissioner is unable to perform the duties of the
 15 Commissioner's office because of physical or mental
 16 incapacity.
- 17 (2) If the Minister suspends the appointment of a Commissioner, the
 18 Governor-General may, on the recommendation of the Minister:
 19 (a) terminate the appointment of the Commissioner under
 20 subsection @360CI(1); or
 21 (b) direct that the suspension of the Commissioner continue for
 22 such further period as the Governor-General specifies; or
 23 (c) direct that the suspension of the Commissioner terminate.
- 24 (3) The suspension of a Commissioner from office under this section
 25 does not affect any entitlement of the Commissioner to be paid
 26 remuneration and allowances.

27 **@360CK Commissioner to disclose any interest in claims etc.**

- 28 (1) This section applies to a Commissioner performing functions in
 29 relation to the following matters:
 30 (a) a claim for acceptance of liability or for compensation that
 31 the Commission is considering or is to consider;
 32 (b) a claim for acceptance of liability or for compensation that
 33 the Commission is reviewing or is to review;

- 1 (c) a decision relating to:
2 (i) acceptance of liability or for compensation; or
3 (ii) a claim for acceptance of liability or for compensation;
4 that the Commission is reviewing, is to review or is
5 considering whether to review;
6 (d) a claim or application for a pension that the Commission is
7 considering or is to consider;
8 (e) a pension that the Commission is reviewing or is to review;
9 (f) a decision relating to:
10 (i) a pension; or
11 (ii) a claim or application for a pension;
12 that the Commission is reviewing or is to review.

13 Note: This section does not apply to persons (other than Commissioners) to
14 whom the Commission has delegated functions and powers under
15 section @360DB. However other disclosure requirements may apply
16 to such persons (for example, under the *Public Service Act 1999* or in
17 contractual terms and conditions).

- 18 (2) If the Commissioner has or acquires an interest, pecuniary or
19 otherwise, that could conflict with the proper performance of the
20 Commissioner's functions in relation to a matter mentioned in
21 subsection (1), the Commissioner must disclose the interest to:
22 (a) the person making the claim, the applicant or the person
23 receiving the pension (as the case requires); and
24 (b) the Minister.
- 25 (3) The disclosure must be made as soon as possible after the relevant
26 facts have come to the Commissioner's knowledge.
- 27 (4) The Commissioner must not take part in the Commission's
28 consideration or review of the matter, unless both of the following
29 consent to the Commissioner doing so:
30 (a) the person making the claim, the applicant or the person
31 receiving the pension (as the case requires);
32 (b) the Minister.
- 33 (5) If the Minister becomes aware that the Commissioner has or
34 acquires an interest, pecuniary or otherwise, that could conflict
35 with the proper performance of the Commissioner's functions in
36 relation to the matter:

- 1 (a) if the Minister considers that the Commissioner should not
 2 take part, or should not continue to take part, in the
 3 consideration or review of the matter by the Commission—
 4 the Minister must give a direction to the Commissioner
 5 accordingly; or
 6 (b) in any other case—the Minister must cause the interest of the
 7 Commissioner to be disclosed to the person making the
 8 claim, the applicant or the person receiving the pension (as
 9 the case requires).

10 (6) In this section:

11 *compensation* includes compensation under the DRCA.

12 *pension* means:

- 13 (a) a pension under Part II or IV of the VEA; or
 14 (b) a service pension (within the meaning of the VEA); or
 15 (c) an income support supplement (within the meaning of the
 16 VEA); or
 17 (d) an allowance or other benefit under the VEA.

18 **Division 2—Procedures of the Commission**

19 **@360CL Convening meetings**

- 20 (1) The Commission must hold such meetings as are necessary for the
 21 efficient performance of its functions.
 22 (2) The President:
 23 (a) may convene a meeting at any time; and
 24 (b) must convene a meeting within 30 days after receiving a
 25 written request to do so from a majority of Commissioners.

26 **@360CM Presiding at meetings**

- 27 (1) The President must preside at all meetings at which the President is
 28 present.
 29 (2) If the President is not present at a meeting, the Commissioners
 30 present must appoint one of themselves to preside.

1 **@360CQ Minutes**

2 The Commission must keep minutes of its meetings.

3 **@360CR Decisions without meetings**

4 (1) The Commission is taken to have made a decision at a meeting if:

5 (a) without meeting, a majority of the Commissioners entitled to
6 vote on the proposed decision indicate agreement with the
7 decision; and

8 (b) that agreement is indicated in accordance with the method
9 determined by the Commission under subsection (2); and

10 (c) all the Commissioners were informed of the proposed
11 decision, or reasonable efforts were made to inform all the
12 Commissioners of the proposed decision.

13 (2) Subsection (1) applies only if the Commission:

14 (a) has determined that it may make decisions of that kind
15 without meeting; and

16 (b) has determined the method by which Commissioners are to
17 indicate agreement with proposed decisions.

18 (3) For the purposes of paragraph (1)(a), a Commissioner is not
19 entitled to vote on a proposed decision if the Commissioner would
20 not have been entitled to vote on that proposal if the matter had
21 been considered at a meeting of the Commission.

22 (4) The Commission must keep a record of decisions made in
23 accordance with this section.

24 **Part 4—Other matters**

25
26 **@360D Staff**

27 (1) Any staff required to assist the Commission are to be persons
28 engaged under the *Public Service Act 1999* and made available for
29 the purpose by the Secretary.

- 1 (2) When performing services for the Commission, the staff are
2 subject to the directions of the Commission.

3 **@360DA Contractors**

4 The Commission may engage persons under a written agreement to
5 assist the Commission to perform or exercise the functions or
6 powers of the Commission.

7 **@360DB Delegation by the Commission**

- 8 (1) The Commission may, in writing, delegate all or any of its
9 functions or powers (other than the Commission's power under
10 subsection 6B(5) of this Act or subsection 69B(6) of the VEA) to:
11 (a) a Commissioner; or
12 (b) a member of the staff assisting the Commission; or
13 (c) a person engaged by the Commission under section
14 @360DA.

15 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
16 provisions relating to delegations.

- 17 (2) In performing a delegated function or exercising a delegated
18 power, the delegate must comply with any written directions of the
19 Commission.

20 **@360DC Annual report**

21 The Commission must, as soon as practicable after the end of each
22 financial year, prepare and give to the Minister, for presentation to
23 the Parliament, a report on the Commission's activities during the
24 financial year.

25 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
26 contains extra rules about annual reports.

27 **24 Subsection 409(5) (paragraph (d) of the definition of**
28 **receiving Commonwealth body)**

29 Repeal the paragraph.

30 **25 Paragraphs 410(1)(a) and (2)(a) and 411(1)(a)**

31 Repeal the paragraphs, substitute:

1 (a) is or was a Commissioner; or

2 **26 After section 427**

3 Insert:

4 **427A Commission may accept contributions**

5 (1) The Commission may accept from a person contributions of money
6 and other property made to it:

7 (a) for a purpose specified by the person, if application of the
8 money or other property for that purpose is necessary or
9 convenient to be done for, or in connection with, the
10 performance of the Commission's functions or duties; or

11 (b) for application by the Commission, as it deems fit, for, or in
12 connection with, the performance of the Commission's
13 functions or duties.

14 (2) Contributions accepted by the Commission in accordance with
15 subsection (1) may be applied:

16 (a) if the person making the contribution specified that the
17 person desired the contribution to be applied for a particular
18 purpose, for the benefit of a particular class of persons or for
19 the benefit of a particular institution maintained by the
20 Commission—for the purpose so specified; or

21 (b) in any other case—by the Commission as it deems fit, for, or
22 in connection with, the performance of the Commission's
23 functions or duties.

24 (3) Subject to subsection (2), contributions accepted by the
25 Commission in accordance with subsection (1) are to be dealt with
26 as prescribed and, subject to the regulations (if any) prescribing the
27 manner in which those contributions are to be dealt with, as
28 determined by the Commission.

29 **427B Commission may administer trusts**

30 (1) Subject to this section, the Commission may be appointed, and
31 may in its corporate name act, as trustee:

- 1 (a) under a will, settlement or other instrument creating a trust
2 for the benefit of members, former members, dependants of
3 members or former members or other persons who were
4 dependent on members or former members; or
5 (b) under the will of a member or former member creating a trust
6 for beneficiaries under that will.
- 7 (2) The Commission may decline to accept, or accept subject to such
8 conditions as it deems fit, a trust or appointment to act as trustee.
- 9 (3) If the Commission accepts an appointment as trustee of a trust, the
10 Commission:
11 (a) has the same powers, duties and liabilities; and
12 (b) is entitled to the same rights and immunities; and
13 (c) is subject to the same control by a court;
14 as a natural person would have, be entitled to and be subject to if
15 appointed to be, and acting as, trustee of that trust.
- 16 (4) If the Commission is a trustee of 2 or more trusts under this
17 section, the Commission may, subject to subsection (5), for the
18 purpose of investing the trust funds, pool the trust funds in respect
19 of those trusts.
- 20 (5) The Commission must not pool trust funds under subsection (4), or
21 invest trust funds pooled under that subsection, in a way that
22 prevents the trust funds held in respect of each trust being
23 identified sufficiently to enable the Commission to properly
24 perform its functions as trustee.
- 25 (6) The Commission may:
26 (a) make an arrangement with another person for the other
27 person to manage the trust funds; and
28 (b) for the purposes of such an arrangement, transfer the trust
29 funds to the other person;
30 but the making of such an arrangement, or the transferring of the
31 trust funds, does not relieve the Commission of any duties or
32 liabilities as trustee.
- 33 (7) The regulations may make provision for and in relation to the
34 investment of money vested in the Commission as trustee pending

1 application in accordance with the trust or for the purpose of
2 deriving income for application in accordance with the trust.

3 (8) In this section:

4 *trust funds*, in relation to a trust of which the Commission is the
5 trustee, means money vested in the Commission as trustee.

6 **27 Section 430A (heading)**

7 Omit “and disclosure”.

8 **28 Subsection 430A(1)**

9 Omit “member of the Commission”, substitute “Commissioner”.

10 **29 Subsections 430A(2) to (4)**

11 Repeal the subsections, substitute:

12 *Interaction with Privacy Act 1988*

13 (4) For the purposes of the *Privacy Act 1988*, the use of the details of
14 an account in accordance with subsection (1) is taken to be a use
15 that is authorised by this Act.

16 **30 Section 432**

17 Repeal the section, substitute:

18 **432 Trustees for persons entitled to compensation etc.**

19 (1) This section applies if:

20 (a) a person who is entitled to be paid any of the following is
21 under a legal disability:

22 (i) compensation under Chapter 3, 4, 5 or 6;

23 (ii) compensation under the DRCA;

24 (iii) a pension or allowance under the VEA;

25 (iv) a veteran payment (within the meaning of the VEA); or

26 (b) if such a person is under 18—there is no person who has the
27 primary responsibility for the daily care of that person.

28 (2) The Commission may, in writing:

1 (a) appoint the Commonwealth, or any other person, to be the
2 trustee of the payments; or

3 (b) itself assume the office of trustee of the payments.

4 Note: Section 433 sets out the powers of the trustee.

5 (3) The Commission may, in writing, revoke:

6 (a) the appointment of a trustee; or

7 (b) the assumption by the Commission of the office of trustee.

8 (4) If the Commission revokes the appointment of a trustee:

9 (a) the Commission may, in writing:

10 (i) appoint a new trustee; or

11 (ii) itself assume the office of trustee; and

12 (b) the trust funds vest in:

13 (i) if subparagraph (a)(i) applies—the new trustee; or

14 (ii) if subparagraph (a)(ii) applies—the Commission.

15 (5) If the Commission revokes the assumption by the Commission of
16 the office of trustee:

17 (a) the Commission may, in writing, appoint a new trustee; and

18 (b) the trust funds vest in the new trustee.

19 (6) If the Commission:

20 (a) revokes the appointment of a trustee and does not exercise its
21 powers under paragraph (4)(a); or

22 (b) revokes the assumption by the Commission of the office of
23 trustee and does not exercise its powers under
24 paragraph (5)(a);

25 the trust is terminated.

26 **31 Subsection 433(1)**

27 Repeal the subsection, substitute:

28 (1) If a trustee is appointed, or the Commission assumes the office of
29 trustee, under section 432 in respect of payments of compensation
30 and other benefits mentioned in paragraph 432(1)(a), the payments
31 are payable to the trustee.

1 **32 Paragraph 433(3)(a)**

2 After “compensation”, insert “or other benefit”.

3 **33 Subsection 434(1)**

4 Repeal the subsection, substitute:

5 (1) This section applies if:

6 (a) a trustee appointed under section 432 is the Commonwealth
7 or an APS employee; or

8 (b) the Commission assumes the office of trustee under
9 section 432.

10 **34 Subsection 434(3)**

11 Omit “under this Act”, substitute “or other benefits mentioned in
12 paragraph 432(1)(a)”.

13 **35 Subsection 434(5)**

14 After “compensation”, insert “or other benefits mentioned in
15 paragraph 432(1)(a)”.

16 **36 Paragraph 434(6)(a)**

17 After “compensation”, insert “or other benefits”.

18 **37 Subsection 435(1)**

19 After “compensation”, insert “or other benefits mentioned in
20 paragraph 432(1)(a)”.

21 **38 Subsection 435(1)**

22 Omit “employee of the Australian Public Service”, substitute “APS
23 employee”.

24 **39 Subsection 435(2)**

25 After “compensation”, insert “or other benefit”.

26 **40 Paragraph 437A(1)(a)**

27 Omit “Commission member”, substitute “Commissioner”.

1 ***Safety, Rehabilitation and Compensation (Defence-related***
2 ***Claims) Act 1988***

3 **41 Subsection 4(1)**

4 Insert:

5 *Commission* has the same meaning as in the MRCA.

6 **42 Subsection 4(1) (definition of MRCC)**

7 Repeal the definition.

8 **43 Section 110**

9 Repeal the section.

10 **44 Subsection 115(2)**

11 Omit “Repatriation”.

12 **45 Section 140**

13 Omit “Military Rehabilitation and Compensation”.

14 **46 The whole of the Act**

15 Omit every occurrence of “MRCC”, substitute “Commission”.

16 ***Veterans’ Entitlements Act 1986***

17 **47 Section 5 (paragraph beginning “Sections 5A to”)**

18 Omit “5A”, substitute “5B”.

19 **48 Section 5A**

20 Repeal the section.

21 **49 Subsection 5Q(1)**

22 Repeal the following definitions:

- 23 (a) definition of *acting commissioner*;
- 24 (b) definition of *Acting Deputy President*;
- 25 (c) definition of *Acting President*.

- 1 **50 Subsection 5Q(1) (definition of *Commission*)**
2 Omit “: see section 5A”, substitute “has the same meaning as in the
3 MRCA”.
- 4 **51 Subsection 5Q(1) (definition of *commissioner*)**
5 Repeal the definition.
- 6 **52 Subsection 5Q(1)**
7 Insert:
8 *Commissioner* has the same meaning as in the MRCA.
- 9 **53 Subsection 5Q(1)**
10 Repeal the following definitions:
11 (a) definition of *Deputy President*;
12 (b) definition of *Military Rehabilitation and Compensation*
13 *Commission*;
14 (c) definition of *President*.
- 15 **54 Subsection 5Q(1A)**
16 Omit “Parts VIII, XI and XIA,”, substitute “Part VIII”.
- 17 **55 Subparagraph 38(1BA)(b)(iii)**
18 Omit “Military Rehabilitation and Compensation”.
- 19 **56 Paragraph 45SB(1)(g)**
20 Omit “Military Rehabilitation and Compensation”.
- 21 **57 Section 58C**
22 Omit “and sections 202 to 202B”, substitute “of this Act and
23 sections 432 to 435 of the MRCA”.
- 24 **58 Subsection 91(8)**
25 Repeal the subsection, substitute:

- 1 (8) If the Pharmaceutical Benefits Remuneration Tribunal submits the
2 recommendations and a copy of the report to the Minister, the
3 Commission may:
4 (a) under subsection (4), vary the Repatriation Pharmaceutical
5 Benefits Scheme; or
6 (b) under subsection 286(5) of the MRCA, vary the
7 pharmaceutical benefits determination under section 286 of
8 that Act;
9 in any manner the Commission considers desirable as a result of its
10 consideration of the recommendations and the report.

11 **59 Section 106 (note)**

12 Omit “Military Rehabilitation and Compensation”.

13 **60 Subsection 122AA(1)**

14 Omit “commissioner of the Commission”, substitute “Commissioner”.

15 **61 Subsections 122AA(2) to (4)**

16 Repeal the subsections, substitute:

17 *Interaction with Privacy Act 1988*

- 18 (2) For the purposes of the *Privacy Act 1988*, the use of the details of
19 an account in accordance with subsection (1) is taken to be a use
20 that is authorised by this Act.

21 **62 Section 131 (paragraph (c) of the definition of *receiving***
22 ***Commonwealth body*)**

23 Repeal the paragraph.

24 **63 Part XI**

25 Repeal the Part.

26 **64 Sections 200 to 202B**

27 Repeal the sections.

28 **65 Subsection 203(4)**

29 Omit “, or the Military Rehabilitation and Compensation Commission,”.

1 **66 Subsection 212(1)**

2 Omit “(1)”.

3 **67 Paragraph 212(1)(a)**

4 Omit “commissioner”, substitute “Commissioner”.

5 **68 Subsection 212(4)**

6 Repeal the subsection.

7 **69 Sections 213 and 215**

8 Repeal the sections.

1 **Schedule 5—Repatriation Medical Authority**
2 **and Specialist Medical Review Council**
3

4 ***Military Rehabilitation and Compensation Act 2004***

5 **1 Section 3 (paragraph beginning “The procedure”)**

6 Before “and the administration of the Act”, insert “, the Repatriation
7 Medical Authority, the Specialist Medical Review Council”.

8 **2 Subsection 5(1)**

9 Insert:

10 ***Authority*** means the Repatriation Medical Authority continued in
11 existence by section @370B.

12 ***Authority member*** means a member of the Authority, appointed
13 under section @370DA, and includes the Chair of the Authority.

14 ***Councillor*** means a Councillor of the Review Council appointed
15 under section @380DA, and includes the Convener of the Review
16 Council.

17 ***presiding Councillor***: see subsection @380DK(3).

18 ***related to service***: see section @370C.

19 **3 Subsection 5(1) (definition of *Repatriation Medical***
20 ***Authority*)**

21 Repeal the definition.

22 **4 Subsection 5(1)**

23 Insert:

24 ***Review Council*** means the Specialist Medical Review Council
25 continued in existence by section @380B.

26 ***sound medical-scientific evidence***: see section @370CA.

1 **5 Subsection 5(1) (definition of *Statement of Principles*)**

2 Repeal the definition, substitute:

3 *Statement of Principles* means a Statement of Principles
4 determined under:

- 5 (a) section @370CB (Statement of Principles—reasonable
6 hypothesis); or
7 (b) section @370CC (Statement of Principles—balance of
8 probabilities); or
9 (c) subsection @370CN(1) (Statement of Principles where
10 directed by the Review Council—reasonable hypothesis); or
11 (d) subsection @370CN(3) (Statement of Principles where
12 directed by the Review Council—balance of probabilities).

13 **6 Section 22**

14 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “Chapter 9A”.

15 **7 Section 332**

16 Omit “the *Veterans’ Entitlements Act 1986 (VEA)*”, substitute
17 “Chapter 9A”.

18 **8 Section 332**

19 Omit “Part XIA of the VEA”, substitute “Part 3 of Chapter 9A”.

20 **9 Section 332**

21 Omit “under the VEA to the Repatriation Medical Authority (*RMA*)”,
22 substitute “to the Authority”.

23 **10 Section 332**

24 Omit “Part XIB of the VEA, the Specialist Medical”, substitute
25 “Chapter 9B, the”.

26 **11 Section 332 (paragraph beginning “Under Part XIB of the
27 VEA”)**

28 Omit “RMA” (wherever occurring), substitute “Authority”.

1 **12 Subsection 338(2)**

2 Omit “If the Repatriation Medical Authority has given notice under
3 section 196G of the *Veterans’ Entitlements Act 1986*”, substitute “If the
4 Authority has given notice under section @370CJ”.

5 **13 Paragraph 338(2)(c)**

6 Omit “subsection 196B(2) of that Act”, substitute “section @370CB”.

7 **14 Paragraph 338(3)(a)**

8 Omit “subsection 196B(2) or (11) of the *Veterans’ Entitlements Act*
9 *1986*”, substitute “section @370CB or subsection @370CN(1)”.

10 **15 Subsection 338(4)**

11 Omit “Repatriation Medical Authority has neither determined a
12 Statement of Principles under subsection 196B(2) of the *Veterans’*
13 *Entitlements Act 1986*”, substitute “Authority has neither determined a
14 Statement of Principles under section @370CB”.

15 **16 Subsection 339(2)**

16 Omit “Repatriation Medical Authority has given notice under
17 section 196G of the *Veterans’ Entitlements Act 1986*”, substitute
18 “Authority has given notice under section @370CJ”.

19 **17 Paragraph 339(2)(c)**

20 Omit “subsection 196B(3) of that Act”, substitute “section @370CC”.

21 **18 Subparagraph 339(3)(b)(i)**

22 Omit “subsection 196B(3) or (12) of the *Veterans’ Entitlements Act*
23 *1986*”, substitute “section @370CC or subsection @370CN(3)”.

24 **19 Subsection 339(4)**

25 Omit “Repatriation Medical Authority has neither determined a
26 Statement of Principles under subsection 196B(3) of the *Veterans’*
27 *Entitlements Act 1986*”, substitute “Authority has neither determined a
28 Statement of Principles under section @370CC”.

29 **20 Paragraph 340(1)(a)**

30 Omit “Repatriation Medical”.

1 **21 Paragraph 340(1)(a)**

2 Omit “(see section 196B of the *Veterans’ Entitlements Act 1986*)”,
3 substitute “(see Part 3 of Chapter 9A)”.

4 **22 Subsection 340(5)**

5 Omit “subsection 196B(2) of the *Veterans’ Entitlements Act 1986*”,
6 substitute “section @370CB”.

7 **23 Subsection 340(6)**

8 Omit “subsection 196B(3) of the *Veterans’ Entitlements Act 1986*”,
9 substitute “section @370CC”.

10 **24 Subsection 340(7)**

11 Repeal the subsection.

12 **25 Paragraph 341(1)(b)**

13 Omit “determined under section 196B of the *Veterans’ Entitlements Act*
14 *1986*”.

15 **26 After Chapter 9**

16 Insert:

17 **Chapter 9A—Repatriation Medical Authority**

18 **Part 1—Simplified outline of this Chapter**

19

20 **@370A Simplified outline of this Chapter**

21

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The Repatriation Medical Authority is continued in existence under
Part 2 of this Chapter.

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Part 2 also sets out the Authority’s functions. The Authority’s main
function is to determine Statements of Principles. A Statement of
Principles is an instrument that sets out all factors related to service
that have been found to cause specific injuries, diseases or death.

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Part 3 sets out the process for determining Statements of Principles.

Part 4 deals with the administration of the Authority, and includes provisions relating to Authority members, acting Authority members and meetings of the Authority.

Part 5 deals with staff, consultants, delegations by the Chair of the Authority and the Authority's annual report.

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Authority members and acting Authority members.

10 **Part 2—Establishment of Authority**
11

12 **@370B Establishment**

- 13 (1) The Repatriation Medical Authority that was, immediately before
14 the commencement of this section, in existence by virtue of the
15 VEA, is continued in existence under the same name.
- 16 (2) The Authority:
17 (a) is a body corporate with perpetual succession; and
18 (b) must have a seal; and
19 (c) may acquire, hold and dispose of real and personal property;
20 and
21 (d) may sue and be sued in its corporate name.
- 22 (3) Debts incurred by the Authority in the performance of its functions
23 are, for all purposes, taken to be debts incurred by the
24 Commonwealth.

25 **@370BA Application of the *Public Governance, Performance and***
26 ***Accountability Act 2013 to the Authority***

27 Despite paragraph 10(1)(d) of the *Public Governance,*
28 *Performance and Accountability Act 2013* and the definition of
29 *Department of State* in section 8 of that Act, the Authority is not a

1 Commonwealth entity for the purposes of that Act and is taken to
2 be part of the Department for those purposes.

3 Note: This means that the Authority members are officials of the
4 Department for the purposes of the *Public Governance, Performance*
5 *and Accountability Act 2013*.

6 **@370BB Functions and powers of the Authority**

- 7 (1) The functions of the Authority are:
8 (a) to determine Statements of Principles; and
9 (b) any other function conferred on the Authority by this Act, the
10 regulations or any other law of the Commonwealth.
- 11 (2) The Authority has power to do all things necessary or convenient
12 to be done for or in connection with the performance of its
13 functions.

14 **Part 3—Statements of Principles**

15 **Division 1—Preliminary**

16 **@370C Meaning of *related to service***

- 17 A factor causing, or contributing to, an injury, disease or death is
18 ***related to service*** rendered by a person if:
19 (a) it resulted from an occurrence that happened while the person
20 was rendering that service; or
21 (b) it arose out of, or was attributable to, that service; or
22 (c) it was contributed to in a material degree by, or was
23 aggravated by, that service; or
24 (d) in the case of a factor causing, or contributing to, an injury—
25 it resulted from an accident that would not have occurred:
26 (i) but for the rendering of that service by the person; or
27 (ii) but for changes in the person’s environment consequent
28 upon the person having rendered that service; or
29 (e) in the case of a factor causing, or contributing to, a disease—
30 it would not have occurred:
31 (i) but for the rendering of that service by the person; or

- 1 (ii) but for changes in the person’s environment consequent
2 upon the person having rendered that service; or
3 (f) in the case of a factor causing, or contributing to, the death of
4 a person—it was due to an accident that would not have
5 occurred, or to a disease that would not have been contracted:
6 (i) but for the rendering of that service by the person; or
7 (ii) but for changes in the person’s environment consequent
8 upon the person having rendered that service; or
9 (g) it resulted from an accident that occurred while the person
10 was travelling, while rendering that service but otherwise
11 than in the course of duty, on a journey:
12 (i) to a place for the purpose of performing duty; or
13 (ii) away from a place of duty upon having ceased to
14 perform duty.

15 **@370CA Meaning of *sound medical-scientific evidence***

16 Information about a particular kind of injury, disease or death is
17 taken to be *sound medical-scientific evidence* if:

- 18 (a) the information:
19 (i) is consistent with material relating to medical science
20 that has been published in a medical or scientific
21 publication and has been, in the opinion of the
22 Authority, subjected to a peer review process; or
23 (ii) in accordance with generally accepted medical practice,
24 would serve as the basis for the diagnosis and
25 management of a medical condition; and
26 (b) in the case of information about how that kind of injury,
27 disease or death may be caused—meets the applicable
28 criteria for assessing causation currently applied in the field
29 of epidemiology.

30 **Division 2—Determining Statements of Principles**

31 **@370CB Determining Statement of Principles—reasonable
32 hypothesis**

- 33 (1) If the Authority is of the view that there is sound medical-scientific
34 evidence that indicates that a particular kind of injury, disease or

1 death can be related to one of the following kinds of service
2 rendered by a person:

- 3 (a) warlike service;
- 4 (b) non-warlike service;
- 5 (c) British nuclear test defence service;
- 6 (d) hazardous service;

7 the Authority must, by legislative instrument, determine a
8 Statement of Principles in respect of that kind of injury, disease or
9 death.

10 Note 1: The Authority is required to make and amend a Statement of
11 Principles in certain circumstances (see section @370CG).

12 Note 2: The Authority must also make a Statement of Principles for
13 determining claims using the reasonable hypothesis standard of proof
14 when directed by the Review Council (see subsection @370CN(1)).

15 Note 3: This Act applies in relation to operational service as if it were warlike
16 service or non-warlike service (see section @443).

17 (2) The Statement of Principles must set out:

- 18 (a) the factors that must as a minimum exist; and
- 19 (b) which of those factors must be related to service rendered by
20 a person;

21 before it can be said that a reasonable hypothesis has been raised
22 connecting an injury, disease or death of that kind with the
23 circumstances of that service.

24 **@370CC Determining Statement of Principles—balance of** 25 **probabilities**

26 (1) If the Authority is of the view that on the sound medical-scientific
27 evidence available it is more probable than not that a particular
28 kind of injury, disease or death can be related to one of the
29 following kinds of service rendered by a person:

- 30 (a) peacetime service;
- 31 (b) service to which a claim mentioned in subsection 120B(1) of
32 the VEA relates;

33 the Authority must, by legislative instrument, determine a
34 Statement of Principles in respect of that kind of injury, disease or
35 death.

- 1 Note 1: The Authority is required to make and amend a Statement of
2 Principles in certain circumstances (see section @370CG).
- 3 Note 2: The Authority must also make a Statement of Principles for
4 determining claims using the balance of probabilities standard of
5 proof when directed by the Review Council (see subsection
6 @370CN(3)).
- 7 (2) The Statement of Principles must set out:
8 (a) the factors that must exist; and
9 (b) which of those factors must be related to service rendered by
10 a person;
11 before it can be said that, on the balance of probabilities, an injury,
12 disease or death of that kind is connected with the circumstances of
13 that service.

14 Division 3—Investigations by the Authority

15 Subdivision A—When investigations must be carried out

16 @370CD Initial investigation

- 17 If the Authority:
18 (a) receives a request under section @370CH to carry out an
19 investigation in respect of a particular kind of injury, disease
20 or death; or
21 (b) of its own initiative, decides that a particular kind of injury,
22 disease or death ought to be investigated to find out whether
23 a Statement of Principles may be determined in respect of it;
24 the Authority must carry out an investigation to obtain information
25 that would enable the Authority to establish:
26 (c) how the injury may be suffered or sustained, the disease may
27 be contracted or the death may occur; and
28 (d) the extent (if any) to which the injury, disease or death may
29 be a service injury, a service disease or a service death.
- 30 Note 1: After carrying out an investigation under this section, the Authority
31 must either make a Statement of Principles, or make a declaration
32 stating it does not propose to make a Statement of Principles (see
33 section @370CG).

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Note 2: This section does not mean that the Authority must carry out an investigation before it can determine a Statement of Principles under section @370CB or @370CC.

@370CE Subsequent investigation

- (1) If the Authority:
 - (a) receives a request under section @370CH to review:
 - (i) some or all of the contents of a Statement of Principles;
or
 - (ii) a decision of the Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or
 - (b) thinks that there are grounds for such a review; or
 - (c) is directed by the Review Council under subsection @380CA(2) to carry out an investigation in respect of a particular kind of injury, disease or death;

the Authority must carry out an investigation to find out if there is new information available about:

 - (d) how the injury may be suffered or sustained, the disease may be contracted or the death may occur; or
 - (e) the extent (if any) to which the injury, disease or death may be a service injury, a service disease or a service death.

Note: The Authority is not required to carry out an investigation in certain circumstances (see section @370CF).

- (2) If the investigation:
 - (a) relates to a request under section @370CH to review some of the contents of a Statement of Principles; or
 - (b) is one to which paragraph (1)(b) of this section applies and that relates to some of the contents of a Statement of Principles; or
 - (c) is carried out because of a direction under subsection @380CA(2) by the Review Council, following a request to the Review Council under section @380CC to review the Authority’s refusal to carry out an investigation relating to a request under section @370CH, to review some of the contents of a Statement of Principles;

1 the Authority may limit its investigation to matters relating to those
2 contents.

3 Note: After carrying out an investigation under this section, the Authority
4 must either make or amend a Statement of Principles, or make a
5 declaration stating it does not propose to make or amend a Statement
6 of Principles (see section @370CG).

7 **@370CF Circumstances when investigation not required**

8 (1) If:

- 9 (a) the Authority has carried out an investigation in respect of a
10 particular kind of injury, disease or death; and
11 (b) within 12 months after the Authority has, at the end of the
12 investigation:
13 (i) determined or amended a Statement of Principles; or
14 (ii) declared that it does not propose to make or amend a
15 Statement of Principles;
16 a person or organisation asks the Authority under
17 section @370CH to review:
18 (iii) some or all of the contents of the Statement of
19 Principles; or
20 (iv) its decision not to make a Statement of Principles; and
21 (c) the Authority thinks that there are no grounds for such a
22 review;

23 the Authority may decide not to carry out an investigation in
24 respect of that kind of injury, disease or death.

25 (2) The Authority may decide not to carry out an investigation in
26 respect of a request for a review of a kind mentioned in
27 paragraph @370CH(2)(b) or (c) if:

- 28 (a) the request does not state the grounds on which the review is
29 sought; or
30 (b) the Authority considers that the request does not identify
31 sufficient relevant information:
32 (i) to support the grounds on which the review is sought; or
33 (ii) to otherwise justify the review; or
34 (c) the request is vexatious or frivolous.

- 1 (3) If the Authority decides under subsection (1) or (2) not to carry out
2 an investigation, it must inform the person or organisation in
3 writing of the decision, stating the reasons for it.

4 **Subdivision B—Action following investigation**

5 **@370CG Action following investigation**

6 *Decision to determine etc. a Statement of Principles*

- 7 (1) If, after carrying out an investigation under section @370CD, the
8 Authority is of the view that there is sound medical-scientific
9 evidence on which it can rely to determine a Statement of
10 Principles under section @370CB or @370CC in respect of a kind
11 of injury, disease or death, the Authority must do so as soon as
12 practicable.
- 13 (2) If, after carrying out an investigation under section @370CE, the
14 Authority is of the view that there is a new body of sound
15 medical-scientific evidence that, together with sound
16 medical-scientific evidence previously considered by the
17 Authority, justifies the determination, or amendment, of a
18 Statement of Principles under section @370CB or @370CC in
19 respect of a kind of injury, disease or death that can be related to
20 service rendered by a person, the Authority must do one or more of
21 the following as the case requires:
- 22 (a) determine a Statement of Principles under section @370CB
23 or @370CC in respect of that kind of injury, disease or death;
 - 24 (b) amend an existing Statement of Principles in respect of that
25 kind of injury, disease or death;
 - 26 (c) revoke an existing Statement of Principles, and determine a
27 new Statement of Principles under section @370CB or
28 @370CC, in respect of that kind of injury, disease or death.

29 *Decision not to determine etc. Statement of Principles*

- 30 (3) If, after carrying out an investigation under section @370CD in
31 respect of a particular kind of injury, disease or death, the
32 Authority is of the view:

- 1 (a) that there is no sound medical-scientific evidence on which it
2 can rely to determine a Statement of Principles under section
3 @370CB or @370CC in respect of that kind of injury,
4 disease or death; or
5 (b) that the sound medical-scientific evidence on which it can
6 rely is insufficient to allow it to do so;
7 the Authority must make a declaration in writing:
8 (c) stating that it does not propose to make a Statement of
9 Principles; and
10 (d) giving the reasons for its decision.
- 11 (4) If, after carrying out an investigation under section @370CE in
12 respect of a particular kind of injury, disease or death, the
13 Authority is of the view:
14 (a) that there is no new sound medical-scientific evidence about
15 that kind of injury, disease or death; or
16 (b) that the new sound medical-scientific evidence available is
17 not sufficient to justify the making of a Statement of
18 Principles, or an amendment of the Statement of Principles
19 already determined in respect of that kind of injury, disease
20 or death;
21 the Authority must make a declaration in writing:
22 (c) stating that it does not propose to make a Statement of
23 Principles, or amend the Statement of Principles already
24 determined (as the case may be); and
25 (d) giving the reasons for its decision.
- 26 *Notice of decision not to determine etc. Statement of Principles*
- 27 (5) If the Authority decides not to make, or not to review or not to
28 amend, a Statement of Principles, it must, within 14 days, notify
29 the Commission in writing of its decision.
- 30 (6) If the decision is made following a request from a person or
31 organisation under section @370CH, the Authority must also
32 notify the person or organisation in writing of its decision.

1 *Decisions not legislative instruments*

2 (7) A declaration under subsection (3) or (4) is not a legislative
3 instrument.

4 **Subdivision C—Requests for investigation or review**

5 **@370CH Request for investigation or review**

6 (1) Any of the following may request the Authority to carry out an
7 investigation or review of a kind mentioned in subsection (2):

8 (a) the Commission;

9 (b) a person eligible to make a claim for compensation under
10 section 319;

11 (c) an organisation representing veterans, Australian mariners or
12 members of the Forces (all within the meaning of the VEA);

13 (d) an organisation representing members or their dependants.

14 (2) For the purposes of subsection (1), the kinds of investigation or
15 review are as follows:

16 (a) an investigation under section @370CD in respect of a
17 particular kind of injury, disease or death;

18 (b) a review of a decision of the Authority not to make a
19 Statement of Principles in respect of a particular kind of
20 injury, disease or death following an investigation under
21 section @370CD;

22 (c) a review of some or all of the contents of a Statement of
23 Principles.

24 (3) A request under subsection (1) must be made:

25 (a) in a form approved by the Authority; and

26 (b) in a manner approved by the Chair of the Authority.

27 (4) If the request is a request for a review of a kind mentioned in
28 paragraph (2)(b) or (c), the request must also:

29 (a) state the grounds on which the review is sought; and

30 (b) identify any information relied on to support those grounds.

1 **@370CI Authority may consolidate requests**

2 If:

- 3 (a) 2 or more requests for review are made under
4 section @370CH; and
5 (b) the requests are in relation to the same injury, disease or
6 death;
7 the Authority may carry out one investigation in relation to those
8 requests.

9 **Subdivision D—Conduct of investigations**

10 **@370CJ Notice of investigation**

- 11 (1) As soon as practicable after the Authority:
12 (a) has been asked under section @370CH to carry out:
13 (i) an investigation; or
14 (ii) a review of a decision of the Authority not to make a
15 Statement of Principles; or
16 (iii) a review of some or all of the contents of a Statement of
17 Principles;
18 regarding a particular kind of injury, disease or death; or
19 (b) has decided on its own initiative to carry out such an
20 investigation or such a review;
21 the Authority must, by notifiable instrument:
22 (c) give notice stating that the Authority intends to carry out an
23 investigation in respect of that kind of injury, disease or
24 death; and
25 (d) invite persons or organisations authorised under
26 subsection @370CL(1) to do so to make written submissions
27 to the Authority.
- 28 (2) The notifiable instrument under subsection (1):
29 (a) must specify:
30 (i) the date on which the Authority will hold its first
31 meeting for the purposes of the investigation; and
32 (ii) the date by which all submissions must have been
33 received by the Authority; and

1 (b) must be made at least 28 days before the date of the first
2 meeting of the Authority.

3 (3) A failure to comply with paragraph (2)(a) does not affect the
4 validity of the notifiable instrument.

5 **@370CK Powers of Authority with respect to investigations**

6 (1) The Authority may not, for the purposes of an investigation, carry
7 out any new research work (including any test or experiment).

8 (2) The Authority may, for the purposes of an investigation, ask the
9 Secretary:

10 (a) to forward to the Authority any information:

11 (i) in the possession of the Secretary; or

12 (ii) that the Secretary may obtain;

13 relating to the kind of injury, disease or death under
14 investigation; or

15 (b) to carry out research (including any test or experiment) to
16 obtain, confirm or disprove specific information about the
17 kind of injury, disease or death under investigation and
18 forward a report to the Authority.

19 (3) In forming any view during the investigation, the Authority:

20 (a) may rely only on sound medical-scientific evidence:

21 (i) that has been submitted to it; or

22 (ii) that it has obtained on its own initiative or from the
23 Secretary (under subsection (2)) or from a consultant;
24 and

25 (b) must consider and evaluate all the evidence so made
26 available to it.

27 **@370CL Submissions to the Authority**

28 (1) If the Authority is carrying out an investigation under
29 section @370CD or @370CE, any person or organisation referred
30 to in any of paragraphs @370CH(1)(a) to (d) may make a
31 submission in writing to the Authority on any matter (other than a
32 legal matter) relevant to the investigation.

- 1 (2) A person having expertise in a field relevant to the investigation
2 may make a submission in writing to the Authority on any matter
3 (other than a legal matter) within the person’s expertise that is
4 relevant to the investigation.
- 5 (3) If an individual, the Commission or an organisation has made a
6 written submission, the individual or the individual’s
7 representative, or a representative of the Commission or of the
8 organisation may, subject to subsection (4), appear before the
9 Authority to make an oral submission complementing the written
10 submission. The oral submission may not cover any legal matter.
- 11 (4) A person or organisation may not be represented before the
12 Authority by a legal practitioner.

13 **Division 4—Matters relating to reviews by the Review**
14 **Council**

15 **@370CM Authority to send information to Review Council**

- 16 The Authority must, within 28 days after being notified that the
17 Review Council has been asked to review:
- 18 (a) a Statement of Principles; or
19 (b) a decision of the Authority not to determine a Statement of
20 Principles in respect of a particular kind of injury, disease or
21 death; or
22 (c) a decision of the Authority not to amend a Statement of
23 Principles in respect of a particular kind of injury, disease or
24 death; or
25 (d) a decision of the Authority under subsection @370CF(1) not
26 to carry out an investigation in respect of a particular kind of
27 injury, disease or death;
- 28 send to the Review Council a copy of all the information that was
29 available to the Authority when it:
- 30 (e) determined, amended, or last amended, the Statement of
31 Principles; or
32 (f) decided, or last decided, not to determine, or not to amend, a
33 Statement of Principles in respect of that kind of injury,
34 disease or death; or

1 (g) decided not to carry out the investigation.

2 **@370CN Action following review by Review Council**

3 *Determining a Statement of Principles where directed by the*
4 *Review Council—reasonable hypothesis*

- 5 (1) If, after reviewing a decision of the Authority not to determine a
6 Statement of Principles under section @370CB in respect of a
7 particular kind of injury, disease or death, the Review Council
8 directs the Authority under subsection @380C(4) to determine
9 such a Statement of Principles, the Authority must, by legislative
10 instrument, determine a Statement of Principles in respect of that
11 kind of injury, disease or death.
- 12 (2) The Statement of Principles must set out, in accordance with the
13 direction of the Review Council:
- 14 (a) the factors that must as a minimum exist; and
 - 15 (b) which of those factors must be related to service rendered by
16 a person;
- 17 before it can be said that a reasonable hypothesis has been raised
18 connecting an injury, disease or death of that kind with the
19 circumstances of that service.

20 *Determining a Statement of Principles where directed by the*
21 *Review Council—balance of probabilities*

- 22 (3) If, after reviewing a decision of the Authority not to determine a
23 Statement of Principles under section @370CC in respect of a
24 particular kind of injury, disease or death, the Review Council
25 directs the Authority under subsection @380C(4) to determine
26 such a Statement of Principles, the Authority must, by legislative
27 instrument, determine a Statement of Principles in respect of that
28 kind of injury, disease or death.
- 29 (4) The Statement of Principles must set out, in accordance with the
30 direction of the Review Council:
- 31 (a) the factors that must exist; and
 - 32 (b) which of those factors must be related to service rendered by
33 a person;

1 before it can be said that, on the balance of probabilities, an injury,
2 disease or death of that kind is connected with the circumstances of
3 that service.

4 *Amending a Statement of Principles where directed by the Review*
5 *Council*

6 (5) If, under subsection @380C(4), the Review Council directs the
7 Authority to amend a Statement of Principles in respect of a kind
8 of injury, disease or death, the Authority must do so in accordance
9 with the directions of the Review Council.

10 *Requirements where Statement of Principles made or amended*
11 *under this section*

12 (6) A Statement of Principles as determined or amended under this
13 section:
14 (a) is taken to have commenced on the day on which the Review
15 Council made the notifiable instrument under
16 subsection @380C(4) directing the Authority to do so; and
17 (b) must specify that day.

18 (7) Subsection 12(2) (retrospective application of legislative
19 instruments) of the *Legislation Act 2003* does not apply in relation
20 to a Statement of Principles determined or amended under this
21 section.

22 *Amendment and revocation of Statement of Principles made or*
23 *amended under this section*

24 (8) A Statement of Principles, as determined or amended under this
25 section, may be amended or revoked by the Authority in the same
26 way as if it had been determined or amended under
27 section @370CB or @370CC, as applicable.

1 **Part 4—Administration**

2 **Division 1—Membership etc.**

3 **@370D Membership**

4 The Authority consists of the Chair of the Authority and 4 other
5 members.

6 **@370DA Appointment of Authority members**

7 (1) The Authority members are to be appointed by the Minister by
8 written instrument.

9 Note: An Authority member may be reappointed (see section 33AA of the
10 *Acts Interpretation Act 1901*).

11 (2) The Minister must not appoint a person as Chair of the Authority
12 unless the person is a medical practitioner, or a medical scientist,
13 with at least 10 years' experience.

14 (3) In making appointments, the Minister must ensure that at least one
15 Authority member has at least 5 years' experience in the field of
16 epidemiology.

17 **@370DB Basis and period of appointment**

18 (1) An Authority member is to be appointed on a part-time basis.

19 (2) An Authority member holds office for the period specified in the
20 instrument of appointment. The period must not exceed 5 years.

21 **@370DC Acting appointments**

22 The Minister may, by written instrument, appoint an Authority
23 member to act as the Chair of the Authority:

24 (a) during a vacancy in the office of the Chair (whether or not an
25 appointment has previously been made to the office); or

26 (b) during any period, or during all periods, when the Chair:

27 (i) is absent from duty; or

1 (ii) is, for any reason, unable to perform the duties of the
2 office.

3 **@370DD Remuneration**

4 (1) An Authority member is to be paid the remuneration that is
5 determined by the Remuneration Tribunal. If no determination of
6 that remuneration by the Tribunal is in operation, the Authority
7 member is to be paid the remuneration that is prescribed under
8 subsection (4).

9 (2) An Authority member is to be paid the allowances that are
10 prescribed under subsection (4).

11 (3) This section has effect subject to the *Remuneration Tribunal Act*
12 *1973*.

13 (4) The Minister may, by legislative instrument, prescribe:

- 14 (a) remuneration for the purposes of subsection (1); and
15 (b) allowances for the purposes of subsection (2).

16 **@370DE Other terms and conditions**

17 An Authority member holds office on the terms and conditions (if
18 any) in relation to matters not covered by this Act that are
19 determined by the Minister.

20 **@370DF Resignation**

21 (1) An Authority member may resign the Authority member's
22 appointment by giving the Minister a written resignation.

23 (2) The resignation takes effect on the day it is received by the
24 Minister or, if a later day is specified in the resignation, on that
25 later day.

26 **@370DG Termination of appointment**

27 The Minister may terminate the appointment of an Authority
28 member:

- 29 (a) for misbehaviour; or

- 1 (b) if the Authority member is unable to perform the duties of
2 the Authority member's office because of physical or mental
3 incapacity; or
4 (c) if the Authority member:
5 (i) becomes bankrupt; or
6 (ii) applies to take the benefit of any law for the relief of
7 bankrupt or insolvent debtors; or
8 (iii) compounds with the Authority member's creditors; or
9 (iv) makes an assignment of the Authority member's
10 remuneration for the benefit of the Authority member's
11 creditors; or
12 (d) the Authority member fails, without reasonable excuse, to
13 comply with section 29 of the *Public Governance,*
14 *Performance and Accountability Act 2013* (which deals with
15 the duty to disclose interests) or rules made for the purposes
16 of that section.

17 **Division 2—Procedures of the Authority**

18 **@370DH Convening meetings**

- 19 (1) The Authority must hold such meetings as are necessary for the
20 efficient performance of its functions.
21 (2) The Chair of the Authority may convene a meeting at any time.

22 **@370DI Presiding at meetings**

23 The Chair of the Authority must preside at all meetings of the
24 Authority.

25 **@370DJ Quorum**

- 26 (1) At a meeting of the Authority, a quorum is constituted by 3
27 Authority members.
28 (2) However, if:
29 (a) an Authority member is required by rules made for the
30 purposes of section 29 of the *Public Governance,*

1 **@370EA Consultants**

- 2 (1) The Authority may engage consultants to provide expert advice to
3 the Authority about any disease, injury or death that the Authority
4 is investigating.
- 5 (2) The Authority must not engage a consultant without the approval
6 of the Minister.

7 **@370EB Delegation by Chair of the Authority**

- 8 (1) The Chair of the Authority may, in writing, delegate the Chair's
9 power under subsection @370DH(2) to:
10 (a) an Authority member; or
11 (b) a member of the staff assisting the Authority.

12 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
13 provisions relating to delegations.

- 14 (2) In performing a delegated power, the delegate must comply with
15 any written directions of the Chair.

16 **@370EC Annual report**

17 The Authority must, as soon as practicable after the end of each
18 financial year, prepare and give to the Minister, for presentation to
19 the Parliament, a report on the Authority's activities during the
20 financial year.

21 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
22 contains extra rules about annual reports.

1 **Chapter 9B—Specialist Medical Review**
2 **Council**

3 **Part 1—Simplified outline of this Chapter**
4

5 **@380A Simplified outline of this Chapter**

6 The Specialist Medical Review Council is continued in existence
7 under Part 2 of this Chapter.

8 Part 2 also sets out the Review Council’s functions. The Review
9 Council’s main function is to review decisions of the Authority in
10 relation to Statements of Principles.

11 Part 3 sets out the process for reviews undertaken by the Review
12 Council.

13 Part 4 deals with the administration of the Review Council, and
14 includes provisions relating to Councillors and meetings of the
15 Review Council.

16 Part 5 deals with staff and delegations by the Convener of the
17 Review Council.

18 Part 7 of the *Acts Interpretation Act 1901* also has provisions that
19 are relevant to Councillors.

20 **Part 2—Establishment of Review Council**
21

22 **@380B Establishment**

- 23 (1) The Specialist Medical Review Council that was, immediately
24 before the commencement of this section, in existence by virtue of
25 the VEA, is continued in existence under the same name.
- 26 (2) The Review Council:

- 1 (a) is a body corporate with perpetual succession; and
2 (b) must have a seal; and
3 (c) may acquire, hold and dispose of real and personal property;
4 and
5 (d) may sue and be sued in its corporate name.
- 6 (3) Debts incurred by the Review Council in the performance of its
7 functions are, for all purposes, taken to be debts incurred by the
8 Commonwealth.

9 **@380BA Application of the *Public Governance, Performance and***
10 ***Accountability Act 2013 to the Review Council***

11 Despite paragraph 10(1)(d) of the *Public Governance,*
12 *Performance and Accountability Act 2013* and the definition of
13 ***Department of State*** in section 8 of that Act, the Review Council is
14 not a Commonwealth entity for the purposes of that Act and is
15 taken to be part of the Department for those purposes.

16 Note: This means that the Councillors are officials of the Department for the
17 purposes of the *Public Governance, Performance and Accountability*
18 *Act 2013*.

19 **@380BB Functions and powers of the Review Council**

- 20 (1) The functions of the Review Council are:
21 (a) to review decisions made by the Authority in relation to
22 Statements of Principles; and
23 (b) any other function conferred on the Review Council by this
24 Act, the regulations or any other law of the Commonwealth.
- 25 (2) The Review Council has power to do all things necessary or
26 convenient to be done for or in connection with the performance of
27 its functions.

1 **Part 3—Reviews by the Review Council**

2 **Division 1—Review of decisions of the Authority**

3 **@380C Review of decision relating to Statement of Principles**

4 *When review is to be carried out*

5 (1) If the Review Council is asked under section @380CB to review:

- 6 (a) some or all of the contents of a Statement of Principles in
7 respect of a particular kind of injury, disease or death; or
8 (b) a decision of the Authority not to determine a Statement of
9 Principles in respect of a particular kind of injury, disease or
10 death; or
11 (c) a decision of the Authority not to amend a Statement of
12 Principles in respect of a particular kind of injury, disease or
13 death;

14 then, subject to subsection (2), the Review Council must, for that
15 purpose, carry out a review of all the information that was
16 available to the Authority when it:

- 17 (d) determined, amended, or last amended, the Statement of
18 Principles; or
19 (e) decided, or last decided, not to determine, or not to amend, a
20 Statement of Principles;

21 in respect of that kind of injury, disease or death.

22 (2) If the Review Council has been asked to review some or all of the
23 contents of a Statement of Principles, the Review Council may
24 carry out a review under subsection (1) only if:

- 25 (a) the period within which the Statement of Principles may be
26 disallowed under section 42 of the *Legislation Act 2003* has
27 ended; and
28 (b) the Statement of Principles has not been disallowed.

29 (3) If:

- 30 (a) the Review Council has been asked to review some or all of
31 the contents of a Statement of Principles in respect of a
32 particular kind of injury, disease or death; and

1 (b) there is another Statement of Principles in force in respect of
2 that kind of injury, disease or death, but the Review Council
3 has not been asked to review some or all of the contents of
4 that other Statement of Principles;
5 then the Review Council must also review that other Statement of
6 Principles by reviewing the information subsection (1) requires it
7 to review in reviewing the Statement of Principles it has been
8 asked to review.

9 *Outcome of review*

10 (4) If, after carrying out the review, the Review Council is of the view
11 that there is sound medical-scientific evidence on which the
12 Authority could have relied:

- 13 (a) to amend either or both of the Statements of Principles in
14 force in respect of that kind of injury, disease or death; or
15 (b) to determine a Statement of Principles in respect of that kind
16 of injury, disease or death;

17 the Review Council must, by notifiable instrument, make a
18 declaration stating its views, setting out the evidence in support
19 and:

- 20 (c) directing the Authority to amend either or both of the
21 Statements of Principles, or determine a Statement of
22 Principles (as the case may be), in accordance with the
23 directions given by the Review Council; or
24 (d) remitting the matter for reconsideration by the Authority in
25 accordance with any directions or recommendations of the
26 Review Council.

27 (5) If, after carrying out the review, the Review Council is of the view:

- 28 (a) that there is no sound medical-scientific evidence that
29 justifies the making of a Statement of Principles, or an
30 amendment of either or both of the Statements of Principles,
31 in respect of that kind of injury, disease or death; or
32 (b) that the sound medical-scientific evidence available to the
33 Authority is insufficient to justify the making of a Statement
34 of Principles, or an amendment of either or both of the
35 Statements of Principles, in respect of that kind of injury,
36 disease or death;

1 the Review Council must, by notifiable instrument, make a
2 declaration to that effect giving the reasons for its decision. The
3 Review Council may include in the declaration any
4 recommendation that it considers fit to make about any future
5 investigation that the Authority may carry out in respect of that
6 kind of injury, disease or death.

7 *Notification of outcome of review*

- 8 (6) The Review Council must give a copy of the notifiable instrument
9 made under subsection (4) or (5) to:
10 (a) the person or organisation that asked for the review; and
11 (b) the Commission (if it is not the person referred to in
12 paragraph (a) of this subsection); and
13 (c) the Authority.

14 **@380CA Review of decision not to carry out investigation**

- 15 (1) If the Review Council is asked under section @380CC to review a
16 decision of the Authority under subsection @370CF(1) not to carry
17 out an investigation in respect of a particular kind of injury, disease
18 or death, the Review Council must consider:
19 (a) the reasons given by the Authority for making the decision;
20 and
21 (b) the information on which the Authority relied in making that
22 decision; and
23 (c) the grounds on which the request for the review was made
24 and any submission made in support of those grounds.
- 25 (2) If, after considering the matters referred to in paragraphs (1)(a), (b)
26 and (c), the Review Council is of the view that:
27 (a) there appears to be a new body of sound medical-scientific
28 evidence in respect of that kind of injury, disease or death
29 that has not been previously considered by the Authority; and
30 (b) that new body of evidence, together with the sound
31 medical-scientific evidence available to the Authority, could
32 justify the making of a Statement of Principles, or an
33 amendment of the Statement of Principles already
34 determined, in respect of that kind of injury, disease or death;

1 the Review Council must, by notifiable instrument, make a
2 declaration to that effect giving the reasons for its decision and
3 directing the Authority to carry out an investigation under
4 subsection @370CE in respect of that kind of injury, disease or
5 death. The Review Council may include in the declaration any
6 recommendation or direction that the Review Council considers fit
7 to make about the carrying out of the investigation.

8 (3) If, after considering the matters referred to in paragraphs (1)(a), (b)
9 and (c), the Review Council is not of the view referred to in
10 subsection (2) in respect of that kind of injury, disease or death, the
11 Review Council must, by notifiable instrument, make a
12 declaration:

- 13 (a) affirming the decision of the Authority not to carry out the
14 investigation; and
15 (b) giving the reasons for its decision.

16 The Review Council may include in the declaration any
17 recommendation that it considers fit to make about any future
18 investigation that the Authority may carry out in respect of that
19 kind of injury, disease or death.

20 (4) The Review Council must give a copy of the notifiable instrument
21 made under subsection (2) or (3) to:

- 22 (a) the person or organisation that asked for the review; and
23 (b) the Commission (if it is not the person referred to in
24 paragraph (a) of this subsection); and
25 (c) the Authority.

26 **Division 2—Requests for review**

27 **@380CB Request for review of contents of Statement of Principles**

28 (1) Subject to subsection (2), any of the following:

- 29 (a) the Commission;
30 (b) a person eligible to make a claim for compensation under
31 section 319;
32 (c) an organisation representing veterans, Australian mariners or
33 members of the Forces (all within the meaning of the VEA);

- 1 (d) an organisation representing members or their dependants;
2 may ask the Review Council to review:
3 (e) some or all of the contents of a Statement of Principles; or
4 (f) a decision of the Authority not to make, or not to amend, a
5 Statement of Principles in respect of a particular kind of
6 injury, disease or death.
- 7 (2) The request must be made:
8 (a) in the case of a request to review some or all of the contents
9 of a Statement of Principles—within 3 months after the
10 Statement of Principles was made, amended or last amended;
11 or
12 (b) in any other case—within 3 months after the decision of the
13 Authority.
- 14 (3) A request must:
15 (a) state the grounds on which the review is sought; and
16 (b) be made in a manner approved by the Convener of the
17 Review Council.
- 18 (4) The Review Council must notify the Secretary and the Authority of
19 the request within 28 days after receiving the request.

20 **@380CC Request for review of decision of Authority not to carry**
21 **out an investigation**

- 22 (1) If:
23 (a) a person or organisation asks the Authority under
24 section @370CH to review:
25 (i) some or all of the contents of a Statement of Principles
26 in respect of a particular kind of injury, disease or death;
27 or
28 (ii) the Authority's decision not to make a Statement of
29 Principles in respect of a particular kind of injury,
30 disease or death; and
31 (b) the Authority refuses under subsection @370CF(1) to carry
32 out an investigation in respect of that kind of injury, disease
33 or death;

1 the person or organisation may, within 3 months after the refusal,
2 ask the Review Council to review the decision of the Authority not
3 to carry out the investigation.

4 (2) The request must:

- 5 (a) state the grounds on which the review is sought; and
6 (b) be accompanied by any submission that the person or
7 organisation wishes to submit in support of those grounds;
8 and
9 (c) be made in a manner approved by the Convener of the
10 Review Council.

11 (3) The Review Council must notify the Secretary and the Authority of
12 the request within 28 days after receiving the request.

13 **Division 3—Conduct of investigations**

14 **@380CD Notice of investigation**

15 (1) As soon as practicable after the Review Council has been asked
16 under section @380CB to review:

- 17 (a) a decision of the Authority not to make, or not to amend, a
18 Statement of Principles in respect of a particular kind of
19 injury, disease or death; or
20 (b) some or all of the contents of a Statement of Principles in
21 respect of a particular kind of injury, disease or death;

22 the Review Council must, by notifiable instrument:

- 23 (c) give notice stating that the Review Council intends to carry
24 out a review of the information available to the Authority
25 about that kind of injury, disease or death; and
26 (d) invite persons or organisations authorised under
27 subsection @380CE(1) to do so to make written submissions
28 to the Review Council.

29 (2) The notifiable instrument under subsection (1):

- 30 (a) must specify the date by which all submissions must have
31 been received by the Review Council; and

1 (b) must be made at least 28 days before the date of the first
2 meeting of the Review Council for the purposes of the
3 review.

4 (3) A failure to comply with paragraph (2)(a) does not affect the
5 validity of the notifiable instrument.

6 **@380CE Submissions to Review Council**

7 (1) If the Review Council is carrying out a review under
8 section @380C, any person or organisation referred to in any of
9 paragraphs @380CB(1)(a) to (c) may make a submission in writing
10 to the Review Council about any information (**relevant**
11 **information**) that was both available to the Authority and is
12 relevant to the review.

13 (2) A person having expertise in a field relevant to the investigation
14 may make a submission in writing to the Review Council on any
15 relevant information pertaining to that field.

16 (3) If an individual, the Commission or an organisation has made a
17 written submission, the individual or the individual's
18 representative, or a representative of the Commission or of the
19 organisation may, subject to subsection (5), appear before the
20 Review Council to make an oral submission complementing the
21 written submission.

22 (4) If the Review Council is carrying out a review under
23 section @380CA at the request of an individual, the Commission
24 or an organisation, the individual or the individual's representative,
25 or a representative of the Commission or of the organisation may,
26 subject to subsection (5), appear before the Review Council to
27 make an oral submission complementing the written submission (if
28 any) made under paragraph @380CC(2)(b).

29 (5) A person or organisation may not be represented before the Review
30 Council by a legal practitioner.

31 (6) In this section, a reference to a submission does not include a
32 submission on a legal matter.

1 **Division 4—Payment of medical and travelling expenses**

2 **@380CF Medical expenses**

- 3 (1) The Commonwealth may, subject to this section, pay to a person
4 (the *applicant*) who asks the Review Council to conduct a review
5 under this Part an amount to cover the medical expenses incurred
6 by the applicant in respect of medical evidence relevant to, and
7 obtained by the applicant for the purposes of, the review and
8 submitted to the Review Council.
- 9 (2) The applicant must not be paid more than the amount prescribed
10 by, or worked out in accordance with, the regulations.
- 11 (3) An amount is not payable in respect of medical expenses unless:
12 (a) the person who has incurred the expenses; or
13 (b) any person approved by that person or by the Review
14 Council;
15 applies in writing to the Review Council for payment.
- 16 (4) The application for payment must:
17 (a) be made within 3 months after the medical evidence was
18 submitted to the Review Council; and
19 (b) be accompanied by any document that the applicant
20 considers relevant; and
21 (c) be made in a manner approved by the Convener of the
22 Review Council.

23 **@380CG Travelling expenses for obtaining medical evidence**

- 24 (1) If the applicant has had to travel to obtain any medical evidence
25 submitted to the Review Council as mentioned in
26 subsection @380CF(1), the applicant is, subject to this section,
27 entitled to be paid in relation to that travel the travelling expenses
28 that are prescribed.
- 29 (2) If:
30 (a) the applicant is accompanied by an attendant when travelling
31 to obtain the evidence; and

- 1 (b) the Review Council is of the view that it is reasonable for the
2 applicant to be so accompanied by an attendant;
3 the attendant is, subject to this section, entitled to be paid in
4 relation to that travel the travelling expenses that are prescribed.
- 5 (3) Travelling expenses are not payable in respect of travel outside
6 Australia.
- 7 (4) Travelling expenses are not payable unless:
8 (a) the person who has incurred the expenses; or
9 (b) any person approved by that person or by the Review
10 Council;
11 applies in writing to the Review Council for payment under
12 subsection (5).
- 13 (5) The application for payment must:
14 (a) be made within:
15 (i) 3 months after the completion of the travel; or
16 (ii) if the Review Council thinks that there are exceptional
17 circumstances that justify extending that period—such
18 further period as the Review Council allows; and
19 (b) be accompanied by any document that the applicant
20 considers relevant; and
21 (c) be made in a manner approved by the Convener of the
22 Review Council.
- 23 (6) The Commonwealth is to pay the travelling expenses to which a
24 person is entitled under this section.

25 **@380CH Advance of travelling expenses for obtaining medical**
26 **evidence**

- 27 (1) If the Review Council is satisfied that:
28 (a) it is reasonable to expect that a person may become entitled
29 to travelling expenses under section @380CG; and
30 (b) it is appropriate, in all the circumstances, that the person
31 should be paid an advance on account of those expenses;
32 the Review Council may authorise the payment of that advance to
33 the person.

- 1 (2) If:
2 (a) a person has received an advance on account of any
3 travelling expenses that the person is likely to incur; and
4 (b) the person:
5 (i) does not incur those travelling expenses; or
6 (ii) incurs travelling expenses that are less than the amount
7 of the advance;
8 the person is liable to repay to the Commonwealth:
9 (c) the amount of the advance; or
10 (d) the difference between the amount of the advance and the
11 amount of the travelling expenses;
12 as the case requires.

13 **@380CI Travelling expenses for making oral submissions**

- 14 (1) If:
15 (a) either:
16 (i) the Review Council is carrying out a review under
17 section @380C and an individual, or an organisation
18 referred to in paragraph @380CB(1)(c), has made a
19 written submission in relation to the review; or
20 (ii) the Review Council is carrying out a review under
21 section @380CA at the request of an individual or an
22 organisation; and
23 (b) a person who is one of the following appears before the
24 Review Council to make an oral submission in relation to the
25 review:
26 (i) the individual or the individual's representative;
27 (ii) a representative of the organisation;
28 the person is, subject to this section, entitled to be paid, for travel
29 that the person undertook to appear, the travelling expenses that are
30 prescribed.
31 (2) If:
32 (a) the person is accompanied by an attendant when travelling to
33 appear before the Review Council; and

- 1 (b) the Review Council is of the view that it is reasonable for the
2 person to be so accompanied by an attendant;
3 the attendant is, subject to this section, entitled to be paid, for that
4 travel, the travelling expenses that are prescribed.
- 5 (3) Travelling expenses are not payable in respect of travel outside
6 Australia.
- 7 (4) Travelling expenses are not payable unless:
8 (a) the person who has incurred the expenses; or
9 (b) any person approved by that person or by the Review
10 Council;
11 applies in writing to the Review Council for payment and the
12 Review Council approves the application.
- 13 (5) The application made under subsection (4) must:
14 (a) be made within 3 months after the completion of the travel;
15 and
16 (b) be accompanied by any document that the person making the
17 application considers relevant; and
18 (c) be made in a manner approved by the Convener of the
19 Review Council.
- 20 (6) The Commonwealth is to pay the travelling expenses to which a
21 person is entitled under this section.

22 **Part 4—Administration**

23 **Division 1—Membership etc.**

24 **@380D Membership**

- 25 (1) The Review Council consists of such number of Councillors as are
26 appointed by the Minister from time to time.
- 27 (2) The Minister may appoint the number of Councillors that the
28 Minister consider necessary for the proper exercise of the functions
29 of the Review Council.

1 **@380DA Appointment of Councillors**

2 (1) The Councillors are to be appointed by the Minister by written
3 instrument.

4 Note: A Councillor may be reappointed (see section 33AA of the *Acts*
5 *Interpretation Act 1901*).

6 (2) The Minister must appoint one of the Councillors to be the
7 Convener.

8 **@380DB Qualification for appointment**

9 (1) The Minister must not appoint a person to be a Councillor unless
10 the person is a medical practitioner, or a medical scientist, with at
11 least 10 years' experience.

12 (2) In making appointments, the Minister must:

13 (a) ensure that at least one Councillor has at least 5 years'
14 experience in the field of epidemiology; and

15 (b) have regard to the branches of medical science expertise
16 which would be necessary for deciding matters referred to the
17 Review Council for review.

18 **@380DC Basis and period of appointment**

19 (1) A Councillor is to be appointed on a part-time basis.

20 (2) A Councillor holds office for the period specified in the instrument
21 of appointment. The period must not exceed 5 years.

22 **@380DD Acting appointments**

23 The Minister may, by written instrument, appoint a Councillor to
24 act as the Convener of the Review Council:

25 (a) during a vacancy in the office of the Convener (whether or
26 not an appointment has previously been made to the office);

27 or

28 (b) during any period, or during all periods, when the Convener:

29 (i) is absent from duty; or

1 (ii) is, for any reason, unable to perform the duties of the
2 office.

3 **@380DE Remuneration**

4 (1) A Councillor is to be paid the remuneration that is determined by
5 the Remuneration Tribunal. If no determination of that
6 remuneration by the Tribunal is in operation, the Councillor is to
7 be paid the remuneration that is prescribed under subsection (4).

8 (2) A Councillor is to be paid the allowances that are prescribed under
9 subsection (4).

10 (3) This section has effect subject to the *Remuneration Tribunal Act*
11 *1973*.

12 (4) The Minister may, by legislative instrument, prescribe:

- 13 (a) remuneration for the purposes of subsection (1); and
14 (b) allowances for the purposes of subsection (2).

15 **@380DF Other terms and conditions**

16 A Councillor holds office on the terms and conditions (if any) in
17 relation to matters not covered by this Act that are determined by
18 the Minister.

19 **@380DG Resignation**

20 (1) A Councillor may resign the Councillor's appointment by giving
21 the Minister a written resignation.

22 (2) The resignation takes effect on the day it is received by the
23 Minister or, if a later day is specified in the resignation, on that
24 later day.

25 **@380DH Termination of appointment**

26 The Minister may terminate the appointment of a Councillor:

- 27 (a) for misbehaviour; or

- 1 (b) if the Councillor is unable to perform the duties of the
2 Councillor's office because of physical or mental incapacity;
3 or
4 (c) if the Councillor:
5 (i) becomes bankrupt; or
6 (ii) applies to take the benefit of any law for the relief of
7 bankrupt or insolvent debtors; or
8 (iii) compounds with the Councillor's creditors; or
9 (iv) makes an assignment of the Councillor's remuneration
10 for the benefit of the Councillor's creditors; or
11 (d) the Councillor fails, without reasonable excuse, to comply
12 with section 29 of the *Public Governance, Performance and*
13 *Accountability Act 2013* (which deals with the duty to
14 disclose interests) or rules made for the purposes of that
15 section.

16 **Division 2—Procedures of the Review Council**

17 **@380DI Constitution of Review Council for reviews**

18 The Review Council is, for the purposes of a review under Part 3,
19 to be constituted by at least 3, but not more than 5, Councillors
20 selected by the Convener of the Review Council.

21 **@380DJ Convening meetings**

22 The Convener of the Review Council or the presiding Councillor
23 may convene such meetings of the Review Council as are
24 necessary to carry out a review under Part 3.

25 **@380DK Presiding at meetings**

- 26 (1) If the Review Council as constituted for the purposes of a review
27 under Part 3 includes the Convener of the Review Council, the
28 Convener must preside at all meetings of the Review Council as so
29 constituted at which the Convener is present.
- 30 (2) If the Review Council as constituted for the purposes of a review
31 under Part 3 does not include the Convener, the Convener must

1 **@380EA Delegation by Convener of the Review Council**

2 (1) The Convener of the Review Council, or a presiding Councillor,
3 may, in writing, delegate their power under section @380DJ to:

4 (a) a Councillor; or

5 (b) a member of the staff assisting the Review Council.

6 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
7 provisions relating to delegations.

8 (2) In performing a delegated power, the delegate must comply with
9 any written directions of the Convener or the presiding Councillor
10 (as the case requires).

11 **27 After section 411**

12 Insert:

13 **411A Copyright in submissions**

14 (1) The Authority or the Review Council is not the owner of any
15 copyright subsisting in material (*submitted material*) contained in
16 a submission made to the Authority or the Review Council (as the
17 case may be) for the purposes of an investigation under Part 3 of
18 Chapter 9A.

19 (2) Despite the *Copyright Act 1968*, the Authority or the Review
20 Council does not infringe any copyright subsisting in submitted
21 material if, in performing its functions or exercising its powers, the
22 Authority or the Review Council (as the case may be) does an act
23 comprised in the copyright without the licence of the owner of the
24 copyright.

25 **411B Access to information**

26 (1) Subject to subsection (2), any person or organisation referred to in
27 any of paragraphs @370CH(1)(a) to (d) or @380CB(1)(a) to (c) is
28 entitled, on request made in writing to:

29 (a) in the case of a person or organisation referred to in
30 paragraphs @370CH(1)(a) to (d)—the Authority; or

1 (b) in the case of a person or organisation referred to in
2 paragraphs @380CB(1)(a) to (c)—the Review Council;
3 to have reasonable access to any document containing information
4 considered by the Authority or the Review Council (as the case
5 may be) for the purposes of an investigation.

6 (2) The Authority or the Review Council (as the case may be) may not
7 disclose any personal information about a particular person if the
8 information is likely to reveal the identity of that person.

9 ***Veterans' Entitlements Act 1986***

10 **28 Section 5AB**

11 Repeal the section.

12 **29 Subsection 5Q(1)**

13 Insert:

14 *Authority* has the same meaning as in the MRCA.

15 **30 Subsection 5Q(1)**

16 Repeal the following definitions:

- 17 (a) definition of *Chairperson*;
- 18 (b) definition of *Convener*;
- 19 (c) definition of *councillor*;
- 20 (d) definition of *member*;
- 21 (e) definition of *registered medical practitioner*;
- 22 (f) definition of *Review Council*;
- 23 (g) definition of *sound medical-scientific evidence*.

24 **31 Subsection 5T(1) (note)**

25 Repeal the note.

26 **32 Subsection 120A(2)**

27 Omit “Repatriation Medical Authority has given notice under
28 section 196G”, substitute “Authority has given notice under section
29 @370CJ of the MRCA”.

1 **33 Paragraph 120A(2)(a)**

2 Omit “subsection 196B(2)”, substitute “section @370CB of the
3 MRCA”.

4 **34 Paragraph 120A(3)(a)**

5 Omit “subsection 196B(2) or (11)”, substitute “section @370CB, or
6 subsection @370CN(1), of the MRCA”.

7 **35 Paragraph 120A(3)(b)**

8 Omit “180A(2)”, substitute “120C(2)”.

9 **36 Subsection 120A(4)**

10 Omit “subsection 196B(2)”, substitute “section @370CB of the
11 MRCA”.

12 **37 Subsection 120B(2)**

13 Omit “Repatriation Medical Authority has given notice under
14 section 196G”, substitute “Authority has given notice under section
15 @370CJ of the MRCA”.

16 **38 Paragraph 120B(2)(a)**

17 Omit “subsection 196B(3)”, substitute “section @370CC of the
18 MRCA”.

19 **39 Subparagraph 120B(3)(b)(i)**

20 Omit “subsection 196B(3) or (12)”, substitute “section @370CC, or
21 subsection @370CN(3), of the MRCA”.

22 **40 Subparagraph 120B(3)(b)(ii)**

23 Omit “180A(3)”, substitute “120C(3)”.

24 **41 Subsection 120B(4)**

25 Omit “subsection 196B(3)”, substitute “section @370CC of the
26 MRCA”.

27 **42 After section 120B**

28 Insert:

1 **120C Determination by Commission overriding Authority's decision**
2 **in relation to Statements of Principles**

3 (1) If:

- 4 (a) the Authority has determined, or has declared that it does not
5 propose to make or amend, a Statement of Principles in
6 respect of a particular kind of injury, disease or death (see
7 Part 3 of Chapter 9A of the MRCA); and
8 (b) the Commission is of the opinion that, because the Statement
9 of Principles is in force, or because of the decision by the
10 Authority not to make or amend the Statement of Principles:
11 (i) claims for pensions in respect of incapacity from injury
12 or disease of that kind made by veterans, members of
13 the Forces, or members of a Peacekeeping Force, of a
14 particular class; or
15 (ii) claims for pensions made by dependants of those
16 veterans or members in respect of the death of such a
17 veteran or member;
18 cannot succeed; and
19 (c) the Commission is also of the opinion that, in all the
20 circumstances of the case, those veterans, members or their
21 dependants should receive a pension;

22 the Commission may, in its discretion, make a determination in
23 respect of that kind of injury, disease or death under subsection (2)
24 or (3), or determinations under both subsections (as the case
25 requires).

26 (2) A determination under this subsection in respect of a particular
27 kind of injury, disease or death must be by legislative instrument
28 and must:

- 29 (a) state that it has effect only in relation to the class of veterans,
30 members of the Forces, or members of a Peacekeeping Force
31 referred to in subparagraph (1)(b)(i); and
32 (b) state that it applies only in respect of claims relating to:
33 (i) operational service rendered by a veteran; or
34 (ii) peacekeeping service rendered by a member of a
35 Peacekeeping Force; or
36 (iii) hazardous service rendered by a member of the Forces;
37 or

-
- 1 (iv) British nuclear test defence service rendered by a
2 member of the Forces; and
- 3 (c) set out:
- 4 (i) the factors that must as a minimum exist; and
- 5 (ii) which of those factors must be related to service (within
6 the meaning of the MRCA) rendered by a person;
7 before it can be said that a reasonable hypothesis has been
8 raised connecting an injury, disease or death of that kind with
9 the circumstances of that service.
- 10 (3) A determination under this subsection in respect of a particular
11 kind of injury, disease or death must be by legislative instrument
12 and must:
- 13 (a) state that it has effect only in relation to the class of veterans
14 or members of the Forces referred to in
15 subparagraph (1)(b)(i); and
- 16 (b) state that it applies only in respect of claims relating to:
- 17 (i) eligible war service (other than operational service)
18 rendered by a veteran; or
- 19 (ii) defence service (other than hazardous service and
20 British nuclear test defence service) rendered by a
21 member of the Forces; and
- 22 (c) set out:
- 23 (i) the factors that must exist; and
- 24 (ii) which of those factors must be related to service (within
25 the meaning of the MRCA) rendered by a person;
26 before it can be said, on the balance of probabilities, that an
27 injury, disease or death of that kind is connected with the
28 circumstances of that service.
- 29 (4) While there is in force under subsection (2) a determination in
30 respect of a particular kind of injury, disease or death, any
31 Statement of Principles in force under section @370CB of the
32 MRCA in respect of that kind of injury, disease or death does not
33 apply in respect of any veteran, member of the Forces, member of
34 any Peacekeeping Force or dependant in relation to whom the
35 determination has effect.

1 (5) While there is in force under subsection (3) a determination in
2 respect of a particular kind of injury, disease or death, any
3 Statement of Principles in force under section @370CC of the
4 MRCA in respect of that kind of injury, disease or death does not
5 apply in respect of any veteran or member of the Forces or
6 dependant in relation to whom the determination has effect.

7 **43 Paragraph 129A(1)(a)**

8 Repeal the paragraph, substitute:

9 (a) a provision of this Act requires or permits a notice or other
10 document to be given to a person by the Secretary, the
11 Department, an officer of the Department, or the
12 Commission; and

13 **44 Paragraph 129A(1)(d)**

14 Repeal the paragraph, substitute:

15 (d) in a manner approved in writing by the Commission.

16 **45 Parts XIA and XIB**

17 Repeal the Parts.

1 **Schedule 6—Disability compensation**
2 **cessation date**
3

4 *Veterans' Entitlements Act 1986*

5 **1 Subsection 121(4)**

6 Omit “If”, substitute “Subject to subsection (4AA), if”.

7 **2 After subsection 121(4)**

8 Insert:

9 *Exception—pension under Part II or IV at rate determined under*
10 *Division 4 of Part II*

11 (4AA) If a person who is receiving a pension under Part II or IV at a rate
12 determined under or by reference to Division 4 of Part II dies, an
13 amount is payable to the person’s estate as an instalment of that
14 pension in relation to the pension period in which the person died.

1 **6 After paragraph 5(1)(b)**

2 Insert:

3 (ba) in the case of an injury or disease—it is taken to be
4 attributable to that service under subsection 27A(1) or (2) of
5 the MRCA; or

6 **7 Section 6**

7 Repeal the section, substitute:

8 **6 References to injuries sustained before commencement of Part X**
9 **to the DRCA**

10 A reference in this Act to an injury sustained before the
11 commencement of Part X of the DRCA is a reference to an injury
12 within the meaning of whichever of the 1912 Act, the 1930 Act or
13 the 1971 Act was in force at the time the injury was sustained, as
14 that Act was in force at that time.

15 **8 Part 2**

16 Repeal the Part, substitute:

17 **Part 2—Application of the MRCA to injuries,**
18 **diseases, deaths, losses and damage**
19

20 **7 Application of the MRCA to injuries, diseases, deaths, losses and**
21 **damage**

22 *Application to injuries, diseases and deaths*

- 23 (1) On and after the date of commencement, the MRCA applies to a
24 person's injury, disease or death:
25 (a) whether the injury is sustained, the disease is contracted, or
26 the death occurs, before, on or after that date; and
27 (b) whether the injury, disease or death relates to defence service
28 rendered by the person before, on or after that date.

1 **9 Before section 13**

2 Insert:

3 **12 Interactions between certain entitlements**

4 *Compensation for permanent impairment*

5 (1) A person is not entitled to compensation under section 68 of the
6 MRCA in respect of impairment suffered as a result of an injury
7 sustained, or a disease contracted, by the person if the person:

8 (a) has received compensation in respect of that impairment
9 under:

10 (i) section 24 or 25 of the DRCA; or

11 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or

12 (b) is entitled to, and is receiving, a pension under Part II or IV
13 of the VEA in respect of the impairment.

14 Note: This does not exclude the person from being entitled to additional
15 compensation under section 71 of the MRCA in respect of additional
16 impairment suffered as a result of a deterioration in the person's
17 original injury or disease.

18 *Compensation for incapacity*

19 (2) A person is not entitled to compensation under Part 3 or 4 of
20 Chapter 4 of the MRCA for a period in respect of incapacity
21 resulting from an injury sustained, or a disease contracted, by the
22 person if the person:

23 (a) has received compensation for that period in respect of that
24 incapacity under:

25 (i) section 19, 20, 21, 21A, 22 or 31 of the DRCA, as in
26 force immediately before the date of commencement; or

27 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or

28 (b) is entitled to, and is receiving, a pension under Part II or IV
29 of the VEA for that period in respect of that incapacity.

30 (3) A person is entitled to compensation under Part 3 or 4 of Chapter 4
31 of the MRCA for a period in respect of incapacity resulting from
32 an injury sustained, or a disease contracted, by the person even if
33 the person received compensation in respect of the same injury or

1 disease for one or more other periods under section 19, 20, 21,
2 21A, 22 or 31 of the DRCA, as in force immediately before the
3 date of commencement.

4 Note: See also section @92 of this Act in respect of persons who are being
5 paid compensation for incapacity under section 19, 20, 21, 21A, 22 or
6 31 of the DRCA immediately before the date of commencement.

7 *Compensation in respect of a person's death*

8 (4) A person is not entitled to compensation under Part 2, 3 or 4 of
9 Chapter 5 of the MRCA in respect of the death of another person if
10 the first-mentioned person has received compensation in respect of
11 the death under:

- 12 (a) section 17 of the DRCA; or
13 (b) the 1912 Act, the 1930 Act or the 1971 Act.

14 (5) A person is not entitled to compensation under Part 2, 3 or 4 of
15 Chapter 5 of the MRCA (other than Division 6 of Part 3 of that
16 Chapter) in respect of the death of another person if:

- 17 (a) the death occurred before the date of commencement; and
18 (b) the first-mentioned person is entitled to, and is receiving, a
19 pension under section 13A of the VEA in respect of the
20 death.

21 Note: Section @111 of this Act provides for the transfer of certain VEA
22 Veterans' Children Education Scheme recipients to the scheme
23 established under Division 6 of Part 3 of Chapter 5 of the MRCA.

24 (6) A person is not entitled to the lump sum amount mentioned in
25 paragraph 234(1)(a) of the MRCA in respect of the death of
26 another person if:

- 27 (a) the death occurs on or after the date of commencement; and
28 (b) the first-mentioned person is entitled to, and is receiving, a
29 pension under section 13A of the VEA in respect of the
30 death.

31 *Compensation in respect of funeral expenses*

32 (7) A person is not entitled to compensation under Part 5 of Chapter 5
33 of the MRCA in respect of the cost of a deceased member's funeral
34 if:

- 1 (a) the person has received compensation in respect of the
2 funeral under:
3 (i) section 18 of the DRCA; or
4 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
5 (b) a funeral benefit has been paid to the estate of the deceased
6 member under section 98B of the VEA.

7 *Compensation in respect of medical expenses etc.*

- 8 (8) A person is not entitled to compensation under Part 4 of Chapter 6
9 of the MRCA in respect of the cost of treatment, or costs incurred
10 in respect of a journey made to obtain treatment or in respect of
11 accommodation required during such a journey, if the person has
12 received compensation in respect of those costs under:
13 (a) section 16 of the DRCA; or
14 (b) the 1912 Act, the 1930 Act or the 1971 Act.

15 *Provision of treatment*

- 16 (9) A person is not entitled to be provided with treatment under Part 3
17 of Chapter 6 of the MRCA for an injury or disease for a period if
18 the person is being provided with treatment under subsection 85(1)
19 or (2) of the VEA for that injury or disease for that period.

20 Note: A person who is being provided with treatment under subsection 85(1)
21 or (2) of the VEA for an injury or disease may become entitled to be
22 provided with treatment under Part 3 of Chapter 6 of the MRCA for
23 that injury or disease (see section @117 of this Act).

24 **10 Subsection 13(1)**

25 Repeal the subsection, substitute:

- 26 (1) This section applies to a claim that is made under section 319 of
27 the MRCA on or after the date of commencement, including a
28 claim in respect of a person who has:
29 (a) a war-caused or defence-caused injury or disease (within the
30 meaning of the VEA) (the *old injury or disease*); or
31 (b) an injury or disease (within the meaning of the DRCA) (the
32 *old injury or disease*).

1 **11 At the end of Part 3**

2 Add:

3 **14A Offsetting VEA and DRCA payments against Additional**
4 **Disablement Amount**

- 5 (1) For the purposes of section @220C of the MRCA, the maximum
6 weekly amount of Additional Disablement Amount that could be
7 payable to a person, at a time, must also be reduced by one half of
8 the fortnightly rate at which any pension because of
9 paragraph 13(1)(b) or 70(1)(b) of the VEA is payable to the person
10 at that time.
- 11 (2) For the purposes of section @220C of the MRCA, the maximum
12 weekly amount of Additional Disablement Amount that could be
13 payable to a person must also be reduced by the sum of any
14 previous payments of a lump sum to the person under section 24,
15 25 or 27 of the DRCA, converted to a weekly amount in
16 accordance with regulations made for the purposes of subsection
17 @122(2) of this Act.

18 **12 Part 4 (heading)**

19 Omit “**transitional provisions**”, substitute “**matters**”.

20 **13 Sections 15 to 21**

21 Repeal the sections.

22 **14 Section 22**

23 Omit “commencement date”, substitute “date on which section 3 of the
24 MRCA commenced”.

25 **15 Section 23**

26 Omit “(other than a decision made under or in respect of a provision
27 being inserted or amended by Schedule 1 or 2 to this Act)”.

28 **16 After Part 5**

29 Insert:

1 **Part 6—Other application and transitional**
2 **provisions relating to the Simplification Act**

3 **Division 1—Preliminary**

4 **@40 Definitions**

5 In this Part:

6 *asset* means:

- 7 (a) any legal or equitable estate or interest in real or personal
8 property, whether actual, contingent or prospective; or
9 (b) any right, power, privilege or immunity, whether actual,
10 contingent or prospective.

11 *liability* means any liability, duty or obligation, whether actual,
12 contingent or prospective.

13 *MRCC* means the Military Rehabilitation and Compensation
14 Commission that was established by section 361 of the old MRCA.

15 *old DRCA* means the DRCA as in force immediately before the
16 date of commencement.

17 *old MRCA* means the MRCA as in force immediately before the
18 date of commencement.

19 *old VEA* means the VEA as in force immediately before the date of
20 commencement.

21 **Division 2—Transitional provisions relating to the**
22 **Repatriation Commission**

23 **Subdivision A—Continuation of Commission**

24 **@41 Commissioners**

- 25 (1) This section applies to a person who was, immediately before the
26 date of commencement, holding office as a commissioner because

1 of an appointment under section 182 of the old VEA, other than a
2 person who was holding office as the Deputy President of the
3 Commission.

- 4 (2) The person is taken, on and after the date of commencement, to
5 have been appointed under section @360CA of the MRCA:
6 (a) for the balance of the person's term of appointment that
7 remained immediately before that date; and
8 (b) on terms and conditions (including remuneration) that are
9 equal to, or better than, the terms and conditions that applied
10 to the person immediately before that date.

11 Note: The person's remuneration will not be better than their remuneration
12 as a commissioner under section 182 of the old VEA unless a higher
13 level of remuneration is determined by the Remuneration Tribunal.

14 **@42 Acting Commissioners**

- 15 (1) This section applies to a person who was appointed to act as a
16 commissioner under section 191 of the old VEA if the appointment
17 was in force immediately before the date of commencement.
- 18 (2) The person is taken, on and after the date of commencement, to
19 have been appointed under section @360CC of the MRCA:
20 (a) for the balance of the person's term of appointment that
21 remained immediately before that date; and
22 (b) on terms and conditions (including remuneration) that are
23 equal to, or better than, the terms and conditions that applied
24 to the person immediately before that date.

25 **@43 Cessation of appointment of Deputy President**

- 26 (1) This section applies to a person who, immediately before the date
27 of commencement, was holding office as a commissioner (because
28 of an appointment under section 182 of the old VEA) and as the
29 Deputy President of the Commission.
- 30 (2) The person ceases to hold those offices at the start of the date of
31 commencement.
- 32 (3) Nothing in this section prevents the person being appointed to an
33 office under the MRCA.

1 **@44 Staff**

- 2 (1) This section applies to a person who, immediately before the date
3 of commencement, was engaged and made available to assist the
4 Commission under section 196 of the old VEA.
- 5 (2) The person is taken, on and after the date of commencement, to be
6 engaged and made available to assist the Commission under
7 section @360D of the MRCA.
- 8 (3) The repeal of section 196 of the old VEA does not affect the
9 continuity of employment of the person.

10 **@45 Contractors**

11 A person who, immediately before the date of commencement, was
12 engaged by the Commission to perform services under
13 paragraph 181(3)(d) of the old VEA is taken, on and after that date,
14 to be engaged by the Commission under section @360DA of the
15 MRCA on the same terms and conditions.

16 **@46 Delegations by the Commission**

17 A delegation under section 213 of the old VEA that is in force
18 immediately before the date of commencement continues in force
19 (and may be dealt with), on and after that date, as if the delegation
20 had been made under subsection @360DB(1) of the MRCA.

21 **@47 Commission annual reports**

- 22 (1) This section applies to a report referred to in subsection 215(1) of
23 the old VEA.
- 24 (2) Despite the repeal of section 215 of the old VEA by Schedule 4 to
25 the Simplification Act, that section continues to apply in relation to
26 the report for a financial year ending on or before 30 June 2026, as
27 if that repeal had not happened.

1 **Subdivision B—Other matters**

2 **@48 Assets and liabilities of the Commission**

3 Assets and liabilities of the Commission immediately before the
4 date of commencement continue, on and after that date, to be assets
5 and liabilities of Commission (without any conveyance, transfer or
6 assignment).

7 **@49 Contributions made to Commission**

- 8 (1) This section applies in relation to a contribution that:
9 (a) was accepted by the Commission under section 200 of the
10 old VEA before the date of commencement; and
11 (b) had not been dealt with by the Commission under that section
12 before that date.
- 13 (2) On and after the date of commencement, the contribution is taken
14 to have been accepted, and must be dealt with, by the Commission
15 under section 427A of the MRCA.

16 **@50 Continued effect of certain trust arrangements etc under the**
17 **DRCA**

- 18 (1) This section applies if, immediately before the date of
19 commencement, money is held by the MRCC for the benefit of a
20 person under section 110 of the old DRCA.
- 21 (2) On and after the date of commencement, the Commission is taken
22 to have assumed the office of trustee of the money under
23 subsection 432(2) of the MRCA.
- 24 (3) If:
25 (a) before the date of commencement, the money was invested in
26 accordance with subsection 110(2) of the old DRCA; and
27 (b) immediately before that date, an arrangement for that
28 investment is in force;
29 the arrangement has effect, on and after that date, as if it were an
30 arrangement under paragraph 434(5)(a) of the MRCA.
- 31 (4) If:

- 1 (a) before the date of commencement, a direction mentioned in
2 subsection 110(1) or (4) of the old DRCA was given in
3 relation to the money, or the money as invested; and
4 (b) immediately before that date, the direction had not been
5 revoked by the person who gave it;
6 then, despite sections 433 and 434 of the MRCA, the money, or the
7 money as invested, must be dealt with, on or after that date, in
8 accordance with the direction, unless the direction is revoked by
9 person who gave it.

10 **@51 Continued effect of certain trust arrangements etc. under the**
11 **VEA**

- 12 (1) If an appointment to which section 201 of the old VEA applies:
13 (a) was accepted by the Commission before the date of
14 commencement; and
15 (b) is in force immediately before that date;
16 the appointment continues to have effect, on and after that date, as
17 if it were an appointment to which section 427B of the MRCA
18 applies.
- 19 (2) An arrangement under paragraph 201(3C)(a) of the old VEA that is
20 in force immediately before the date of commencement has effect,
21 on and after that date, as if it were an arrangement under
22 paragraph 427B(6)(a) of the MRCA.
- 23 (3) An instrument made under subsection 202(1) of the old VEA that
24 is in force immediately before the date of commencement has
25 effect, on and after that date, as if it were an instrument made
26 under subsection 432(2) of the MRCA.
- 27 (4) An arrangement under paragraph 202A(5)(a) of the old VEA that is
28 in force immediately before the date of commencement has effect,
29 on and after that date, as if it were an arrangement under
30 paragraph 434(5)(a) of the MRCA.

31 **@52 Determinations by the Commission**

- 32 (1) A determination under subsection 180A(2) of the old VEA that is
33 in force immediately before the date of commencement continues

1 in force (and may be dealt with), on and after that date, as if the
2 determination had been made under subsection 120C(2) of the
3 VEA.

4 (2) A determination under subsection 180A(3) of the old VEA that is
5 in force immediately before the date of commencement continues
6 in force (and may be dealt with), on and after that date, as if the
7 determination had been made under subsection 120C(3) of the
8 VEA.

9 **@53 Effect of things done by, or in relation to, the Commission**

10 A thing done by, or in relation to, the Commission under a law of
11 the Commonwealth before the date of commencement is not
12 affected by the amendments made by Schedule 4 to the
13 Simplification Act.

14 **Division 3—Transitional provisions relating to the MRCC**

15 **Subdivision A—Things done by or in relation to the MRCC**

16 **@54 Members of the MRCC**

- 17 (1) This section applies to a person who was, immediately before the
18 date of commencement:
- 19 (a) holding office as a member of the MRCC because of an
20 appointment under subsection 365(1) of the old MRCA; and
 - 21 (b) a member of the MRCC described in
22 subparagraph 364(1)(b)(ii) or (iii) of the old MRCA.
- 23 (2) The person is taken, on and after the date of commencement, to
24 have been appointed under section @360CA of the MRCA:
- 25 (a) for the balance of the person's term of appointment that
26 remained immediately before that date; and
 - 27 (b) on terms and conditions (including remuneration) that are
28 equal to, or better than, the terms and conditions that applied
29 to the person immediately before that date.

30 Note: The person's remuneration will not be better than their remuneration
31 as a member of the MRCC under section 365 of the old MRCA unless
32 a higher level of remuneration is determined by the Remuneration
33 Tribunal.

1 **@55 Acting members of the MRCC**

- 2 (1) This section applies to a person who was appointed to act as a
3 Commission member under section 367 of the old MRCA if the
4 appointment was in force immediately before the date of
5 commencement.
- 6 (2) The person is taken, on and after the date of commencement, to
7 have been appointed under section @360CC of the MRCA:
8 (a) for the balance of the person’s term of appointment that
9 remained immediately before that date; and
10 (b) on terms and conditions (including remuneration) that are
11 equal to, or better than, the terms and conditions that applied
12 to the person immediately before that date.

13 **@56 Cessation of appointment of certain members of the MRCC**

- 14 (1) This section applies to a person who was, immediately before the
15 date of commencement:
16 (a) holding office as a member of the MRCC (because of an
17 appointment under 365(1) of the old MRCA); and
18 (b) a member of the MRCC described in
19 subparagraph 364(1)(b)(i) of the old MRCA.
- 20 (2) The person ceases to hold that office at the start of the date of
21 commencement.

22 **@57 Staff**

- 23 (1) This section applies to a person who, immediately before the date
24 of commencement, was engaged and made available to assist the
25 MRCC under section 382 of the old MRCA.
- 26 (2) The person is taken, on and after the date of commencement, to be
27 engaged and made available to assist the Commission under
28 section @360D of the MRCA.
- 29 (3) The repeal of section 382 of the old MRCA does not affect the
30 continuity of employment of the person.

1 **@58 Consultants**

2 A person who, immediately before the date of commencement, was
3 engaged by the MRCC as a consultant under section 383 of the old
4 MRCA is taken, on and after that date, to be engaged by the
5 Commission under section @360DA of the MRCA on the same
6 terms and conditions.

7 **@59 Delegations by the MRCC**

8 A delegation under section 384 of the old MRCA that is in force
9 immediately before the date of commencement continues in force
10 (and may be dealt with), on and after that date, as if the delegation
11 had been made under subsection @360DB(1) of the MRCA.

12 **@60 MRCC annual reports**

- 13 (1) This section applies to the report referred to in section 385 of the
14 old MRCA for the financial year ending on 30 June 2026.
- 15 (2) Despite the repeal of section 385 of the old MRCA by Schedule 4
16 to the Simplification Act, that section applies, on and after the date
17 of commencement, in relation to the report as if it provided for the
18 President (within the meaning of the MRCA) to give the Minister
19 the report.

20 **Subdivision B—Other matters**

21 **@61 Assets and liabilities of the MRCC**

- 22 (1) Assets and liabilities of the MRCC immediately before the date of
23 commencement are, at the start of that date, transferred to the
24 Commission.
- 25 (2) The Commission must make the arrangements necessary to give
26 effect to the transfer.

27 **@62 Transfer of records**

- 28 (1) This section applies to any records or documents that were in the
29 possession of the MRCC immediately before the date of
30 commencement.

- 1 (2) The records and documents are to be transferred to the
2 Commission after that date.

3 **@63 Legal proceedings involving the MRCC**

4 If, immediately before the date of commencement, the MRCC was
5 a party to proceedings pending in any court or tribunal, the
6 Commission is substituted for the MRCC as a party to the
7 proceedings after that date.

8 **@64 Things done by, or in relation to, the MRCC**

- 9 (1) If, before the date of commencement, a thing was done by, or in
10 relation to, the MRCC, then the thing has effect, on and after that
11 date, as if it had been done by, or in relation to, the Commission.
12 (2) The regulations may provide that subsection (1) does not apply in
13 relation to a specified thing done by, or in relation to, the
14 Commission.

15 **@65 References to the MRCC in instruments**

- 16 (1) This section applies to an instrument if:
17 (a) the instrument is in force immediately before the date of
18 commencement; and
19 (b) the instrument contains a reference to the MRCC.
20 (2) The instrument has effect, on and after the date of commencement,
21 as if a reference in the instrument to the MRCC were a reference to
22 the Commission.
23 (3) The regulations may provide that subsection (2) does not apply in
24 relation to a specified instrument or a specified reference.
25 (4) This section does not prevent the instrument from being amended
26 or repealed on or after the date of commencement.
27 (5) In this section:
28 *instrument* includes:
29 (a) a contract, deed, undertaking, arrangement or agreement; and

- 1 (b) a notice, authority, order or instruction; and
2 (c) an instrument made under an Act or regulation.

3 **@66 Compensation for acquisition of property**

- 4 (1) If the operation of this Part would result in an acquisition of
5 property (within the meaning of paragraph 51(xxxi) of the
6 Constitution) from a person otherwise than on just terms (within
7 the meaning of that paragraph), the Commonwealth is liable to pay
8 a reasonable amount of compensation to the person.
- 9 (2) If the Commonwealth and the person do not agree on the amount
10 of the compensation, the person may institute proceedings in the
11 Federal Court of Australia or the Supreme Court of a State or
12 Territory for the recovery from the Commonwealth of such
13 reasonable amount of compensation as the Court determines.

14 **Division 4—Transitional provisions relating to the**
15 **Repatriation Medical Authority**

16 **Subdivision A—Continuance of the Authority**

17 **@67 Members of the Authority**

- 18 (1) This section applies to a person who, immediately before the date
19 of commencement, was holding office as a member of the
20 Authority under section 196L of the old VEA.
- 21 (2) The person is taken, on and after the date of commencement, to
22 have been appointed under section @370DA of the MRCA:
23 (a) for the balance of the person's term of appointment that
24 remained immediately before that date; and
25 (b) on terms and conditions (including remuneration) that are
26 equal to, or better than, the terms and conditions that applied
27 to the person immediately before that date.

28 Note: The person's remuneration will not be better than their remuneration
29 as a member of the Authority under section 196L of the old VEA
30 unless a higher level of remuneration is determined by the
31 Remuneration Tribunal.

1 **@68 Chair of the Authority**

2 (1) This section applies to a person who, immediately before the date
3 of commencement, was holding office as the Chairperson of the
4 Authority under section 196L of the old VEA.

5 (2) The person is taken, on and after the date of commencement, to
6 have been appointed as the Chair of the Authority under section
7 @370DA of the MRCA:

8 (a) for the balance of the person’s term of appointment that
9 remained immediately before that date; and

10 (b) on terms and conditions (including remuneration) that are
11 equal to, or better than, the terms and conditions that applied
12 to the person immediately before that date.

13 Note: The person’s remuneration will not be better than their remuneration
14 as the Chairperson of the Authority under section 196L of the old
15 VEA unless a higher level of remuneration is determined by the
16 Remuneration Tribunal.

17 **@69 Staff**

18 (1) This section applies to a person who, immediately before the date
19 of commencement, was engaged and made available to assist the
20 Authority under section 196T of the old VEA.

21 (2) The person is taken, on and after the date of commencement, to be
22 engaged and made available to assist the Authority under section
23 @370E of the MRCA.

24 (3) The repeal of section 196T of the old VEA does not affect the
25 continuity of employment of the person.

26 **@70 Consultants**

27 A person who, immediately before the date of commencement, was
28 engaged by the Authority as a consultant under section 196U of the
29 old VEA is taken, on and after that date, to be engaged by the
30 Authority under section @370EA of the MRCA on the same terms
31 and conditions.

1 **@71 Delegations by the Chair**

2 A delegation under subsection 196R(1) of the old VEA that is in
3 force immediately before the date of commencement continues in
4 force (and may be dealt with), on and after that date, as if the
5 delegation had been made under subsection @370EB(1) of the
6 MRCA.

7 **@72 Authority annual reports**

8 (1) This section applies to an annual report referred to in
9 section 196UA of the old VEA.

10 (2) Despite the repeal of section 196UA of the old VEA by Schedule 5
11 to the Simplification Act, that section continues to apply in relation
12 to the annual report for a financial year ending on or before
13 30 June 2026, as if that repeal had not happened.

14 **Subdivision B—Other matters**

15 **@73 Assets and liabilities of the Authority**

16 Assets and liabilities of the Authority immediately before the date
17 of commencement continue, on and after that date, to be assets and
18 liabilities of the Authority (without any conveyance, transfer or
19 assignment).

20 **@74 Statements of Principles**

21 (1) A Statement of Principles determined under subsection 196B(2) of
22 the old VEA that is in force immediately before the date of
23 commencement continues in force (and may be dealt with), on and
24 after that date, as if it had been determined under section @370CB
25 of the MRCA.

26 (2) A Statement of Principles determined under subsection 196B(3) of
27 the old VEA that is in force immediately before the date of
28 commencement continues in force (and may be dealt with), on and
29 after that date, as if it had been determined under section @370CC
30 of the MRCA.

1 (3) A Statement of Principles determined under subsection 196B(11)
2 of the old VEA that is in force immediately before the date of
3 commencement continues in force (and may be dealt with), on and
4 after that date, as if it had been determined under subsection
5 @370CN(1) of the MRCA.

6 (4) A Statement of Principles determined under subsection 196B(12)
7 of the old VEA that is in force immediately before the date of
8 commencement continues in force (and may be dealt with), on and
9 after that date, as if it had been determined under subsection
10 @370CN(3) of the MRCA.

11 **@75 Requests for investigation by the Authority**

- 12 (1) This section applies if:
- 13 (a) before the date of commencement, the Authority received a
14 request under section 196E of the old VEA to:
 - 15 (i) carry out an investigation in respect of a particular kind
16 of injury, disease or death; or
 - 17 (ii) review a decision of the Authority not to make a
18 Statement of Principles; and
 - 19 (b) immediately before that date, the Authority had not
20 completed the investigation or reviewed the decision.
- 21 (2) The request has effect on and after the date of commencement as if
22 it were a request made under section @370CH of the MRCA.

23 **@76 Directions by the Review Council**

- 24 (1) This section applies if:
- 25 (a) before the date of commencement, the Authority was directed
26 by the Review Council under subsection 196W(7) of the old
27 VEA to carry out an investigation in respect of a particular
28 kind of injury, disease or death; and
 - 29 (b) immediately before that date, the Authority had not
30 completed the investigation.
- 31 (2) The direction has effect, on and after the date of commencement,
32 as if it had been given by the Review Council under subsection
33 @380CA(2) of the MRCA.

1 **@77 Sending information to the Review Council**

2 Despite the repeal of section 196K of the old VEA, that section
3 continues to apply, on and after the date of commencement, in
4 relation to notifications made to the Authority before that date, as if
5 that repeal had not happened.

6 **Division 5—Transitional provisions relating to the**
7 **Specialist Medical Review Council**

8 **Subdivision A—Continuance of the Review Council**

9 **@78 Members of the Review Council**

- 10 (1) This section applies to a person who, immediately before the date
11 of commencement, was holding office as a member of the Review
12 Council under section 196ZE of the old VEA.
- 13 (2) The person is taken, on and after the date of commencement, to
14 have been appointed under section @380DA of the MRCA:
- 15 (a) for the balance of the person's term of appointment that
16 remained immediately before that date; and
- 17 (b) on terms and conditions (including remuneration) that are
18 equal to, or better than, the terms and conditions that applied
19 to the person immediately before that date.

20 Note: The person's remuneration will not be better than their remuneration
21 as a member of the Review Council under section 196ZE of the old
22 VEA unless a higher level of remuneration is determined by the
23 Remuneration Tribunal.

24 **@79 Convener of the Review Council**

- 25 (1) This section applies to a person who, immediately before the date
26 of commencement, was holding office as the Convener of the
27 Review Council under section 196ZE of the old VEA.
- 28 (2) The person is taken, on and after the date of commencement, to
29 have been appointed as the Convener of the Review Council under
30 subsection @380DA(2) of the MRCA:
- 31 (a) for the balance of the person's term of appointment that
32 remained immediately before that date; and

1 (b) on terms and conditions (including remuneration) that are
2 equal to, or better than, the terms and conditions that applied
3 to the person immediately before that date.

4 Note: The person's remuneration will not be better than their remuneration
5 as the Convener of the Review Council under section 196ZE of the
6 old VEA unless a higher level of remuneration is determined by the
7 Remuneration Tribunal.

8 **@80 Staff**

- 9 (1) This section applies to a person who, immediately before the date
10 of commencement, was engaged and made available to assist the
11 Review Council under section 196ZM of the old VEA.
- 12 (2) The person is taken, on and after the date of commencement, to be
13 engaged and made available to assist the Commission under
14 section @380E of the MRCA.
- 15 (3) The repeal of section 196ZM of the old VEA does not affect the
16 continuity of employment of the person.

17 **@81 Delegations by the Convener**

18 A delegation under subsection 196ZK(4) of the old VEA that is in
19 force immediately before the date of commencement continues in
20 force (and may be dealt with), on and after that date, as if the
21 delegation had been made under subsection @380EA(1) of the
22 MRCA.

23 **Subdivision B—Other matters**

24 **@82 Assets and liabilities of the Review Council**

25 Assets and liabilities of the Review Council immediately before
26 the date of commencement continue, on and after that date, to be
27 assets and liabilities of the Review Council (without any
28 conveyance, transfer or assignment).

1 **@86 Continued effect of regulations relating to medical and travel**
 2 **expenses**

3 If:

- 4 (a) before the date of commencement, regulations were made for
 5 the purposes of a provision of the old VEA mentioned in
 6 column 1 of an item of the following table; and
 7 (b) immediately before that date, the regulations are in force;
 8 the regulations continue to have effect, on and after that date, as if
 9 they had been made for the purposes of the provision of the MRCA
 10 mentioned in column 2 of the item.

11

Continued effect of regulations relating to medical and travel expenses

Item	Column 1 Provision of the old VEA	Column 2 Provision of the MRCA
1	subsection 196ZN(2)	subsection @380CF(2)
2	subsection 196ZO(1)	subsection @380CG(1)
3	subsection 196ZO(2)	subsection @380CG(2)
4	subsection 196ZQ(1)	subsection @380CI(1)
5	subsection 196ZQ(2)	subsection @380CI(2)

12 **@87 Directions about lodgement of requests and applications**

- 13 (1) If a direction under section 196ZR of the old VEA as to the manner
 14 of lodging a request for the purposes of paragraph 196Y(3)(c) of
 15 the old VEA is in force immediately before the date of
 16 commencement, that manner of lodging a request is taken, on and
 17 after that date, to be a manner approved by the Convener of the
 18 Review Council for the purposes of paragraph @380CB(3)(b) of
 19 the MRCA.
- 20 (2) If a direction under section 196ZR of the old VEA as to the manner
 21 of lodging a request for the purposes of paragraph 196Z(2)(d) of
 22 the old VEA is in force immediately before the date of
 23 commencement, that manner of lodging a request is taken, on and
 24 after that date, to be a manner approved by the Convener of the

- 1 Review Council for the purposes of paragraph @380CC(2)(c) of
2 the MRCA.
- 3 (3) If a direction under section 196ZR of the old VEA as to the manner
4 of lodging an application for the purposes of
5 paragraph 196ZN(4)(d) of the old VEA is in force immediately
6 before the date of commencement, that manner of lodging an
7 application is taken, on and after that date, to be a manner
8 approved by the Convener of the Review Council for the purposes
9 of paragraph @380CF(4)(c) of the MRCA.
- 10 (4) If a direction under section 196ZR of the old VEA as to the manner
11 of lodging an application for the purposes of
12 paragraph 196ZO(5)(d) of the old VEA is in force immediately
13 before the date of commencement, that manner of lodging an
14 application is taken, on and after that date, to be a manner
15 approved by the Convener of the Review Council for the purposes
16 of paragraph @380CG(5)(c) of the MRCA.
- 17 (5) If a direction under section 196ZR of the old VEA as to the manner
18 of lodging an application for the purposes of
19 paragraph 196ZQ(5)(c) of the old VEA is in force immediately
20 before the date of commencement, that manner of lodging an
21 application is taken, on and after that date, to be a manner
22 approved by the Convener of the Review Council for the purposes
23 of paragraph @380CI(5)(c) of the MRCA.

24 **Division 6—Other application and transitional provisions**

25 **Subdivision A—Amendments made by Schedule 1**

26 **@88 Effect of closing eligibility to DRCA on pending claims**

- 27 (1) This section applies if:
- 28 (a) before the date of commencement, a claim was made under
29 Part V of the old DRCA; and
- 30 (b) immediately before that date, the claim had not been finally
31 determined.
- 32 (2) To avoid doubt, section 14AA of the DRCA, as inserted by Part 1
33 of Schedule 1 to the Simplification Act, does not affect the

1 continued operation of other provisions of the DRCA, as in force
2 on and after the date of commencement, in relation to the
3 determination of that claim (including any reconsideration or
4 review of a decision made in relation to that claim).

5 (3) This section is subject to sections @93 and @107 of this Act.

6 Note: Under sections @93 and @107 of this Act, certain pending claims
7 made under the old DRCA are taken, on and after the date of
8 commencement, to be claims for compensation made under
9 section 319 of the MRCA.

10 **@89 Effect of closing eligibility to VEA on pending claims and**
11 **applications**

12 (1) This section applies if:

13 (a) before the date of commencement, a claim or an application
14 was made under the VEA; and

15 (b) immediately before that date, the claim or application had not
16 been finally determined; and

17 (c) the claim or application is of a kind that could not be made
18 on or after that date because of the operation of section 12AA
19 of the VEA, as inserted by Part 1 of Schedule 1 to the
20 Simplification Act.

21 (2) To avoid doubt, section 12AA of the VEA does not affect the
22 continued operation of other provisions of that Act, as in force on
23 and after the date of commencement, in relation to the
24 determination of the claim or application (including any
25 reconsideration or review of a decision made in relation to that
26 claim or application).

27 (3) This section is subject to sections @106, @110 and @112 of this
28 Act.

29 Note: Under sections @106, @110 and @112 of this Act, certain pending
30 claims and applications made under the old VEA are taken, on and
31 after the date of commencement, to be claims for compensation made
32 under section 319 of the MRCA or applications made under certain
33 other provisions of the MRCA.

1 **@90 Bringing across certain instruments relating to pre-2004**
2 **operations**

3 If:

- 4 (a) before the date of commencement, an instrument was made
5 under, or for the purposes of, a provision of the VEA
6 mentioned in column 1 of an item of the following table; and
7 (b) immediately before that date, the instrument is in force;
8 the instrument is taken to have been made, on that date, under the
9 provision of the MRCA mentioned in column 2 of the item.

10 Note: The instruments continue in force for the purposes of the VEA.
11

Bringing across certain instruments relating to pre-2004 operations

Item	Column 1 Provision of the VEA	Column 2 Provision of the MRCA
1	paragraph 5B(2)(a)	paragraph @442(2)(a)
2	paragraph 5B(2)(b)	paragraph @442(2)(b)
3	paragraph 5B(2)(c)	paragraph @442(2)(c)
4	paragraph 5R(1)(c)	subsection @442(5)
5	subsection 6D(1)	subsection @447(1)
6	subsection 69B(6)	subsection @6B(5)
7	subsection 120(7)	section @6C

12 **@91 Application provision—permanent impairment**

13 The amendments of the MRCA made by Division 1 of Part 3 of
14 Schedule 1 to the Simplification Act apply in relation to a claim for
15 compensation that is made on or after the date of commencement.

16 **@92 Transfer of old DRCA incapacity compensation recipients to**
17 **MRCA**

- 18 (1) This section applies in relation to a person if, immediately before
19 the date of commencement, compensation under section 19, 20, 21,
20 21A, 22 or 31 of the old DRCA is being paid to the person in
21 respect of an injury or disease.

1 *Continued application of old DRCA to weeks before transfer week*

- 2 (2) Despite the amendments of the old DRCA made by Division 2 of
3 Part 3 of Schedule 1 to the Simplification Act, the old DRCA
4 continues to apply, on and after the date of commencement, in
5 relation to an amount of compensation payable to the person under
6 section 19, 20, 21, 21A, 22 or 31 of the old DRCA for a week that
7 ends before the transfer week starts, as if those amendments had
8 not been made.

9 *Application of MRCA to transfer week and later weeks*

- 10 (3) For the transfer week and each later week:
- 11 (a) if the person is a Permanent Forces member or a continuous
12 full-time Reservist for the week—section 85 of the MRCA
13 has effect in relation to the person and the injury or disease as
14 if paragraph 85(1)(d) of that Act were omitted; and
- 15 (b) if the person is a part-time Reservist for the week—
16 section 86 of the MRCA has effect in relation to the person
17 and the injury or disease as if paragraph 86(1)(e) of that Act
18 were omitted; and
- 19 (c) if the person is a cadet or a declared member for the week—
20 section 87 of the MRCA has effect in relation to the person
21 and the injury or disease as if paragraph 87(1)(e) of that Act
22 were omitted; and
- 23 (d) if the person is a former member—subject to subsection (4)
24 of this section, the following apply:
- 25 (i) section 118 of the MRCA has effect in relation to the
26 person and the injury or disease as if
27 paragraph 118(1)(d) of that Act were omitted;
- 28 (ii) sections 141, 144, 149, 154, 161, 164, 168 and 173 of
29 the MRCA have effect in relation to the person and the
30 injury or disease as if a reference to a compensable
31 pay-related allowance included an allowance covered by
32 the definition of *A* in subsection 8(1) of the old DRCA.

33 Note 1: Subsection (3) of this section means that the Commonwealth will be
34 liable to pay compensation to the person under section 85, 86, 87 or
35 118 of the MRCA (as applicable) in respect of the injury or disease
36 without the person needing to make a claim for compensation under
37 section 319 of the MRCA.

1 Note 2: The Commission is taken to have accepted liability for the person's
2 injury or disease, and the person's injury or disease is taken to be a
3 service injury or a service disease, because of the operation of
4 section 24A of the MRCA.

5 *Continued application of old DRCA in relation to compensation*
6 *where person maintained in a hospital*

- 7 (4) If, immediately before the date of commencement, the person was
8 receiving compensation under section 22 of the old DRCA:
9 (a) despite the repeal of that section by Division 2 of Part 3 of
10 Schedule 1 to the Simplification Act, that section continues
11 to apply, on and after that date, in relation to the person as if
12 that repeal had not happened; and
13 (b) section 127 of the MRCA does not apply in relation to the
14 person on or after that date unless the Commonwealth ceases
15 to be liable to pay compensation under section 22 of the old
16 DRCA to the person.

17 *Meaning of transfer week*

18 (5) In this section:

19 *transfer week* means the first week that starts on or after the date
20 of commencement.

21 **@93 Pending claims for DRCA incapacity compensation**

- 22 (1) This section applies if:
23 (a) before the date of commencement, a claim was made under
24 the old DRCA for compensation under section 19, 20, 21,
25 21A, 22 or 31 of that Act; and
26 (b) immediately before that date, the claim had not been finally
27 determined.
- 28 (2) The claim is taken, on and after the date of commencement, to be a
29 claim for compensation made under section 319 of the MRCA.

1 **@94 References in certain instruments to employees receiving**
2 **compensation under section 19, 20, 21, 21A, 22 or 31 of the**
3 **DRCA**

- 4 (1) This section applies to an instrument if:
- 5 (a) the instrument is in force under section 41B of the DRCA
6 immediately before the date of commencement; and
- 7 (b) the instrument contains a reference to an employee who is
8 receiving, or is eligible to receive, compensation under
9 section 19, 20, 21, 21A, 22 or 31 of the DRCA.
- 10 (2) The instrument has effect, on and after the date of commencement,
11 as if the reference to an employee who is receiving, or is eligible to
12 receive, compensation under section 19, 20, 21, 21A, 22 or 31 of
13 the DRCA were a reference to a person who is receiving
14 compensation under the MRCA because of the operation of section
15 @92 of this Act.
- 16 (3) This section does not prevent the instrument from being amended
17 or repealed on or after the date of commencement.

18 **@95 Continued effect of acute support packages under the old**
19 **DRCA**

- 20 (1) This section applies if:
- 21 (a) before the date of commencement, a person was granted an
22 acute support package under an instrument made for the
23 purposes of section 41B of the old DRCA; and
- 24 (b) immediately before that date:
- 25 (i) the period during which assistance or benefits in the
26 acute support package may be provided had not ended;
27 and
- 28 (ii) the acute support package had not been revoked.
- 29 (2) The amendments of the old DRCA made by Division 2 of Part 3 of
30 Schedule 1 to the Simplification Act do not affect the continuity of
31 the acute support package.

1 **@100 Application provision—overpayments and debts**

- 2 (1) The amendments of section 415 of the MRCA made by Division 6
3 of Part 3 of Schedule 1 to the Simplification Act apply, on and
4 after the date of commencement, in relation to amounts paid, and
5 amounts liable to be paid, before, on or after that date.
- 6 (2) The amendment of section 416 of the MRCA made by Division 6
7 of Part 3 of Schedule 1 to the Simplification Act applies in relation
8 to a person who retires on or after the date of commencement.
- 9 (3) The amendments of sections 428 and 429 of the MRCA made by
10 Division 6 of Part 3 of Schedule 1 to the Simplification Act apply,
11 on and after the date of commencement, in relation to debts that
12 become due to the Commonwealth before, on or after that date.
- 13 (4) Despite the repeal of sections 114A and 114B of the old DRCA by
14 Division 6 of Part 3 of Schedule 1 to the Simplification Act, those
15 sections continue to apply, on and after the date of commencement,
16 in relation to a person who retires before that date, as if that repeal
17 had not happened.

18 **@101 Application provision—common law damages**

19 The amendment of the MRCA made by Division 8 of Part 3 of
20 Schedule 1 to the Simplification Act applies in relation to an action
21 or proceeding instituted on or after the date of commencement.

22 **@102 Application provision—information sharing**

23 Sections 406 and 409 of the MRCA, as amended by Division 9 of
24 Part 3 of Schedule 1 to the Simplification Act, and sections 407A,
25 407B and 409A of the MRCA, as inserted by that Division, apply
26 in relation to the use and disclosure of information and documents
27 on or after the date of commencement, whether the information or
28 documents were obtained before, on or after that date.

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@103 Offsetting

- (1) Section 388 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to an action brought on or after the date of commencement.
- (2) Sections 390 and 391 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, apply in relation to a claim for damages made on or after the date of commencement.
- (3) Sections 399, 401 and 402 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, apply in relation to damages recovered on or after the date of commencement.
- (4) Section 403 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to:
 - (a) an agreement to pay damages that is made on or after the date of commencement; and
 - (b) damages awarded on or after the date of commencement.
- (5) If:
 - (a) on or after the date of commencement, a provision of Chapter 10 of the MRCA applies in relation to a particular case; and
 - (b) apart from this subsection, a relevant DRCA or VEA provision would also apply in relation to that particular case;the relevant DRCA or VEA provision has no effect in relation to the particular case.
- (6) In this section:
relevant DRCA or VEA provision means a provision of:
 - (a) Part IV of the DRCA; or
 - (b) Division 5A of Part II of the VEA; or
 - (c) Division 4 of Part IV of the VEA.

1 **@104 Bringing across rehabilitation programs under the DRCA and**
2 **VEA**

- 3 (1) This section applies if, immediately before the date of
4 commencement, a person is undertaking a rehabilitation program
5 (the *old program*) under the old DRCA or the old VEA.
- 6 (2) On and after the date of commencement:
- 7 (a) the old program is taken to be an approved rehabilitation
8 program for the purposes of the MRCA; and
- 9 (b) the person's rehabilitation authority for the purposes of the
10 old DRCA or the old VEA is taken to be the person's
11 rehabilitation authority for the purposes of the MRCA; and
- 12 (c) the person is taken to be a person to whom Part 2 of
13 Chapter 3 of the MRCA applies.

14 **Subdivision B—Amendments made by Schedule 2**

15 **@105 Application provision—funeral compensation**

- 16 (1) Subject to subsection (2), the amendments of the MRCA made by
17 Division 1 of Part 1 of Schedule 2 to the Simplification Act, apply
18 in relation to a claim for compensation that is made on or after the
19 date of commencement, whether the claim relates to the funeral of
20 a person who dies before, on or after that date.
- 21 (2) Section 268AA of the MRCA, as added by Division 1 of Part 1 of
22 Schedule 2 to the Simplification Act, applies in relation to the
23 funeral of a person who dies on or after the date of
24 commencement.

25 **@106 Pending applications for VEA funeral benefits**

- 26 (1) This section applies if:
- 27 (a) before the date of commencement, an application was made
28 under the old VEA for funeral benefits under section 99 or
29 100 of that Act; and
- 30 (b) immediately before that date, the application had not been
31 finally determined.

- 1 (2) The application is taken, on and after the date of commencement,
2 to be a claim for compensation made under section 319 of the
3 MRCA.

4 **@107 Pending claims for DRCA funeral expenses**

- 5 (1) This section applies if:
6 (a) before the date of commencement, a claim was made under
7 the old DRCA for compensation under section 18 of that Act;
8 and
9 (b) immediately before that date, the application had not been
10 finally determined.
- 11 (2) The claim is taken, on and after the date of commencement, to be a
12 claim for compensation made under section 319 of the MRCA.

13 **@108 Decoration allowance**

14 Despite the repeal of section 102 of the old VEA by Division 4 of
15 Part 1 of Schedule 2 to the Simplification Act, that section
16 continues to apply, on and after the date of commencement, in
17 relation to a pension period (within the meaning of the old VEA)
18 that starts before that date and ends on or after that date, as if that
19 repeal had not happened.

20 **@109 Transfer of old VEA prisoner of war recognition supplement**
21 **recipients to MRCA**

- 22 (1) This section applies in relation to a person if, immediately before
23 the date of commencement, prisoner of war recognition
24 supplement under Part VIB of the old VEA is being paid to the
25 person.

26 *Continued application of old VEA to fortnights before transfer*
27 *fortnight*

- 28 (2) Despite the amendments of the old VEA made by Division 5 of
29 Part 1 of Schedule 2 to the Simplification Act, the old VEA
30 continues to apply, in relation to an amount of prisoner of war
31 recognition supplement payable to the person under Part VIB of

1 that Act for a fortnight that ends before the transfer fortnight, as if
2 those amendments had not been made.

3 *Application of MRCA to transfer fortnight and later fortnights*

4 (3) For the transfer fortnight and each later fortnight, Part 3 of
5 Chapter 5AA of the MRCA has effect in relation to the person as if
6 section @268AO were omitted.

7 Note: Subsection (3) means that the person is eligible for prisoner of war
8 supplement under Part 3 of Chapter 5AA of the MRCA without the
9 person needing to make a claim for compensation under section 319
10 of the MRCA.

11 *Meaning of transfer fortnight*

12 (4) In this section:

13 *transfer fortnight* means the fortnight that starts immediately after
14 the end of the last pension period (within the meaning of the VEA)
15 that ends before the date of commencement.

16 **@110 Pending claims for prisoner of war recognition supplement
17 and prisoner of war compensation**

18 (1) This section applies if:

19 (a) before the date of commencement, a claim was made under:

20 (i) Schedule 5 to the *Social Security and Veterans' Affairs*
21 *Legislation Amendment (One-off Payments and Other*
22 *2007 Budget Measures) Act 2007* for a compensation
23 payment under that Schedule; or

24 (ii) section 115Q of the old VEA for prisoner of war
25 recognition supplement under Part VIB of that Act; or

26 (iii) section 7 of the *Veterans' Entitlements (Clarke Review)*
27 *Act 2004* for a compensation payment under Part 2 of
28 that Act; or

29 (iv) section 6 of the *Compensation (Japanese Internment)*
30 *Act 2001* for a compensation payment under that Act;
31 and

32 (b) immediately before that date, the claim had not been finally
33 determined.

- 1 (2) The claim is taken, on and after the date of commencement, to be a
2 claim for compensation made under section 319 of the MRCA.

3 **@111 Transfer of VEA Veterans' Children Education Scheme**
4 **recipients to MRCA**

- 5 (1) This section applies in relation to a person if, immediately before
6 the date of commencement, the person is receiving a payment or
7 other benefit under the VEA Veterans' Children Education
8 Scheme.
- 9 (2) On and after the date of commencement:
- 10 (a) the scheme established under section 258 of the MRCA (the
11 *MRCA education scheme*) applies, with any necessary
12 modifications, in relation to the person:
- 13 (i) as if the person were an eligible young person; and
14 (ii) as if the MRCA education scheme provided for the
15 person to receive the same payments and other benefits
16 as the person was receiving under the VEA Veterans'
17 Children Education Scheme immediately before the date
18 of commencement; and
- 19 (b) despite subsection 258(2) of the MRCA, a claim under
20 section 319 in respect of the person is not required in order
21 for the person to be provided with those same payments and
22 other benefits.
- 23 (3) Subsection (2) does not prevent the Commission from varying or
24 revoking the MRCA education scheme in accordance with
25 section 258 of the MRCA, including the scheme as it applies to a
26 person because of this section.

- 27 (4) In the section:

28 *VEA Veterans' Children Education Scheme* means the Veterans'
29 Children Education Scheme in force under section 117 of the VEA
30 immediately before the date of commencement.

31 **@112 Pending applications under Part VII of the old VEA**

- 32 (1) This section applies if:
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- 1 (a) before the date of commencement, an application was made
2 under:
3 (i) section 116B of the old VEA; or
4 (ii) section 116CB of the old VEA; or
5 (iii) the Veterans' Children Education Scheme (within the
6 meaning of the old VEA); and
7 (b) immediately before that date, the application had not been
8 finally determined.
- 9 (2) The application is taken, on and after the date of commencement,
10 to be:
11 (a) if subparagraph (1)(a)(i) applies—an application made under
12 paragraph 257C(1)(a) of the MRCA; or
13 (b) if subparagraph (1)(a)(ii) applies—an application made under
14 paragraph 257C(1)(b) of the MRCA; or
15 (c) if subparagraph (1)(a)(iii) applies—a claim for compensation
16 made under section 319 of the MRCA.

17 **@113 Reviews under section 116D of the old VEA**

18 *Reviews under section 116D of the old VEA*

- 19 (1) If:
20 (a) before the date of commencement, a request was made under
21 section 116D of the old VEA for review of a decision; and
22 (b) immediately before that date, a decision on the review had
23 not been made;
24 then, despite the repeal of section 116D and subsection 175(5) of
25 the old VEA by Division 6 of Part 1 of Schedule 2 to the
26 Simplification Act, those provisions continue to apply, on and after
27 that date, in relation to the review as if those repeals had not
28 happened.

29 *Applications made under subsection 175(5) of the old VEA*

- 30 (2) To avoid doubt, the repeal of subsection 175(5) of the old VEA by
31 Division 6 of Part 1 of Schedule 2 to the Simplification Act does
32 not affect any application made under that provision before the
33 date of commencement.

@114 Continued effect of certain determinations made under Part VII of the old VEA

If:

- (a) before the date of commencement, a determination was made for the purposes of a provision of the old VEA mentioned in column 1 of an item of the following table; and
- (b) immediately before that date, the determination is in force; the determination continues to have effect, on and after that date, as if it has been made for the purposes of the provision of the MRCA mentioned in column 2 of the item.

Continued effect of certain determinations made under Part VII of the old VEA

Item	Column 1 Provision of the old VEA	Column 2 Provision of the MRCA
1	section 116A	subsection 257B(1)
2	section 116C	subsection 257C(4)
3	section 116CA	subsection 257B(2)
4	section 116CC	subsection 257C(4)

@115 Application provision—additional compensation for children of severely impaired veterans

The amendments of the MRCA made by Division 7 of Part 1 of Schedule 2 to the Simplification Act apply in relation to a claim for compensation that is made on or after the date of commencement.

@116 Travel for treatment arrangements

- (1) The amendments of the MRCA made by Division 1 of Part 2 of Schedule 2 to the Simplification Act apply in relation to a journey that starts on or after the date of commencement.
- (2) Despite the repeal of subsections 16(6) to (9) and 144B(6) of the old DRCA made by Division 1 of Part 2 of Schedule 2 to the Simplification Act, those provisions, as in force immediately before the date of commencement, continue to apply on and after that date in relation to a journey that starts before that date.

1 (3) Despite the repeal of section 110, and the amendments of
2 sections 111 and 112, of the old VEA made by Division 1 of Part 2
3 of Schedule 2 to the Simplification Act, those provisions, as in
4 force immediately before the date of commencement, continue to
5 apply on and after that date in relation to a journey that starts
6 before that date.

7 **@117 All treatment to be provided under MRCA in certain**
8 **circumstances**

- 9 (1) This section applies if:
- 10 (a) apart from this section, at a time (the *transfer time*) on or
11 after the date of commencement, a person becomes entitled
12 to be provided with treatment for a service injury or disease
13 under Part 3 of Chapter 6 of the MRCA; and
 - 14 (b) at that time, the person is eligible to be, or is being, provided
15 with treatment under subsection 85(1) or (2) of the VEA for a
16 separate war-caused or defence-caused injury or disease
17 (within the meaning of that Act) (the *VEA injury or disease*).
- 18 (2) At the transfer time:
- 19 (a) the person becomes entitled to be provided with treatment
20 under Part 3 of Chapter 6 of the MRCA for the VEA injury
21 or disease; and
 - 22 (b) the person ceases to be eligible to be provided with treatment
23 under subsection 85(1) or (2) of the VEA for that injury or
24 disease.
- 25 (3) However, section 288A of the MRCA does not apply in respect of
26 any treatment obtained for the VEA injury or disease before the
27 transfer time.

28 **@118 Application provision—treatment arrangements**

29 Despite the repeal of section 85B of the old VEA by Division 2 of
30 Part 2 of Schedule 2 to the Simplification Act, that section
31 continues to apply, on and after the date of commencement, in
32 relation to treatment provided during a period that starts before that
33 date and ends on or after that date, as if that repeal had not
34 happened.

1 **@119 Application provision—presumptive liability**

2 The amendments of the MRCA made by Part 3 of Schedule 2 to
3 the Simplification Act apply in relation to a claim for acceptance of
4 liability that is made on or after the date of commencement.

5 **@120 Application provision—additional disablement amount**

6 The amendment of section 199 of the MRCA made by Part 4 of
7 Schedule 2 to the Simplification Act applies in relation to a written
8 offer of a choice that is made on or after the date of
9 commencement.

10 **Subdivision C—Amendments made by Schedule 6**

11 **@121 Application provision—disability compensation cessation date**

12 The amendments of the VEA made by Schedule 6 to the
13 Simplification Act apply in relation to a pension period (within the
14 meaning of the VEA) that starts on or after the date of
15 commencement.

16 **Subdivision D—Other matters**

17 **@122 Transitional regulations**

- 18 (1) The Governor-General may make regulations prescribing matters:
19 (a) required or permitted by this Part to be prescribed by the
20 regulations; or
21 (b) of a transitional nature (including any saving or application
22 provisions) arising out of the enactment of the Simplification
23 Act.
- 24 (2) Without limiting subsection (1), the regulations may provide a
25 method of converting a lump sum amount into weekly amounts for
26 the purpose of subsection 14A(2) of this Act.
- 27 (3) This Part does not limit the regulations that may be made for the
28 purposes of subsection (1).

- 1 **17 Schedules 1 to 4**
2 Repeal the Schedules.

1 **Schedule 8—Consequential amendments**

2 **Part 1—Main amendments**

3 *Aged Care Act 1997*

4 **1 Paragraph 86-3(1)(i)**

5 Omit “administers the *Veterans’ Entitlements Act 1986*”, substitute
6 “administers section 1 of the *Military Rehabilitation and Compensation*
7 *Act 2004*”.

8 **2 Subsection 86-3(4) (paragraph (b) of the definition of**
9 ***receiving Commonwealth body*)**

10 Repeal the paragraph.

11 **3 Subsection 86-3(4) (paragraph (g) of the definition of**
12 ***receiving Commonwealth body*)**

13 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
14 *Military Rehabilitation and Compensation Act 2004*”.

15 **4 Section 86-7**

16 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
17 *Military Rehabilitation and Compensation Act 2004*”.

18 **5 Subsection 96-2(11)**

19 Omit “the *Veterans’ Entitlements Act 1986* under section 213 of that
20 Act”, substitute “section @360DB of the *Military Rehabilitation and*
21 *Compensation Act 2004*”.

22 **6 Paragraph 96-10(2)(b)**

23 Omit “*Military Rehabilitation and Compensation”, substitute
24 “Repatriation”.

25 **7 Clause 1 of Schedule 1 (definition of *Military Rehabilitation***
26 ***and Compensation Commission*)**

27 Repeal the definition.

1 **8 Clause 1 of Schedule 1 (definition of *Repatriation***
2 ***Commission*)**

3 Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute
4 “section @360B of the *Military Rehabilitation and Compensation Act*
5 *2004*”.

6 ***Aged Care Quality and Safety Commission Act 2018***

7 **9 Subsection 61(3) (paragraph (a) of the definition of**
8 ***receiving Commonwealth body*)**

9 Repeal the paragraph.

10 **10 Subsection 61(3) (paragraph (f) of the definition of**
11 ***receiving Commonwealth body*)**

12 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
13 *Military Rehabilitation and Compensation Act 2004*”.

14 **11 Subsection 61(3) (definition of *Repatriation Commission*)**

15 Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute
16 “section @360B of the *Military Rehabilitation and Compensation Act*
17 *2004*”.

18 ***Aged Care (Transitional Provisions) Act 1997***

19 **12 Subsection 96-2(9)**

20 Omit “the *Veterans’ Entitlements Act 1986* under section 213 of that
21 Act”, substitute “section @360DB of the *Military Rehabilitation and*
22 *Compensation Act 2004*”.

23 **13 Clause 1 of Schedule 1 (definition of *Repatriation***
24 ***Commission*)**

25 Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute
26 “section @360B of the *Military Rehabilitation and Compensation Act*
27 *2004*”.

1 ***Age Discrimination Act 2004***

2 **14 Subsection 41(6)**

3 Repeal the subsection.

4 ***A New Tax System (Family Assistance) Act 1999***

5 **15 After paragraph 7(ha) of Schedule 3**

6 Insert:

7 (haa) a payment of an Additional Disablement Amount under
8 Division 3A of Part 7 of Chapter 4 of the *Military*
9 *Rehabilitation and Compensation Act 2004*;

10 ***Australian Participants in British Nuclear Tests and British***
11 ***Commonwealth Occupation Force (Treatment) Act***
12 ***2006***

13 **16 Subsection 4(1) (definition of *Commission*)**

14 Omit “means the Repatriation Commission continued in existence by
15 section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “has the
16 same meaning as in the *Military Rehabilitation and Compensation Act*
17 *2004*”.

18 **17 Subsection 30(1) (note)**

19 Omit “section 180 of the *Veterans’ Entitlements Act 1986*”, substitute
20 “section @360BB of the *Military Rehabilitation and Compensation Act*
21 *2004*”.

22 ***Australian Veterans’ Recognition (Putting Veterans and***
23 ***Their Families First) Act 2019***

24 **18 Subsection 7(3)**

25 Omit “Military Rehabilitation and Compensation Commission”,
26 substitute “Repatriation Commission”.

1 ***Child Support (Assessment) Act 1989***

2 **19 Subsection 150(1) (definition of Veterans' Affairs**
3 **Department)**

4 Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the
5 *Military Rehabilitation and Compensation Act 2004*”.

6 ***Child Support (Registration and Collection) Act 1988***

7 **20 Subsection 4(1) (definition of Veterans' Affairs**
8 **Department)**

9 Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the
10 *Military Rehabilitation and Compensation Act 2004*”.

11 **21 Subsection 72AC(1)**

12 Omit “(within the meaning of the *Veterans' Entitlements Act 1986*)”.

13 **22 At the end of section 72AC**

14 Add:

15 (4) In this section:

16 ***Repatriation Commission*** means the Repatriation Commission
17 continued in existence by section @360B of the *Military*
18 *Rehabilitation and Compensation Act 2004*.

19 ***Data-matching Program (Assistance and Tax) Act 1990***

20 **23 Subsection 3(1) (definition of Veterans' Affairs**
21 **Department)**

22 Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the
23 *Military Rehabilitation and Compensation Act 2004*”.

1 ***Defence Force Discipline Act 1982***

2 **24 Paragraph 3(7)(c)**

3 Omit “Part IV of the *Veterans’ Entitlements Act 1986*”, substitute “the
4 *Military Rehabilitation and Compensation Act 2004*”.

5 ***Dental Benefits Act 2008***

6 **25 Subparagraph 41(1)(c)(vi)**

7 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
8 *Military Rehabilitation and Compensation Act 2004*”.

9 ***Disability Discrimination Act 1992***

10 **26 Subsection 53(2) (definition of *peacekeeping service*)**

11 Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military*
12 *Rehabilitation and Compensation Act 2004*”.

13 ***Health Insurance Act 1973***

14 **27 Subsection 3(1) (definition of *Veterans’ Affairs Minister*)**

15 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
16 *Military Rehabilitation and Compensation Act 2004*”.

17 ***Higher Education Support Act 2003***

18 **28 Subparagraphs 46-20(2)(n)(ii) and (iii)**

19 Repeal the subparagraphs.

20 **29 Subparagraph 46-20(2)(n)(iv)**

21 After “administers”, insert “section 1 of”.

22 **30 Subclause 1(1) of Schedule 1 (definition of *Military***
23 ***Rehabilitation and Compensation Commission*)**

24 Repeal the definition.

1 **31 Subclause 1(1) of Schedule 1 (definition of *Repatriation***
2 ***Commission*)**

3 Omit “the body corporate continued in existence by section 179 of the
4 *Veterans’ Entitlements Act 1986*”, substitute “the Repatriation
5 Commission continued in existence by section @360B of the *Military*
6 *Rehabilitation and Compensation Act 2004*”.

7 ***Housing Australia Future Fund Act 2023***

8 **32 Section 4 (definition of *Veterans’ Affairs Minister*)**

9 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
10 *Military Rehabilitation and Compensation Act 2004*”.

11 ***Income Tax Assessment Act 1936***

12 **33 Subsection 6(1) (definition of *Veterans’ Affairs Secretary*)**

13 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
14 *Military Rehabilitation and Compensation Act 2004*”.

15 **34 Subparagraph 160AAAA(2)(a)(i)**

16 Omit “(other than Part VII)”.

17 **35 Subsections 202CB(8) and 202CE(9)**

18 Omit “Military Rehabilitation and Compensation Commission”,
19 substitute “Repatriation Commission”.

1 **36 Subsection 265A(4)**

2 Omit “*Veterans’ Entitlements Act 1986* on a question affecting the right
3 of a dependant of a deceased veteran to a pension under Part II or IV of
4 that Act, or any decision of the Military Rehabilitation and
5 Compensation Commission established under section 361 of the
6 *Military Rehabilitation and Compensation Act 2004* on a question
7 affecting the right of a dependant of a deceased member (within the
8 meaning of that Act) to compensation under Chapter 5 of that Act”,
9 substitute “*Military Rehabilitation and Compensation Act 2004* (the
10 **MRCA**) on a question affecting the right of a dependant of a deceased
11 veteran to a pension under Part II or IV of the *Veterans’ Entitlements*
12 *Act 1986*, or on a question affecting the right of a dependant of a
13 deceased member (within the meaning of the MRCA) to compensation
14 under Chapter 5 of the MRCA”.

15 **37 Saving provision**

16 Section 160AAAA of the *Income Tax Assessment Act 1936*, as in force
17 immediately before the day this item commences, continues to apply,
18 on and after that day, in relation to a year of income in which the
19 taxpayer is eligible for a pension, allowance or benefit under Part VII of
20 the *Veterans’ Entitlements Act 1986*.

21 ***Income Tax Assessment Act 1997***

22 **38 Section 11-15 (table item headed “social security or like
23 payments”)**

24 Omit:

25

clean energy payment under the scheme prepared
under Part VII of the *Veterans’ Entitlements Act*
1986 52-65
.....

26 **39 Paragraphs 52-65(1)(ba) and (e)**

27 Repeal the paragraphs.

28 **40 Subsections 52-65(1F) and (1G)**

29 Repeal the subsections, substitute:

1 (1G) Clean energy payments under the *Veterans' Entitlements Act 1986*
2 are exempt from income tax.

3 **41 Section 52-65 (table items 5.1, 15.1, 16.1, 20.1 and 22.1)**

4 Repeal the items.

5 **42 Section 52-75 (table items 3B, 5, 12A, 15, 16, 20 and 22)**

6 Repeal the items.

7 **43 Section 52-114 (table item 2)**

8 After "291", insert ", 291A".

9 **44 Section 52-114 (after table item 9)**

10 Insert:

9A	Additional Disablement Amount (section 220A)	Exempt	Not applicable
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11 **45 Section 52-114 (after table item 11)**

12 Insert:

11A	Victoria Cross allowance (section 230A)	Exempt	Not applicable
11B	Decoration allowance (section 230C)	Exempt	Not applicable

13 **46 Section 52-114 (table items 13 and 15)**

14 Omit "and (iii)", substitute ", (iii) and (iv)".

15 **47 Section 52-114 (table item 18)**

16 Omit "section 266", substitute "sections 266, 268AA, 268AB and
17 268AC".

18 **48 Section 52-114 (after table item 18)**

19 Insert:

18A	Compensation relating to prisoners of war (sections @268AJ and @268AM)	Exempt	Not applicable
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1 **49 Section 52-114 (table item 22)**

2 After “209A”, insert “, 220D”.

3 **50 Subparagraph 52-145(1)(b)(iii)**

4 Repeal the subparagraph.

5 **51 Application of amendments**

6 The amendments of section 52-114 of the *Income Tax Assessment Act*
7 *1997* made by this Schedule apply in relation to the 2026-27 income
8 year and later income years.

9 **52 Saving provisions**

- 10 (1) Paragraph 52-65(1)(ba) of the *Income Tax Assessment Act 1997* and
11 subsection 52-65(1G) of that Act, as in force immediately before the
12 day this item commences, continue to apply on and after that day in
13 relation to a clean energy payment that is made before, on or after that
14 day under the scheme prepared under Part VII of the *Veterans’*
15 *Entitlements Act 1986*.
- 16 (2) Paragraph 52-65(1)(e) of the *Income Tax Assessment Act 1997* and
17 subsection 52-65(1F) of that Act, as in force immediately before the day
18 this item commences, continue to apply on and after that day in relation
19 to a payment of a prisoner of war recognition supplement under
20 Part VIB of the *Veterans’ Entitlements Act 1986* made before, on or
21 after that day.
- 22 (3) Item 5.1 of the table in section 52-65 of the *Income Tax Assessment Act*
23 *1997*, as in force immediately before the day this item commences,
24 continues to apply on and after that day in relation to a payment of
25 decoration allowance made before, on or after that day.
- 26 (4) Item 15.1 of the table in section 52-65 of the *Income Tax Assessment*
27 *Act 1997*, as in force immediately before the day this item commences,
28 continues to apply on and after that day in relation to a payment of a
29 section 99 funeral benefit made before, on or after that day.
- 30 (5) Item 16.1 of the table in section 52-65 of the *Income Tax Assessment*
31 *Act 1997*, as in force immediately before the day this item commences,
32 continues to apply on and after that day in relation to a payment of a
33 section 100 funeral benefit made before, on or after that day.

- 1 (6) Item 20.1 of the table in section 52-65 of the *Income Tax Assessment*
2 *Act 1997*, as in force immediately before the day this item commences,
3 continues to apply on and after that day in relation to a payment of
4 travelling expenses made before, on or after that day.
- 5 (7) Item 22.1 of the table in section 52-65 of the *Income Tax Assessment*
6 *Act 1997*, as in force immediately before the day this item commences,
7 continues to apply on and after that day in relation to a payment of
8 Victoria Cross allowance made before, on or after that day.
- 9 (8) Subparagraph 52-145(1)(b)(iii) of the *Income Tax Assessment Act 1997*,
10 as in force immediately before the day this item commences, continues
11 to apply on and after that day in relation to a payment of an allowance
12 or reimbursement under the scheme known as the Veterans' Children
13 Education Scheme.

14 ***My Health Records Act 2012***

15 **53 Subsection 5(1) (definition of Veterans' Affairs**
16 **Department)**

17 Repeal the definition, substitute:

18 *Veterans' Affairs Department* means the Department administered
19 by the Minister administering section 1 of the *Military*
20 *Rehabilitation and Compensation Act 2004*.

21 ***National Cancer Screening Register Act 2016***

22 **54 Section 4 (definition of Veterans' Affairs Department)**

23 Omit "the *Veterans' Entitlements Act 1986*", substitute "section 1 of the
24 *Military Rehabilitation and Compensation Act 2004*".

25 ***National Health Act 1953***

26 **55 Subsection 4(1) (definition of Veterans' Affairs Minister)**

27 Omit "the *Veterans' Entitlements Act 1986*", substitute "section 1 of the
28 *Military Rehabilitation and Compensation Act 2004*".

1 ***Safety, Rehabilitation and Compensation Act 1988***

2 **56 Paragraph 43(1)(a)**

3 Omit “for the purposes of Part IV of the *Veterans’ Entitlements Act*
4 *1986*”, substitute “within the meaning of the *Military Rehabilitation*
5 *and Compensation Act 2004*”.

6 ***Social Security Act 1991***

7 **57 Subparagraphs 8(8)(y)(v), (vi), (via), (viaaa) and (viia)**

8 Repeal the subparagraphs.

9 **58 Subparagraph 8(8)(y)(viii)**

10 Omit “Act; or”, substitute “Act;”.

11 **59 Subparagraph 8(8)(y)(ix)**

12 Repeal the subparagraph.

13 **60 Paragraph 8(8)(zo)**

14 Omit “or 266”, substitute “, 266, 268AA, 268AB or 268AC”.

15 **61 After paragraph 8(8)(zq)**

16 Insert:

17 (zqa) a payment of an Additional Disablement Amount under
18 Division 3A of Part 7 of Chapter 4 of the Military
19 Rehabilitation and Compensation Act;

20 (zqb) if subsection 220C(5) of the Military Rehabilitation and
21 Compensation Act applies to a person—an amount per
22 fortnight, worked out under subsection (13) of this section,
23 that would, apart from this paragraph, be income of the
24 person;

25 Note: Subsection 220C(5) of the Military Rehabilitation and
26 Compensation Act reduces an Additional Disablement Amount
27 by reference to amounts of Commonwealth superannuation that
28 the person has received or is receiving.

29 **62 After paragraph 8(8)(zsa)**

30 Insert:

- 1 (zsb) a payment under section @230A of the Military
2 Rehabilitation and Compensation Act (Victoria Cross
3 allowance);
4 (zsc) a payment under an instrument made under section @230C
5 of the Military Rehabilitation and Compensation Act
6 (decoration allowance);
7 (zsd) a payment, by a foreign country, of an allowance or annuity
8 that is of a similar kind to a payment covered by
9 paragraph (zsb) or (zsc);
10 (zse) a payment under Part 3 of Chapter 5AA of the Military
11 Rehabilitation and Compensation Act (prisoner of war
12 recognition supplement);
13 (zsf) a payment under section @268AJ of the Military
14 Rehabilitation and Compensation Act (compensation in
15 respect of former members and civilians interned by certain
16 military forces);

17 **63 Paragraph 8(8AA)(d)**

18 Repeal the paragraph.

19 **64 At the end of section 8**

20 Add:

- 21 (13) For the purposes of paragraph 8(8)(zqb), the amount per fortnight
22 that is not income for the purposes of this Act is:

$$\frac{\text{Additional Disablement Amount}}{\text{reduction amount}} \times \frac{10}{6}$$

23 where:
24

25 ***Additional Disablement Amount reduction amount*** means the
26 amount by which the Additional Disablement Amount (as reduced
27 under subsection 220C(3) of the Military Rehabilitation and
28 Compensation Act) is reduced under subsection 220C(6) of the
29 Military Rehabilitation and Compensation Act (but not below
30 zero).

1 **65 Paragraph 592K(2)(c)**

2 Repeal the paragraph.

3 **66 Subparagraph 592K(5)(b)(iii)**

4 Repeal the subparagraph.

5 **67 Subsection 592L(7) (paragraph (c) of the definition of**
6 ***student relocation payment*)**

7 Repeal the paragraph.

8 **68 Subparagraph 1061ZVBC(b)(i)**

9 Repeal the subparagraph.

10 **69 Application provision**

11 The *Social Security Act 1991*, as in force immediately before the day
12 this item commences, continues to apply, on and after that day, in
13 relation to payments of any of the following that are made before, on or
14 after that day:

- 15 (a) decoration allowance under section 102 of the *Veterans'*
16 *Entitlements Act 1986*;
- 17 (b) Victoria Cross allowance under section 103 of that Act;
- 18 (c) a payment, by a foreign country, of an allowance or annuity
19 that is of a similar kind to decoration allowance payable
20 under section 102 of that Act or to Victoria Cross allowance
21 payable under section 103 of that Act;
- 22 (d) prisoner of war recognition supplement under Part VIB of
23 that Act;
- 24 (e) a payment known as a student start-up scholarship payment,
25 or a relocation scholarship payment, under the scheme
26 referred to in section 117 of that Act;
- 27 (f) a funeral benefit under Part VI of that Act.

28 ***Student Assistance Act 1973***

29 **70 Subparagraph 7D(b)(i)**

30 Repeal the subparagraph.

1 **71 Application provision**

2 Section 7D of the *Student Assistance Act 1973*, as in force immediately
3 before the day this item commences, continues to apply, on and after
4 that day, in relation to a payment that is:

- 5 (a) known as a student start-up scholarship payment, or a
6 relocation scholarship payment, under the scheme referred to
7 in section 117 of the *Veterans' Entitlements Act 1986*; and
8 (b) made before, on or after that day.

9 ***Superannuation Act 1976***

10 **72 Subsections 54G(2), 54H(1) and 54JA(6A)**

11 Omit "Military Rehabilitation and Compensation Commission",
12 substitute "Repatriation Commission".

13 ***Treatment Benefits (Special Access) Act 2019***

14 **73 Subsection 5(1) (definition of *Commission*)**

15 Omit "means the Repatriation Commission continued in existence by
16 section 179 of the *Veterans' Entitlements Act 1986*", substitute "has the
17 same meaning as in the *Military Rehabilitation and Compensation Act*
18 *2004*".

19 **74 Subsection 40(1) (note)**

20 Omit "section 180 of the *Veterans' Entitlements Act 1986*", substitute
21 "section @360BB of the *Military Rehabilitation and Compensation Act*
22 *2004*".

1 **Part 2—Contingent amendments**

2 ***Defence Act 1903***

3 **75 Subsection 4(1) (definition of *Department of Veterans'***
4 ***Affairs*)**

5 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
6 *Military Rehabilitation and Compensation Act 2004*”.