

Submission

Regarding

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

1. I wish to lodge a submission regarding the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024 as follows:

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

- a. Schedule 2, Part 1, 84 Subsection 80(1). This section deals with Additional compensation for children of severely impaired veterans. The Act defines a severely impaired veteran as one that has been assessed at 80, or more, impairment points. However, under the current MRCA, s71(1)(2), where a veteran has a previous impairment assessment and an application is made for additional service injuries or diseases or an increase in impairment due to a deterioration of existing conditions, there must be an increase in the overall impairment of at least 5 impairment points. This means a veteran previously assessed at 78 impairment points must have an increase to at least 83 impairment points before any additional compensation is available, including the additional compensation for children. If the veteran only achieves an increase of 3 impairment points, an overall impairment of 81 impairment points, there is no additional compensation payable including the additional compensation for children. This is despite the fact that the veteran has been assessed at 80, or more, impairment points. I propose that the following amendment to Schedule 2, Part 1, 84 Subsection 80(1):

Delete paragraph (1A)(b)(ii)

Insert:

*“(ii) the increase in the person’s overall impairment constitutes at least 5 impairment points; **or***

(iii) the increase in the person's overall impairment constitutes 80, or more, impairment points."

- b.** Schedule 1, Part 3, 74 Subsection 71(3). Section 71 of the MRCA deals with additional compensation. It sets the conditions where compensation is paid for additional service injuries or diseases (subsection 71(1)) and for additional impairment due to a deterioration of existing conditions (subsection 71(2)). Section 72(1) deals with additional compensation concerning aggravations. These sections stipulate that where a veteran has a previous impairment assessment and an application is made for additional service injuries or diseases or an increase in impairment due to a deterioration of existing conditions, there must be an increase in the overall impairment of at least 5 impairment points. Chapter 23 of GARP M (the Guide), Calculating Permanent Impairment Compensation, paragraph 2, states, "*Once a rating of 80 impairment points is achieved no lifestyle needs to be calculated as this rating pays the maximum weekly payment under the Act. The maximum payment is payable at 80 impairment points for all types of service*". The requirement for overall impairment to increase by at least 5 impairment points means that a veteran who was previously assessed at 78 impairment points must have an increase to at least 83 impairment points before any additional compensation is available. If the veteran only achieves an increase of 3 impairment points, an overall impairment of 81 impairment points, there is no additional compensation payable despite the fact that the veteran has been assessed at 80, or more, impairment points. I believe this contrary to the intention of the Act and the beneficial nature of Veterans' legislation. I propose that the following amendments be to Schedule 1, Part 3, 74 Subsection 71(3):

MRCA s71(1)

Delete paragraph (1)(b)(iii)

Insert:

"(iii) the increase in the person's overall impairment constitutes at least 5 impairment points; or the increase in the person's overall impairment constitutes 80, or more, impairment points; and"

MRCA s71(2)

Delete paragraph (2)(a)(iv)

Insert:

“(iv) the increase in the person’s overall impairment constitutes at least 5 impairment points; or the increase in the person’s overall impairment constitutes 80, or more, impairment points; and”

MRCA s72(1)

Delete paragraph (1)

Insert:

“(1) The Commonwealth is liable to pay additional compensation under subsection 71(1) in respect of a single aggravated injury or disease only if the increase in the person’s overall impairment resulting from the aggravation or material contribution constitutes at least 5 impairment points; or an increase in the person’s overall impairment resulting from the aggravation or material contribution constitutes 80, or more, impairment points.”

- c. It has been proposed that, where a claim for a new condition or an application for increase/worsening of existing accepted conditions is made on, or after, the enactment date, in regards to a client with VEA conditions only, that the last whole person impairment assessment be used as the baseline for the new assessment. For example, a VEA only veteran who has currently been assessed with a degree incapacity of 60% would have been assessed at 35 or 40 impairment points (dependent on Lifestyle rating). These impairment points are rounded to the nearest multiple of five i.e. Figures ending on “3” or “4” or “8” or “9” should be rounded up, figures ending on “1” or “2” or “6” or “7” should be rounded down. This means the unround impairment points would have been 33, 34, 36, or 37 for 35 points rounded and 38, 39, 41, or 42 for 40 points rounded. It needs to be clearly identified which figure is going to be used as the baseline impairment rating.

- d. Where a veteran only has DRCA conditions (i.e. there was no eligibility under the VEA or no conditions were claimed under the VEA) then it would not be possible to determine a baseline whole person impairment for this veteran. The DRCA is based on assessment of individual conditions, not whole person. The DRCA utilises Part 2 of Permanent Impairment Guide Edition 2.1 November 2011 to assess the impairment of a DRCA condition. There are substantial differences between this guide and GARP M. For example, under the guide there is only one criterion for Tinnitus being Table 7.2, Miscellaneous ear, nose and throat disorders, “*Permanent tinnitus*” which attracts 5%. In GARP M there are five assessment criteria in Table 7.1.11 ranging from 0 points for “*No tinnitus or occasional tinnitus*” to 15 points for “*Very severe tinnitus*”. Another example concerns Musculo-skeletal (Guide) and Impairment of Spine and Limbs (GARP M). The range of movement criteria in the guide are no loss, less than a half, more than a half, and Ankylosis. Under GARP M there are no loss, about a quarter, about a half, about three quarters, ankylosis in position of function, and Ankylosis in an unfavourable position. There are also considerable differences concerning the tables for Use of the Limbs between the guide Table 4 & 5 and GARP M Tables 3.1.2 and 3.2.2. Also, there is no adjustment for age in the guide as in GARP M Table 3.6. Unless there are detailed medical assessment reports available for the DRCA conditions it would be extremely difficult to determine an accurate whole person impairment figure for these cases. The most appropriate method to determine a baseline whole person impairment would be to use the allocated impairment percentage, from the guide. Where the DRCA conditions are seen to affect a functional unit, e.g. lower limbs, then the higher rating of the accepted conditions of the lower limb would be used in the whole person assessment.

2. I will be happy to clarify or discuss any of the above if required.



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16 April 2024