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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

**Veterans' Entitlements, Treatment and
Support (Simplification and
Harmonisation) Bill 2025**

No. , 2025

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

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act is the *Veterans' Entitlements, Treatment and Support*
7 *(Simplification and Harmonisation) Act 2025*.

8 **2 Commencement**

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

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 5 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 2025</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
8. Schedule 9	29 September 2025.	29 September 2025

2 Note: This table relates only to the provisions of this Act as originally
3 enacted. It will not be amended to deal with any later amendments of
4 this Act.

5 (2) Any information in column 3 of the table is not part of this Act.
6 Information may be inserted in this column, or information in it
7 may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Review of operation of amendments

- (1) The Senate Foreign Affairs, Defence and Trade Legislation Committee, or such other committee constituted under a resolution of the Senate, must:
 - (a) begin a review of the operation of the amendments made by this Act as soon as practicable after the end of the period of 12 months beginning on the day Schedule 1 to this Act commences; and
 - (b) report the Committee's findings to the Senate as soon as practicable after completing the review.
- (2) Without limiting subsection (1), the review must consider the following:
 - (a) the effectiveness of the amendments;
 - (b) whether the amendments have achieved recommendation 1 of the Interim Report of the Defence and Veteran Suicide Royal Commission, and any other relevant recommendations of that report;
 - (c) the operation of legislated governance arrangements as a result of the amendments;
 - (d) whether the amendments have improved or clarified the benefits available to veterans and their families;
 - (e) whether the amendments have resulted in improvements in operational processes associated with veterans and their families accessing benefits;
 - (f) whether further legislative changes are needed;
 - (g) any related matter.
- (3) In this section:

Defence and Veteran Suicide Royal Commission means the Royal Commission into Defence and Veteran Suicide, issued by the

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Governor-General by Letters Patent on 8 July 2021 (and including any later variations of those Letters Patent).

5 Review of amendments in Schedule 9

The Senate Foreign Affairs, Defence and Trade Legislation Committee must:

- (a) begin a review of the amendments in Schedule 9 to this Act as soon as practicable after the day this Act receives the Royal Assent; and
- (b) report the Committee’s findings to the Senate by 29 August 2025.

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.

Schedule 1 Single ongoing Act main amendments
Part 1 Closing eligibility to DRCA and VEA

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.

27 **10 Subsection 5(2)**

28 Repeal the subsection.

1 **11 After section 19**

2 Insert:

3 **19A De facto relationships**

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

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

- 1 (iii) whether the people consider that the relationship is
2 likely to continue indefinitely; and
3 (iv) whether the people see their relationship as a
4 de facto relationship.

5 **12 Section 197**

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

7 **13 Subsection 198(2)**

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

9 **14 Subsection 204A(2) (note 3)**

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

11 **15 Sections 221 to 224**

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

14 **16 Paragraphs 234(5)(a) and 245(b)**

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

16 **17 Sections 246 to 248**

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

19 **18 Subsection 258(7)**

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

21 **19 Section 278**

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

24 **20 Section 280A (heading)**

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

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

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

4 **22 Subsection 280A(1) (note 1)**

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

6 **23 Subsection 280A(1) (note 2)**

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

9 **24 Subsection 280A(2)**

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

12 **25 Section 300 (note 2)**

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

15 **26 Sections 301 to 303**

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

18 **27 Subsection 409(5) (paragraph (g) of the definition of**
19 ***receiving Commonwealth body*)**

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

21 **28 Section 423**

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

24 **29 Paragraph 424L(2)(b)**

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

26 **30 Paragraph 430(3E)(b)**

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

1 **31 Subparagraph 438(a)(i)**

2 Omit “Veterans’ Affairs”.

3 ***Safety, Rehabilitation and Compensation (Defence-related***
4 ***Claims) Act 1988***

5 **32 Subsection 4(1)**

6 Insert:

7 *date of commencement* means 1 July 2026.

8 **33 After Part I**

9 Insert:

10 **Part IA—Operation of this Act on and after date of**
11 **commencement**
12

13 **14AA No new claims etc. on or after date of commencement**

14 Despite anything else in this Act:

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

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

19 Note 1: From the date of commencement:

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

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

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

26 **34 Subsection 41B(1) (note)**

27 Omit “Note”, substitute “Note 1”.

28 **35 At the end of subsection 41B(1)**

29 Add:

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

3 **36 At the end of subsection 54(1)**

4 Add:

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

7 **37 At the end of subsection 124(1A)**

8 Add:

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

11 ***Veterans' Entitlements Act 1986***

12 **38 Subsection 5Q(1)**

13 Insert:

14 *date of commencement* means 1 July 2026.

15 **39 After Part I**

16 Insert:

17 **Part IA—Operation of this Act on and after date of**
18 **commencement**
19

20 **12AA No new claims, applications etc. on or after date of**
21 **commencement**

22 Despite anything else in this Act:

23 (a) a claim or application may not be made under any of the
24 following on or after the date of commencement:

25 (i) Part II (other than Division 2A);

26 (ii) Part IV;

27 (iii) section 111 (other than in respect of bereavement
28 payment under section 98AA);

Schedule 1 Single ongoing Act main amendments
Part 1 Closing eligibility to DRCA and VEA

- 1 (iv) a legislative instrument made under section 105 or 106;
2 and
3 (b) an instrument may not be made under section 115S (acute
4 support package) on or after that date.

- 5 Note 1: From the date of commencement:
6 (a) certain claims and applications that could previously be made
7 under this Act, or under legislative instruments made under this
8 Act, will be able to be made under the MRCA; and
9 (b) acute support packages that could previously be granted under
10 this Act will be able to be granted under section 268B of the
11 MRCA.

- 12 Note 2: See also section 89 of the CTPA in relation to certain pending claims
13 and applications.

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

15 Repeal the notes, substitute:

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

18 **41 At the end of subsections 15(1) and (2)**

19 Add:

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

22 **42 At the end of subsection 111(2)**

23 Add:

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

27 **43 Subsection 115S(1) (note)**

28 Omit “Note”, substitute “Note 1”.

29 **44 At the end of subsection 115S(1)**

30 Add:

- 31 Note 2: An instrument may not be made under this section on or after the date
32 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 450.

22 *Peacekeeping Force* has the meaning given by subsection 6A(3).

23 *peacekeeping service* has the meaning given by subsection 6A(1).

24 **55 Before section 6**

25 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

6B British nuclear test defence service

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

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

(2) A person has rendered *British nuclear test defence service* if, 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
38 not entitled to compensation under a law of a Commonwealth

1 country providing for the payment of pensions and other
2 payments to seamen who suffered death or disablement as a
3 result of World War 2.

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

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

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

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

32 **eligible civilian** means a person:

- 33 (a) who was killed, or detained by the enemy, during World War
34 2; and
35 (b) who was, at the time the person was killed or first detained:
36 (i) a British subject; and

- 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.

35 **member of the Interim Forces** means a person who:

- 1 (a) enlisted or re-engaged in, or was appointed or re-appointed
2 to, the Defence Force for continuous full-time operational
3 service for a term of not more than 2 years; or
4 (b) was appointed for continuous full-time operational service
5 with a unit of the Defence Force for a term of not more than
6 2 years;
7 on or after 1 July 1947 and before 1 July 1949.

8 ***operational area*** has the meaning given by section 451.

9 ***period of hostilities*** means:

- 10 (a) World War 1 from its commencement on 4 August 1914 to
11 11 November 1918 (both included); or
12 (b) World War 2 from its commencement on 3 September 1939
13 to 29 October 1945 (both included); or
14 (c) the period of hostilities in respect of Korea from 27 June
15 1950 to 19 April 1956 (both included); or
16 (d) the period of hostilities in respect of Malaya from 29 June
17 1950 to 31 August 1957 (both included); or
18 (e) the period of hostilities in respect of war-like operations in
19 operational areas from 31 July 1962 to 11 January 1973 (both
20 included).

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

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

26 ***World War 1*** means:

- 27 (a) the war that commenced on 4 August 1914; or
28 (b) any other war in which the Crown became engaged after
29 4 August 1914 and before 11 November 1918.

30 ***World War 2*** means:

- 31 (a) the war that commenced on 3 September 1939; or
32 (b) any other war in which the Crown became engaged after
33 3 September 1939 and before 3 September 1945.

1 *Allotted for duty*

- 2 (2) A reference in this Chapter to a person, or a unit of the Defence
3 Force, that was ***allotted for duty*** in an operational area is a
4 reference:
- 5 (a) in the case of duty that was carried out in an operational area
6 described in item 1, 2, 3, 6, 7, 8, 9 or 10 of the table in
7 section 451—to a person, or unit of the Defence Force, that is
8 allotted for duty in the area (whether retrospectively or
9 otherwise) by written instrument issued by the Defence Force
10 for use by the Commission in determining a person’s
11 eligibility for entitlements under this Act; or
- 12 (b) in the case of duty that was carried out in an operational area
13 described in item 4, 5, 11, 12, 13, 14, 15, 16 or 17 of the table
14 in section 451—to a person, or unit of the Defence Force,
15 that is allotted for duty in the area (whether retrospectively or
16 otherwise) by written instrument signed by the Vice Chief of
17 the Defence Force for use by the Commission in determining
18 a person’s eligibility for entitlements under this Act; or
- 19 (c) to a person, or unit of the Defence Force, that is, by written
20 instrument signed by the Defence Minister, taken to have
21 been allotted for duty in an operational area described in
22 item 6 or 10 of the table in section 451.
- 23 (3) An instrument under paragraph (2)(a), (b) or (c) is not a legislative
24 instrument.

25 *Army Medical Corps Nursing Service*

- 26 (4) For the purposes of this Chapter, a member of the Army Medical
27 Corps Nursing Service who:
- 28 (a) rendered service during World War 1, either within or
29 outside Australia; and
- 30 (b) rendered the service as such a member in accordance with an
31 acceptance or appointment by the Director-General of
32 Medical Services for service outside Australia;
- 33 is taken to have been serving as a member of the Defence Force
34 while rendering that service.

1 *Determinations relating to continuous full-time operational service*
2 *and member of unit of the Defence Force*

- 3 (5) The Minister may, in writing, determine any of the following:
4 (a) that a person, or a person included in a class of persons, was
5 rendering continuous full-time operational service while
6 rendering service of a kind specified in the determination;
7 (b) that a person, or a person included in a class of persons, was
8 a member of a specified unit of the Defence Force while
9 rendering service of a kind specified in the determination.

10 (6) A determination under subsection (5) is not a legislative
11 instrument.

12 *End of World War 1 and World War 2*

- 13 (7) For the purposes of this Chapter:
14 (a) World War 1 is taken to have ended on 1 September 1921;
15 and
16 (b) World War 2 is taken to have ended on 28 April 1952.

17 Note 1: 1 September 1921 is the date fixed by Proclamation under the
18 *Termination of the Present War (Definition) Act 1919*.

19 Note 2: 28 April 1952 is the date on which the Treaty of Peace with Japan
20 came into force.

21 *References to coordinates*

- 22 (8) The coordinates in this Chapter are expressed in terms of the
23 World Geodetic System 1984 (WGS84), as in force from time to
24 time.

25 **Part 2—Application of this Act to operational** 26 **service** 27

28 **443 This Act applies to operational service as if it were warlike** 29 **service or non-warlike service**

30 This Act applies in relation to operational service that a person is
31 taken to have been rendering as if:

- 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 War 2 in such circumstances that the

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Operational service

Item	Person	Nature of service
		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
2	An eligible civilian who was killed, during the invasion of the Territory of Papua or the Territory of New Guinea during World	The time of the event as a result of which the person was killed

Operational service

Item	Person	Relevant period or time
	War 2, as a result of action by the enemy	
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
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

Cut-off date		
Item	Member	Date
		Force, whichever is the earlier
4	Any other member	3 January 1949

1

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:
- 25 (a) at any time when the person was at a place outside Australia
26 on leave from the ship while the ship was at a port outside
27 Australia;
- 28 (b) at any time when the person was outside Australia while on
29 the person's way to take up employment as an Australian
30 mariner on a ship;

- 1 (c) while the person was awaiting return to Australia from
2 employment as an Australian mariner on a ship;
3 (d) while the person was returning to Australia from employment
4 as an Australian mariner on a ship.

5 (5) For the purposes of this section, if a person was employed as an
6 Australian mariner on a ship undertaking a voyage for the purpose
7 of going from a place within Australia to another place within
8 Australia, the person is taken to have been employed within
9 Australia during the whole of the voyage.

10 (6) In this section:

11 *Australia* does not include an external Territory.

12 **446 Operational service—post-World War 2 service in operational**
13 **areas**

14 (1) Subject to this section, a member of the Defence Force who has
15 rendered continuous full-time operational service in an operational
16 area as:

- 17 (a) a member who was allotted for duty in that area; or
18 (b) a member of a unit of the Defence Force that was allotted for
19 duty in that area;

20 is taken to have been rendering *operational service* in the
21 operational area while the member was so rendering continuous
22 full-time operational service.

23 (2) A member of the naval, military or air forces of a Commonwealth
24 country or of an allied country who:

- 25 (a) was domiciled in Australia or an external Territory
26 immediately before the member's appointment or enlistment
27 in those forces; and
28 (b) has rendered continuous full-time operational service in an
29 operational area;

30 is taken to have been rendering *operational service* in the
31 operational area while the member was so rendering continuous
32 full-time operational service.

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

- 1 (3) For the purposes of subsection (1), a member of the Defence Force
2 is, subject to subsection (4), taken to have rendered continuous
3 full-time operational service in an operational area during the
4 period commencing on:
5 (a) if the member was in Australia on the day (the *relevant day*)
6 from which the member, or the unit of the member, was
7 allotted for duty in that area—on the day on which the
8 member left the last port of call in Australia for that service;
9 or
10 (b) if the member was outside Australia on the relevant day—on
11 that day;
12 and ending at the end of:
13 (c) if the member, or the unit of the member, ceased to be
14 allotted for duty—the day from which the member, or the
15 unit, ceased to be allotted for duty; or
16 (d) if the member, or the unit of the member, was assigned for
17 duty from the operational area to another area outside
18 Australia (not being an operational area)—the day from
19 which the member, or the unit, was assigned to that other
20 area, or the day on which the member, or the unit, arrived at
21 that other area, whichever is the later; or
22 (e) in any other case—the day on which the member arrived at
23 the first port of call in Australia on returning from
24 operational service.
- 25 (4) If, while rendering continuous full-time operational service in an
26 operational area, a member of the Defence Force has:
27 (a) returned to Australia in accordance with the Rest and
28 Recuperation arrangements of the naval, military or air
29 forces; or
30 (b) returned to Australia on emergency or other leave granted on
31 compassionate grounds; or
32 (c) returned to Australia on duty; or
33 (d) returned to Australia for the purpose of receiving medical or
34 surgical treatment as directed by the medical authorities of
35 the Defence Force;
36 only so much of the period of service of the member within
37 Australia after the member's return and while the member:
38 (e) continued to be allotted for duty in an operational area; or
-

1 (f) continued to be a member of a unit of the Defence Force
2 allotted for duty in an operational area;
3 as does not exceed 14 days is taken, for the purposes of
4 subsection (1), to be a period when the member was rendering
5 continuous full-time operational service in the operational area.

6 **447 Operational service—other post-World War 2 service**

7 (1) This section applies to a member of the Defence Force who, or a
8 member of a unit of the Defence Force that:
9 (a) was assigned for service:
10 (i) in Singapore at any time during the period from and
11 including 29 June 1950 to and including 31 August
12 1957; or
13 (ii) in Japan at any time during the period from and
14 including 28 April 1952 to and including 19 April 1956;
15 or
16 (iii) in North East Thailand (including Ubon) at any time
17 during the period from and including 28 July 1962 to
18 and including 24 June 1965; or
19 (iv) in North East Thailand (not including Ubon) at any time
20 during the period from and including 31 May 1962 to
21 and including 27 July 1962; or
22 (b) was, at any time during the period from and including
23 1 August 1960 to and including 27 May 1963, in the area
24 comprising the territory of Singapore and the country then
25 known as the Federation of Malaya;
26 but so applies only if the member, or the unit of the member, is
27 included in a written instrument issued by the Defence Force for
28 use by the Commission in determining a person's eligibility for
29 entitlements under this Act.

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

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

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

- 1 (a) a member of the Defence Force; or
2 (b) a member of a unit of the Defence Force;
3 while the person was in the area described in paragraph (1)(a) or
4 attached to the Far East Strategic Reserve (as the case may be).
- 5 (4) For the purposes of subsection (3), the operational service of a
6 person to whom this section applies:
7 (a) is taken to have started:
8 (i) if the person was in Australia on the day (the *relevant*
9 *day*) from which the person's unit was assigned for
10 service as described in paragraph (1)(a) or attached to
11 the Far East Strategic Reserve (as the case may be)—on
12 the day on which the member left the last port of call in
13 Australia for that service; or
14 (ii) if the person was outside Australia on the relevant
15 day—on that day; and
16 (b) is taken to have ended:
17 (i) if the member was assigned for service in another
18 country or area outside Australia (not being an
19 operational area)—the day from which the member was
20 assigned to that other country or area, or the day on
21 which the member arrived at that other country or area,
22 whichever is the later; or
23 (ii) in any other case—the day on which the member
24 arrived at the first port of call in Australia on returning
25 from operational service.

26 **448 Operational service—minesweeping and bomb/mine clearance**
27 **service**

28 A member of the Defence Force is taken to have been rendering
29 *operational service* during any period of service in respect of
30 which the member has been awarded, or has become eligible to be
31 awarded, the Naval General Service Medal or the General Service
32 Medal (Army and Royal Air Force) with the Minesweeping
33 1945-51 Clasp, the Bomb-Mine Clearance 1945-53 Clasp, the
34 Bomb and Mine Clearance 1945-49 Clasp or the Bomb and Mine
35 Clearance 1945-56 Clasp.

1 **449 Operational service—service on submarine special operations**

2 A member of the Defence Force for whom the following are
3 satisfied:

- 4 (a) the member has rendered continuous full-time operational
5 service on a submarine for a period that started on or after
6 1 January 1978 and ended on or before the end of 12 May
7 1997;
- 8 (b) the member has rendered continuous full-time operational
9 service on submarine special operations (the *special service*)
10 at any time in the period beginning on 1 January 1978 and
11 ending at the end of 12 May 1997;
- 12 (c) the member:
- 13 (i) has been awarded the Australian Service Medal with
14 Clasp “SPECIAL OPS” for the special service; or
- 15 (ii) has become eligible for that award for the special
16 service; or
- 17 (iii) would have been eligible for that award for the special
18 service if the member had not already been awarded it
19 for other service;

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

22 **450 Operational service—Korean demilitarised zone and Vietnam**

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

- 24 (a) in the demilitarised zone between North Korea and South
25 Korea after 18 April 1956; or
- 26 (b) on HMA Ship Vampire or Quickmatch in Vietnam during the
27 period from and including 25 January 1962 to and including
28 29 January 1962;

29 is taken to have been rendering *operational service* while the
30 member was so rendering continuous full-time operational service
31 in that zone or in Vietnam (as the case may be) during the period in
32 which the member was so assigned for service.

Division 2—Operational areas

451 Meaning of *operational area*

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

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
6	Vietnam (Southern Zone)	The period from and including 31 July 1962 to and including 11 January 1973
7	All that part of the Federation of Malaya contained within the area bounded by a line: (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; (b) then proceeding generally north-easterly	The period from and including 1 August 1960 to and including 16 August 1964

Operational areas

Item	Area	Period
	along that boundary to its intersection with the railway line from Arau to Penang Tungal;	
(c)	then following that railway line generally southerly to its intersection with the northern boundary between the States of Penang and Kedah;	
(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;	
(e)	then following the boundary between the States of Penang and Perak to its intersection with the railway line from Penang Tungal to Taiping;	
(f)	then following that railway line generally southerly, easterly and southerly to its intersection with the parallel 04°51'N;	
(g)	then proceeding due south in a straight line to the intersection of that line with the parallel 04°30'N;	
(h)	then proceeding along that parallel to its intersection with the eastern bank of the Perak River;	
(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	

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Operational areas		
Item	Area	Period
	<p>intersection with the western bank of the Galas River;</p> <p>(n) then proceeding in a straight line due east to the eastern bank of that river;</p> <p>(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> <p>(p) then following that shore at high-water mark to its intersection with the boundary between the Federation of Malaya and Thailand;</p> <p>(q) then proceeding along that boundary to the western shore of the Federation of Malaya and Thailand at high-water mark;</p> <p>(r) then following that shore of the Federation of Malaya at high-water mark to the point of commencement</p>	
8	<p>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:</p> <p>(a) commencing at the intersection of the northern shore of Borneo at high-water mark with the boundary between Kalimantan and Sarawak;</p> <p>(b) then proceeding generally south-easterly, easterly and northerly along that boundary to its junction with the boundary between Kalimantan and Sabah;</p> <p>(c) then proceeding generally easterly along that boundary to its intersection with the eastern shore of Borneo at high-water mark;</p> <p>(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</p>	<p>The period from and including 8 December 1962 to and including 16 August 1964</p>

Operational areas		
Item	Area	Period
	<p>island that forms part of Sabah and that part of that island that forms part of Kalimantan;</p> <p>(e) then proceeding generally easterly along that boundary to its intersection with the eastern shore of the island of Sebatik at high-water mark;</p> <p>(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;</p> <p>(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;</p> <p>(h) then proceeding in a straight line southerly to the point of commencement</p>	
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	<p>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:</p> <p>(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;</p> <p>(b) then proceeding in a straight line to a point 185.2 kilometres west (true) of that intersection;</p> <p>(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</p>	The period from and including 31 July 1962 to and including 11 January 1973

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Operational areas		
Item	Area	Period
	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	
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: (a) Bahrain, Oman, Qatar, Saudi Arabia, the United Arab Emirates and the Island of Cyprus; (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	The period from and including 2 August 1990 to and including 9 June 1991
13	The area comprising Iraq and Kuwait	The period from and including 23 February 1991 to and including

Operational areas

Item	Area	Period
		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

2 **Division 3—Retesting claims**

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

4 **68 Subsection 319(1) (note)**

5 Omit “Note”, substitute “Note 1”.

6 **69 At the end of subsection 319(1)**

7 Add:

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

12 **70 After subsection 322(5)**

13 Insert:

1

Claims under other Acts

2

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

3

4

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

5

6

7

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

8

(5B) If:

9

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

10

11

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

12

13

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

14

15

Division 4—Needs assessment

16

Military Rehabilitation and Compensation Act 2004

17

71 At the end of subsection 325(2)

18

Add:

19

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

20

21

22

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

23

24

Military Rehabilitation and Compensation Act 2004

25

72 Subsection 29(1)

26

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

27

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

28

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

29

1 **74 Subsection 29(2)**

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

3 **75 Subparagraph 29(2)(a)(i)**

4 Omit “service injury or service disease”, substitute “injury or disease
5 (whether or not a service injury or a service disease)”.

6 **76 Subsection 29(3)**

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

8 **77 Subparagraph 29(3)(a)(i)**

9 Omit “under this Act for a service injury or disease”, substitute “for an
10 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
33 disease is the date mentioned in paragraph 68(3)(a)—that
34 date; or

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

5 **83 Subsection 77(2)**

6 Omit “the later of”.

7 **84 Paragraphs 77(2)(a) and (b)**

8 Repeal the paragraphs, substitute:

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

17 **85 Subsection 77(3)**

18 Omit “the later of”.

19 **86 Paragraphs 77(3)(a) and (b)**

20 Repeal the paragraphs, substitute:

- 21 (a) if the date on which the person became entitled to
22 compensation under that subsection in respect of the
23 deterioration in the injury or disease is the date mentioned in
24 paragraph 71(5)(a)—that date; or
25 (b) if the date on which the person became entitled to
26 compensation under that subsection in respect of the
27 deterioration in the injury or disease is the date mentioned in
28 paragraph 71(5)(b)—the first day of the calendar month
29 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 2025)*”.

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 2025)*”.

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 2025)*”.

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 2025)*”.

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 2025)*”.

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
31 which the legal personal representative is given the notice under
32 section 76.

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

10 **117 Subsection 79(1)**

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

12 **118 At the end of section 79**

13 Add:

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

18 **119 Subsection 321(2) (note 1)**

19 Repeal the note, substitute:

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

23 **Division 6—Overpayments and debts**

24 ***Military Rehabilitation and Compensation Act 2004***

25 **120 Paragraphs 415(1)(a), (b) and (c)**

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

27 **121 At the end of subsection 415(4)**

28 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:
31 (i) to a person (the *plaintiff*) in respect of an injury (within
32 the meaning of the DRCA) of the plaintiff; or

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

17 **166 Paragraph 403(3)(b)**

18 Repeal the paragraph, substitute:

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

31 **Division 11—Rehabilitation**

32 ***Military Rehabilitation and Compensation Act 2004***

33 **167 At the end of subsections 43(1), 55(1) and 62(1)**

34 Add:

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

3 ***Safety, Rehabilitation and Compensation (Defence-related***
4 ***Claims) Act 1988***

5 **168 Subsection 4(1)**

6 Repeal the following definitions:

- 7 (a) definition of *approved program provider*;
8 (b) definition of *rehabilitation authority*.

9 **169 Subsection 4(1)**

10 Insert:

11 *transferred DRCA rehabilitation program* means a rehabilitation
12 program under this Act that:

- 13 (a) on and after the date of commencement, is taken to be an
14 approved rehabilitation program for the purposes of the
15 MRCA because of section 104 of the CTPA; and
16 (b) has not ceased under section 53 of the MRCA.

17 **170 Subparagraphs 6(1)(f)(iii) and (g)(iii)**

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

20 **171 Part III**

21 Repeal the Part.

22 **172 Section 60 (definition of *determination*)**

23 Omit “36, 37 or 39”.

24 **173 Section 60 (definition of *reviewable decision*)**

25 Repeal the definition.

26 **174 Sections 146 and 148**

27 Repeal the sections.

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

2 Repeal the subsection.

3 ***Veterans' Entitlements Act 1986***

4 **176 Subsection 5Q(1)**

5 Insert:

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

7 **177 Subsection 5Q(1) (definition of *Veterans' Vocational***
8 ***Rehabilitation Scheme*)**

9 Repeal the definition.

10 **178 Subsection 24(5A)**

11 Omit “vocational rehabilitation program under the Veterans’ Vocational
12 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
13 program”.

14 **179 Subsection 24A(2)**

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

18 **180 Paragraph 37AAA(b)**

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

22 **181 Subsection 115A(1)**

23 Insert:

24 *transferred VEA rehabilitation program* means a rehabilitation
25 program under this Act that:

- 26 (a) on and after the date of commencement, is taken to be an
27 approved rehabilitation program for the purposes of the
28 MRCA because of section 104 of the CTPA; and
29 (b) has not ceased under section 53 of the MRCA.

1 **182 Subsection 115A(1) (definition of *unaffected pension***
2 ***rate*)**

3 Omit “vocational rehabilitation program under the Veterans’ Vocational
4 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
5 program”.

6 **183 Section 115B**

7 Repeal the section.

8 **184 Subsections 115C(1), 115D(1), 115D(1A)**

9 Omit “vocational rehabilitation program under the Veterans’ Vocational
10 Rehabilitation Scheme”, substitute “transferred VEA rehabilitation
11 program”.

12 **185 Subsection 115D(7) (definition of *initial period*)**

13 Omit “vocational rehabilitation program”, substitute “transferred VEA
14 rehabilitation program”.

15 **186 Subsection 115D(7) (definition of *pension rate on***
16 ***commencement*)**

17 Omit “his or her vocational rehabilitation program”, substitute “the
18 veteran’s transferred VEA rehabilitation program”.

19 **187 Subsection 115G(1)**

20 Omit “vocational rehabilitation program”, substitute “transferred VEA
21 rehabilitation program”.

22 **188 Subsections 115H(1) and (2)**

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

25 **189 Paragraph 115H(4)(a)**

26 Omit “rehabilitation program or any part of such a program that has
27 been undertaken by the veteran under the Veterans’ Vocational
28 Rehabilitation Scheme”, substitute “VEA rehabilitation program or any
29 part of such a program that has been undertaken by the veteran”.

1 **190 Paragraph 115H(4)(b)**

2 Before “rehabilitation”, insert “VEA”.

3 **191 Paragraph 115H(5)(a)**

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

8 **192 Paragraph 115H(5)(b)**

9 Before “rehabilitation”, insert “VEA”.

10 **193 Subsection 115H(6)**

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

13 **194 At the end of section 115H**

14 Add:

15 (8) In this section:

16 *VEA rehabilitation program* means:

- 17 (a) a transferred VEA rehabilitation program; or
18 (b) a rehabilitation program that:
19 (i) was undertaken under this Act before the date of
20 commencement; and
21 (ii) is not a transferred VEA rehabilitation program.

22 **195 Subsection 115L(1)**

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

26 **196 Paragraph 115L(3)(c)**

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

1 **197 Paragraph 199(da)**

2 Repeal the paragraph.

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

4 *Military Rehabilitation and Compensation Act 2004*

5 **198 After paragraph 212(1)(b)**

6 Insert:

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

9 **199 At the end of subsection 212(1)**

10 Add:

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

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

14 *Military Rehabilitation and Compensation Act 2004*

15 **200 After paragraph 423(d)**

16 Insert:

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

19 **201 After Part 5A of Chapter 11**

20 Insert:

21 **Part 5B—Financial and legal advice**

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23 **424M Financial and legal advice**

24 (1) The Commission may, by legislative instrument, make provision
25 for and in relation to the obtaining of financial and legal advice by
26 persons for the purposes of this Act.

- 1 (2) Without limiting subsection (1), the instrument may:
2 (a) specify the circumstances in which persons must obtain
3 financial or legal advice (which must be circumstances that
4 relate to an entitlement to compensation or other benefits
5 under this Act); and
6 (b) require the advice to be obtained from:
7 (i) in the case of financial advice—a suitably qualified
8 financial adviser; and
9 (ii) in the case of legal advice—a practising lawyer; and
10 (c) provide for consequences to apply if the advice is not
11 obtained.
- 12 (3) Without limiting paragraph (2)(a), and despite any other provision
13 of this Act, the instrument may require financial or legal advice to
14 be obtained in respect of the choice that a person may make under
15 the following:
16 (a) Part 2 of Chapter 4 (permanent impairment);
17 (b) Part 6 of Chapter 4 (choice to receive a Special Rate
18 Disability Pension);
19 (c) Part 2 of Chapter 5 (compensation for member’s death for
20 wholly dependent partners);
21 but must not modify the requirement to obtain financial advice in
22 subsection 202(3).
- 23 (4) If the instrument requires a person to obtain financial or legal
24 advice, the instrument:
25 (a) must also make provision for and in relation to the payment
26 of compensation, by the Commonwealth, for costs incurred
27 by the person in obtaining the advice; and
28 (b) may specify the maximum amount of compensation payable
29 for such costs; and
30 (c) may provide for the indexation of that maximum amount.
- 31 (5) Subsection (4) applies subject to the following provisions (which
32 deal with compensation for the cost of financial and legal advice in
33 certain circumstances):
34 (a) sections 81 to 83;
35 (b) sections 205 to 207;
36 (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

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

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4 Before section 266

Insert:

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Division 2—Deceased members to whom section 12 applies

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5 After section 266

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Insert:

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266A No compensation under section 266 in certain cases

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

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

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6 After section 267

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Insert:

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267A Offsets

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

1 **7 At the end of Part 5 of Chapter 5**

2 Add:

3 **Division 3—Other deceased members and dependants of**
4 **deceased members**

5 **268AA Automatic payment of funeral compensation to estate of**
6 **certain deceased members**

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

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

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

24 **268AB Funeral compensation for certain other deceased members**

- 25 (1) The Commonwealth is liable to pay compensation in respect of a
26 deceased member's funeral if:
27 (a) any of subsections (3) to (5) apply in respect of the deceased
28 member; and
29 (b) the Commonwealth is not liable to pay compensation in
30 respect of the deceased member's funeral under
31 section 268AA; and
32 (c) a claim for compensation has been made under section 319.
33 (2) The claim under section 319 may only be made:

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

- 1 (a) in respect of a dependant of the deceased member if the
2 dependant incurred the cost of the funeral; or
3 (b) by the deceased member's legal personal representative.
- 4 (3) This subsection applies in respect of a deceased member if:
5 (a) the member's death was war-caused (within the meaning of
6 the VEA); or
7 (b) the member died in indigent circumstances.
- 8 (4) This subsection applies in respect of a deceased member if:
9 (a) the member died:
10 (i) in a hospital or other institution; or
11 (ii) while travelling to or from a hospital or other
12 institution; or
13 (iii) after having been discharged from a hospital or other
14 institution in which the member was being treated for a
15 terminal illness; or
16 (iv) while being treated for a terminal illness at the
17 member's home instead of at a hospital or other
18 institution; and
19 (b) if subparagraph (a)(i) or (ii) applies—treatment is or was
20 provided in the hospital or other institution; and
21 (c) in any case—the treatment is or was arranged by the
22 Commission under Chapter 6 of this Act or Part V of the
23 VEA.
- 24 (5) This subsection applies in respect of a deceased member if, after
25 the death of the member:
26 (a) a pension is granted to the member that is determined to be
27 payable, from a date before the member's death:
28 (i) at a rate that is worked out under subsection 22(4) of the
29 VEA; or
30 (ii) at a rate that is worked out under section 24 of the VEA;
31 or
32 (iii) at a rate that is worked out under section 27 of the VEA
33 because the member was suffering from incapacity from
34 a war-caused injury or a war-caused disease of a kind
35 described in any of items 1 to 8 of the table in
36 subsection 27(1) of that Act; or
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- (b) the rate of a pension that was payable to the member under Part II of the VEA is increased, as from a date before the member's death because:
 - (i) subsection 22(4) or section 24 of the VEA applied to the member as from that date; or
 - (ii) section 27 of the VEA applied to the member as from that date because of incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the table in subsection 27(1) of that Act; or
- (c) information is received which satisfies the Commission that the member was, before 1 July 2004, made a prisoner of war at a time when the member was rendering operational service.

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268AC Funeral compensation for certain dependants of deceased members

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- (1) The Commonwealth is liable to pay compensation in respect of the funeral of a dependant of a deceased member if:
 - (a) any of subsections (3) to (5) apply in respect of the dependant; and
 - (b) a claim for compensation has been made under section 319.
- (2) The claim under section 319 may only be made:
 - (a) by the deceased dependant's legal personal representative; or
 - (b) by another person approved by the Commission to make the claim.
- (3) This subsection applies in respect of a dependant of a deceased member if:
 - (a) the dependant is not a reinstated pensioner (within the meaning of the VEA); and
 - (b) the dependant died in indigent circumstances; and
 - (c) any of the following apply in respect of the deceased member:
 - (i) the member's death was war-caused (within the meaning of the VEA);

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

26 **268AD Amount of funeral compensation**

27 *Amount for section 268AA*

- 28 (1) The amount of compensation payable under section 268AA is
29 \$3,000.

30 *Amount for section 268AB*

- 31 (2) The amount of compensation payable under section 268AB is the
32 sum of:
33 (a) the lesser of the following amounts:

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

1

Amount for section 268AC

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- (5) The amount of compensation payable under section 268AC in respect of a deceased dependant of a deceased member is the lesser of the following amounts:

3

4

5

(a) \$3,000;

6

(b) an amount equal to the amount paid or payable in respect of the funeral of the deceased dependant.

7

8

Amount paid or payable in respect of a funeral

9

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

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268AE Whom funeral compensation is payable to

18

- (1) Compensation under section 268AB or 268AC in respect of a deceased member's funeral or a deceased dependant's funeral is payable to:

19

20

21

(a) the person who made the claim for compensation; or

22

(b) if that person so directs:

23

(i) the person who carried out the funeral; or

24

(ii) any other person who incurred the cost of the funeral.

25

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

26

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

27

28

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

29

30

31

8 Subsection 320(1) (note)

32

After "266", insert ", 268AB, 268AC".

1 ***Safety, Rehabilitation and Compensation (Defence-related***
2 ***Claims) Act 1988***

3 **9 Subsection 13(1) (definition of *relevant amount*)**

4 Omit “paragraph 18(4)(a) or”.

5 **10 Subsections 17(2), (3) and (4)**

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

7 **11 Section 18**

8 Repeal the section.

9 **12 Section 60 (definition of *determination*)**

10 Omit “18,”.

11 **13 Subsections 124(8) and (9)**

12 Omit “or section 18”.

13 ***Veterans’ Entitlements Act 1986***

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

15 Repeal the sections.

16 **15 Paragraph 111(1)(c)**

17 Repeal the paragraph.

18 **16 Section 113**

19 Repeal the section.

20 **17 Paragraph 115(1)(b)**

21 Repeal the paragraph.

22 **18 Subsection 115(6)**

23 Repeal the subsection.

1 **Division 2—Acute support package**

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

3 **19 Subsection 268B(2)**

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

5 **20 Paragraph 268B(3)(b)**

6 Repeal the paragraph, substitute:

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

15 **21 Paragraph 268B(4)(b)**

16 Repeal the paragraph, substitute:

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

26 **22 Subsection 268B(5)**

27 After “wholly dependent partner of a deceased member”, insert “(other

28 than a wholly dependent partner covered by subsection (5AA))”.

29 **23 At the end of paragraph 268B(5)(c)**

30 Add:

1 **Division 4—Victoria Cross allowance and decoration**
2 **allowance**

3 *Military Rehabilitation and Compensation Act 2004*

4 **26 Section 3**

5 Omit “, a Victoria Cross allowance”.

6 **27 Subsection 5(1)**

7 Insert:

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

9 **28 Section 65 (at the end of the paragraph beginning “This**
10 **Chapter”)**

11 Add “or have been awarded certain decorations in respect of service
12 rendered”.

13 **29 Section 65 (paragraph beginning “Part 7 provides”)**

14 After “MRCA supplement”, insert “, Victoria Cross allowance and
15 decoration allowance”.

16 **30 Section 211 (paragraph beginning “This Part provides”)**

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

18 **31 Section 211 (at the end of the paragraph beginning “This**
19 **Part provides”)**

20 Add “or have been awarded certain decorations in respect of service
21 rendered”.

22 **32 At the end of section 211**

23 Add:

24

Victoria Cross allowance is provided under Division 6 for persons 25 who have been awarded the Victoria Cross or the Victoria Cross 26 for Australia.

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

3 **33 At the end of Part 7 of Chapter 4**

4 Add:

5 **Division 6—Victoria Cross allowance**

6 **230A Eligibility for Victoria Cross allowance**

7 (1) The Commonwealth is liable to pay an allowance, called Victoria
8 Cross allowance, to a person in respect of an allowance period if:

9 (a) before the start of the period, the person has been awarded
10 the Victoria Cross or the Victoria Cross for Australia; and

11 (b) at the start of the period:

12 (i) the person is living; and

13 (ii) the award has not been rescinded.

14 (2) In this section:

15 *allowance period* means the following:

16 (a) the period of 12 months starting on 20 September 2026;

17 (b) each subsequent period of 12 months starting on
18 20 September.

19 **230B Amount of Victoria Cross allowance**

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

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

22 **Division 7—Decoration allowance**

23 **230C Decoration allowance**

24 (1) The Minister may, by legislative instrument, make provision for
25 and in relation to the payment of decoration allowance to a person
26 who has been awarded an eligible decoration.

- 1 (2) Without limiting subsection (1), an instrument under that
2 subsection may provide for the following:
3 (a) the circumstances in which the Commonwealth is liable to
4 pay decoration allowance;
5 (b) the decorations that are eligible decorations;
6 (c) the amount, or a method for working out the amount, of
7 decoration allowance;
8 (d) indexation of the amount of decoration allowance;
9 (e) the persons to whom decoration allowance is payable.

10 **34 At the end of Part 1 of Chapter 11**

11 Add:

12 **404A Indexation of Victoria Cross allowance**

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

17
$$\frac{\text{The allowance amount for the}}{\text{previous allowance indexation year}} \times \frac{\text{Indexation factor for the}}{\text{allowance indexation year}}$$

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

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

- 22
23 (4) The indexation factor is to be worked out to 3 decimal places
24 (rounding up if the fourth decimal place is 5 or more).
25 (5) Amounts are to be worked out under this section:
26 (a) using only the index numbers published in terms of the most
27 recently published index reference period for the Consumer
28 Price Index; and

1 (b) disregarding index numbers published in substitution for
2 previously published index numbers (except where the
3 substituted numbers are published to take account of changes
4 in the index reference period).

5 (6) In this section:

6 *allowance indexation year* means the following:

7 (a) the period of 12 months starting on 20 September 2024;

8 (b) each subsequent period of 12 months starting on
9 20 September.

10 *base quarter* means the June quarter that has the highest index
11 number of the June quarters before the reference quarter (but not
12 earlier than the June quarter 2023).

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

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

17 *reference quarter* means the June quarter immediately before the
18 allowance indexation year.

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

20 **35 Paragraph 5H(8)(faa)**

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

23 **36 Paragraph 5H(8)(faa)**

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

25 **37 Paragraph 52Z(3A)(f)**

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

28 **38 Paragraph 52Z(3A)(f)**

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

1 **39 Paragraph 96(2)(f)**

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

3 **40 Sections 102 and 103**

4 Repeal the sections.

5 **41 Paragraph 111(1)(d)**

6 Repeal the paragraph.

7 **42 Paragraphs 115(1)(c) and (d)**

8 Repeal the paragraphs.

9 **43 Subsection 121(7) (definition of *pension*)**

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

11 **44 Subsection 177(6)**

12 Omit “, 102, 103”.

13 **45 Section 198FA**

14 Repeal the section.

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

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

17 **46 Subsection 5(1) (after paragraph (d) of the definition of**
18 ***compensation*)**

19 Insert:

20 (da) prisoner of war recognition supplement under Part 3 of
21 Chapter 5AA;

22 **47 After Chapter 5**

23 Insert:

1 **Chapter 5AA—Compensation relating to**
2 **prisoners of war**

3 **Part 1—Preliminary**
4

5 **268AF Simplified outline of this Chapter**

6 This Chapter provides compensation in respect of former members
7 and civilians who have been prisoners of war.

8 Part 2 provides compensation payments in respect of former
9 members and civilians interned by certain military forces during
10 designated war periods.

11 Under Part 3, a prisoner of war recognition supplement is payable
12 to former members and civilians who were interned by certain
13 military forces during designated war periods.

14 **268AG Definitions**

15 (1) In this Chapter:

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

17 *compensation eligibility date*: see section 268AH.

18 *designated war period*: see section 268AH.

19 *enemy State* means:

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

23 (b) a European ally (whether or not a State) of a State covered by
24 paragraph (a).

25 *interned* means:

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

1 (b) restricted to residing within specified limits.

2 *military forces* means air forces, naval forces, land forces or other
3 military forces (however described).

4 *relevant military forces*: see section 268AH.

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

8 **268AH Meaning of *relevant military forces*, *designated war period*
9 *and compensation eligibility date***

10 The following table sets out:

- 11 (a) the military forces that are *relevant military forces*; and
12 (b) the period that is the *designated war period* for those relevant
13 military forces; and
14 (c) the date that is the *compensation eligibility date* in respect of
15 those relevant military forces and that designated war period.
16

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 ending at the end of 19 April 1956	1 January 2003
3	Military forces of Japan	the period starting on 7 December 1941 and ending at the end of 29 October 1945	1 January 2001

17

1 **Part 2—Compensation in respect of former**
2 **members and civilians interned by certain**
3 **military forces**
4

5 **268AI Simplified outline of this Part**

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

9 **268AJ Compensation in respect of former members and civilians**
10 **interned by certain military forces**

11 *Former members*

- 12 (1) The Commonwealth is liable to pay compensation to a person if:
13 (a) the person is a former member; and
14 (b) the person was interned by relevant military forces at any
15 time during the designated war period for the relevant
16 military forces; and
17 (c) the person was alive on the compensation eligibility date for
18 the relevant military forces and designated war period; and
19 (d) a claim for compensation in respect of the person has been
20 made under section 319.

21 *Partners of deceased members*

- 22 (2) The Commonwealth is liable to pay compensation to a person in
23 respect of a deceased member if:
24 (a) the deceased member was interned by relevant military
25 forces at any time during the designated war period for the
26 relevant military forces; and
27 (b) the deceased member died before the compensation
28 eligibility date for the relevant military forces and designated
29 war period; and
30 (c) the person was a partner of the deceased member
31 immediately before the member's death; and

- 1 (d) the person was alive at the start of the compensation
2 eligibility date for the relevant military forces and designated
3 war period; and
4 (e) a claim for compensation in respect of the deceased member
5 has been made under section 319.

6 *Civilians*

- 7 (3) The Commonwealth is liable to pay compensation to a person in
8 the person's own right as a civilian if:
9 (a) the person was interned by the relevant military forces
10 covered by item 1 or 3 of the table in section 268AH at any
11 time during the designated war period for the relevant
12 military forces; and
13 (b) the person was domiciled in Australia immediately before the
14 civilian's internment; and
15 (c) the person was alive at the start of the compensation
16 eligibility date for the relevant military forces and designated
17 war period; and
18 (d) a claim for compensation in respect of the person has been
19 made under section 319.

20 *Partners of deceased civilians*

- 21 (4) The Commonwealth is liable to pay compensation to a person in
22 respect of a deceased civilian if:
23 (a) the deceased civilian was interned by the relevant military
24 forces covered by item 1 or 3 of the table in section 268AH
25 at any time during the designated war period for the relevant
26 military forces; and
27 (b) the deceased civilian was domiciled in Australia immediately
28 before the civilian's internment; and
29 (c) the deceased civilian died before the compensation eligibility
30 date for the relevant military forces and designated war
31 period; and
32 (d) the person was a partner of the deceased civilian immediately
33 before the civilian's death; and
34 (e) the person was alive at the start of the compensation
35 eligibility date for the relevant military forces and designated
36 war period; and

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

3 *Dependants (other than partners and children) of deceased*
4 *members*

- 5 (5) The Commonwealth is liable to pay compensation to a person in
6 respect of a deceased member if:
- 7 (a) the deceased member was interned by the relevant military
8 forces covered by item 3 of the table in section 268AH at any
9 time during the designated war period for the relevant
10 military forces; and
 - 11 (b) the deceased member died before the compensation
12 eligibility date for the relevant military forces and designated
13 war period; and
 - 14 (c) the person was a dependant (within the meaning of the
15 VEA), but not a partner or a child, of the deceased member
16 immediately before the member's death; and
 - 17 (d) the person was alive at the start of the compensation
18 eligibility date for the relevant military forces and designated
19 war period; and
 - 20 (e) a claim for compensation in respect of the deceased member
21 has been made under section 319.

22 *One payment only*

- 23 (6) The Commonwealth is not liable to pay compensation under
24 subsection (1), (2), (3), (4) or (5) in respect of a person if:
- 25 (a) compensation under any of those subsections has previously
26 been paid in respect of the person; or
 - 27 (b) a payment under any of the following has previously been
28 made in respect of the person:
 - 29 (i) the *Compensation (Japanese Internment) Act 2001*;
 - 30 (ii) Schedule 5 to the *Social Security and Veterans' Affairs*
31 *Legislation Amendment (One-off Payments and Other*
32 *2007 Budget Measures) Act 2007*;
 - 33 (iii) Part 2 of the *Veterans' Entitlements (Clarke Review) Act*
34 *2004*;

- 1 (iv) the *Veterans' Entitlements (Compensation—Japanese*
2 *Internment) Regulations 2001*.

3 **268AK Amount of compensation**

4 The amount of compensation payable under section 268AJ is
5 \$25,000.

6 **Part 3—Prisoner of war recognition supplement**
7

8 **268AL Simplified outline of this Part**

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

12 **268AM Eligibility for prisoner of war recognition supplement**

13 *Former members*

- 14 (1) A person is eligible for prisoner of war recognition supplement
15 under this section if:
16 (a) the person is a former member; and
17 (b) the person was interned by relevant military forces at any
18 time during the designated war period for the relevant
19 military forces.

20 *Civilians*

- 21 (2) A person is eligible for prisoner of war recognition supplement
22 under this section if:
23 (a) the person was interned by the relevant military forces
24 covered by item 1 or 3 of the table in section 268AH at any
25 time during the designated war period for the relevant
26 military forces; and
27 (b) the person was domiciled in Australia immediately before the
28 civilian's internment.

1 *One supplement only*

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

4 **268AN Rate of prisoner of war recognition supplement**

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

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

8 **268AO Payment of prisoner of war recognition supplement**

9 Prisoner of war recognition supplement under this Part is not
10 payable to a person unless the person makes a claim for
11 compensation under section 319.

12 **48 Section 343**

13 After “5”, insert “, 5AA”.

14 **49 At the end of Part 1 of Chapter 11**

15 Add:

16 **404B Indexation of prisoner of war recognition supplement**

17 (1) The dollar amount mentioned in section 268AN (the *supplement*
18 *amount*), for a supplement indexation year in which the indexation
19 factor is greater than 1, is replaced by the amount worked out using
20 the following formula:

21
$$\frac{\text{The supplement amount for the previous supplement indexation year}}{\text{Indexation factor for the supplement indexation year}}$$

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

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

Index number for the reference quarter

Index number for the base quarter

1

2

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

3

4

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

5

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

6

7

8

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

9

10

11

12

(6) In this section:

13

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

14

15

16

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

17

18

19

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

20

21

reference quarter means the June quarter immediately before the
supplement indexation year.

22

supplement indexation year means the following:

23

(a) the period of 12 months starting on 20 September 2024;

24

(b) each subsequent period of 12 months starting on
20 September.

25

1 ***Social Security and Veterans' Affairs Legislation Amendment***
2 ***(One-off Payments and Other 2007 Budget***
3 ***Measures) Act 2007***

4 **50 Schedule 5**

5 Repeal the Schedule.

6 ***Veterans' Entitlements Act 1986***

7 **51 Paragraph 5H(8)(faaa)**

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

9 **52 After paragraph 5H(8)(zy)**

10 Insert:

11 (zya) a payment under section 268AJ of the MRCA (compensation
12 in respect of former members and civilians interned by
13 certain military forces);

14 **53 Subsection 5Q(1) (definition of *Australia*)**

15 Omit "VIB,".

16 **54 Paragraph 52Z(3A)(fa)**

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

18 **55 Part VIB**

19 Repeal the Part.

20 **56 Subsection 119(2) (paragraph (e) of the definition of *claim*)**

21 Omit "IIIAB; or", substitute "IIIAB.".

22 **57 Subsection 119(2) (paragraph (f) of the definition of *claim*)**

23 Repeal the paragraph.

24 **58 Subsection 121(4)**

25 Omit "Subject to subsection (4A), if", substitute "If".

1 **59 Subsection 121(4A)**

2 Repeal the subsection.

3 **60 Subsection 121(7) (definition of *pension*)**

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

5 **61 Subsection 198D(1) (paragraph (d) of the definition of**
6 ***relevant rate*)**

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

8 **62 Subsection 198D(1) (paragraph (e) of the definition of**
9 ***relevant rate*)**

10 Repeal the paragraph.

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

12 **63 Part 2**

13 Repeal the Part.

14 **Division 6—Education schemes**

15 ***Military Rehabilitation and Compensation Act 2004***

16 **64 Subsection 5(1)**

17 Insert:

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

19 *VEA eligible grandchild* has the meaning given by subsection
20 257A(1).

21 **65 Division 6 of Part 3 of Chapter 5 (heading)**

22 Repeal the heading, substitute:

1 **Division 6—Education scheme for certain eligible young**
2 **persons and other children**

3 **66 Before section 258**

4 Insert:

5 **Subdivision A—Preliminary**

6 **257A Definitions**

7 (1) In this Division:

8 ***VEA eligible child*** means:

9 (a) a child of a deceased member of the Forces, or of a deceased
10 member of a Peacekeeping Force, being a member:

11 (i) whose death was defence-caused (within the meaning of
12 the VEA); or

13 (ii) who was, immediately before the member's death, a
14 member to whom subsection 22(4) or section 24 of the
15 VEA applied; or

16 (iii) who was, immediately before the member's death, in
17 receipt of a pension under Part IV of the VEA in respect
18 of incapacity of a kind described in item 1, 2, 3, 4, 5 or
19 6 of the table in subsection 27(1) of that Act; or

20 (b) a child of a member of the Forces, or of a member of a
21 Peacekeeping Force, being a member:

22 (i) to whom subsection 22(4) or section 24 of the VEA
23 applies; or

24 (ii) who is in receipt of a pension under Part IV of the VEA
25 in respect of incapacity of a kind described in item 1, 2,
26 3, 4, 5 or 6 of the table in subsection 27(1) of that Act;
27 or

28 (c) a child of a deceased veteran, being a veteran:

29 (i) whose death was war-caused (within the meaning of the
30 VEA); or

31 (ii) who was, immediately before the veteran's death, a
32 veteran to whom subsection 22(4) or section 24 of the
33 VEA applied; or

- 1 (iii) who was, immediately before the veteran's death, in
2 receipt of a pension under Part II of the VEA in respect
3 of incapacity of a kind described in item 1, 2, 3, 4, 5 or
4 6 of the table in subsection 27(1) of that Act; or
5 (iv) who was a prisoner of war at a time when the veteran
6 was on operational service; or
7 (d) a child of a veteran, being a veteran:
8 (i) to whom subsection 22(4) or section 24 of the VEA
9 applies; or
10 (ii) who is in receipt of a pension under Part II of the VEA
11 in respect of incapacity of a kind described in item 1, 2,
12 3, 4, 5 or 6 of the table in subsection 27(1) of that Act;
13 or
14 (e) a child of a deceased veteran, being a child who is in receipt
15 of a pension under subsection 13(4) of the VEA; or
16 (f) a person determined under subsection 257C(4) of this Act to
17 be included in a class that has been determined by the
18 Commission under subsection 257B(1) of this Act.

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

- 22 (2) If, after the death of a member of the Forces, or of a member of a
23 Peacekeeping Force, a pension is granted in respect of the member
24 under Part IV of the VEA, or the rate of the pension granted to the
25 member under Part IV of the VEA is increased, as from a date
26 before the death of the member in circumstances where:
27 (a) subsection 22(4) or section 24 of the VEA applied to the
28 member; or
29 (b) the member was suffering from an incapacity of a kind
30 described in item 1, 2, 3, 4, 5 or 6 of the table in
31 subsection 27(1) of the VEA;
32 then, the member is taken, for the purposes of paragraphs (a) and
33 (b) of the definition of **VEA eligible child** in subsection (1) of this
34 section, to have been:
35 (c) if paragraph (a) of this subsection applies—a member to
36 whom subsection 22(4) or section 24 of the VEA applied
37 immediately before the member's death; or

1 (d) if paragraph (b) of this subsection applies—in receipt of that
2 pension or of pension at that increased rate, as the case may
3 be, immediately before the member’s death.

4 (3) If, after the death of a veteran, a pension is granted in respect of the
5 veteran under Part II of the VEA, or the rate of the pension granted
6 to the veteran under Part II of that Act is increased, as from a date
7 before the death of the veteran in circumstances where:

8 (a) subsection 22(4) or section 24 of the VEA applied to the
9 veteran; or

10 (b) the veteran was suffering from an incapacity of a kind
11 described in item 1, 2, 3, 4, 5 or 6 of the table in
12 subsection 27(1) of the VEA;

13 then, the veteran is taken, for the purposes of paragraphs (c) and
14 (d) of the definition of *VEA eligible child* in subsection (1) of this
15 section, to have been:

16 (c) if paragraph (a) of this subsection applies—a veteran to
17 whom subsection 22(4) or section 24 of the VEA applied
18 immediately before the veteran’s death; or

19 (d) if paragraph (b) of this subsection applies—in receipt of that
20 pension or of pension at that increased rate, as the case may
21 be, immediately before the veteran’s death.

22 *Extended meaning of child*

23 (4) A reference in subsection (1) to a child of a person (however
24 described) includes a reference to any child who is, or was
25 immediately before the death of the person, wholly or substantially
26 dependent on the person.

27 (5) For the purposes of subsection (4), if a person is, under a law of the
28 Commonwealth or of a State or Territory, liable to maintain a
29 child, the child is taken to be wholly or substantially dependent on
30 that person.

31 *Certain expressions have same meaning as in VEA*

32 (6) The following expressions have the same meaning when used in
33 this section as they have in the VEA:

34 (a) member of the Forces;

35 (b) member of a Peacekeeping Force;

1 (c) veteran.

2 **257B Determination of classes for purposes of definitions of VEA**
3 ***eligible child and VEA eligible grandchild***

4 (1) The Commission may, by legislative instrument, determine a class
5 of persons for the purposes of paragraph (f) of the definition of
6 ***VEA eligible child*** in subsection 257A(1). However, the persons
7 must be the children of veterans (within the meaning of the VEA)
8 who rendered service before 1 July 2004.

9 (2) The Commission may, by legislative instrument, determine a class
10 of persons for the purposes of the definition of ***VEA eligible***
11 ***grandchild*** in subsection 257A(1). However, the persons must be
12 the grandchildren of veterans (within the meaning of the VEA)
13 who have rendered operational service in Vietnam that is covered
14 by section 6F of the VEA or section 446 or 450 of this Act.

15 *Variation or revocation*

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

18 **257C Determination that person is included in class determined**
19 **under section 257B**

20 *Application for determination*

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

- 24 (a) a class of persons determined by the Commission under
25 subsection 257B(1);
26 (b) a class of persons determined by the Commission under
27 subsection 257B(2).

28 (2) The application may be made on behalf of the person:
29 (a) with the person's approval; or
30 (b) by the person's legal personal representative; or
31 (c) if the person is unable, because of physical or mental
32 incapacity, to approve someone to make the application on

- 1 the person's behalf—by another person approved by the
2 Commission; or
3 (d) if the person is under the age of 18 years:
4 (i) by a parent or guardian of the person; or
5 (ii) by someone approved by a parent or guardian of the
6 person; or
7 (iii) if there is not a parent or guardian of the person alive, or
8 willing and able to make, or approve someone to make
9 such an application on behalf of the person—by another
10 person approved by the Commission.

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

14 *Determination that person is included in a class*

- 15 (4) If an application has been made under subsection (1) in respect of a
16 person, the Commission must determine:
17 (a) if the Commission is satisfied that the person falls within a
18 determined class—that the person is included in that
19 determined class; or
20 (b) otherwise—that the person is not included in a determined
21 class.

22 **Subdivision B—Education scheme for certain eligible young**
23 **persons and other children**

24 **67 Section 258 (at the end of the heading)**

25 Add “and other children”.

26 **68 After paragraph 258(1)(b)**

27 Insert:
28 ; and (c) a VEA eligible child; and
29 (d) a VEA eligible grandchild.

30 **69 After subsection 258(1)**

31 Insert:

- 1 (1A) If the Commission is taken to have accepted liability for an injury
2 sustained, or a disease contracted, by a member or former member
3 (the *original condition*) because of the operation of section 24A,
4 then paragraph (1)(a) of this section does not apply in respect of
5 the member or former member unless:
6 (a) the Commission has accepted liability for another injury or
7 disease of the member or former member (other than because
8 of the operation of section 24A of this Act); or
9 (b) the Commission is satisfied that:
10 (i) the member, or former member, has suffered additional
11 impairment as result of another injury or disease or as a
12 result of a deterioration in the original condition; and
13 (ii) the increase in the member’s, or former member’s,
14 overall impairment constitutes at least 5 impairment
15 points.

16 **70 Subsection 258(2)**

17 Omit “the eligible young person in order”, substitute “an eligible young
18 person, a VEA eligible child or a VEA eligible grandchild in order for
19 the person or child”.

20 **71 Subsection 258(3)**

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

23 **72 After paragraph 345(2)(da)**

24 Insert:

- 25 (db) a determination under section 257B (determination of classes
26 for purposes of definitions of *VEA eligible child* and *VEA*
27 *eligible grandchild*);
28 (dc) a determination under subsection 257C(4) (determination that
29 person is included in class determined under section 257B);

30 **73 Paragraph 345(2)(e)**

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

32 **74 Paragraph 354(2)(a)**

33 After “52(1),” insert “257C(4),”.

1 **75 Paragraph 354(2)(b)**

2 After “52(3),”, insert “257C(4),”.

3 ***Veterans’ Entitlements Act 1986***

4 **76 Paragraph 5H(8)(fa)**

5 Repeal the paragraph.

6 **77 Paragraph 5H(8)(zx)**

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

8 **78 Subsection 5Q(1) (definition of *Veterans’ Children***
9 ***Education Scheme*)**

10 Repeal the definition.

11 **79 Paragraph 13(7)(h)**

12 Repeal the paragraph, substitute:

13 (h) under the scheme determined under section 258 of the
14 MRCA (education scheme for certain eligible young persons
15 and other children).

16 **80 Sections 67W and 67ZV**

17 Repeal the sections.

18 **81 Paragraph 70(10A)(e)**

19 Repeal the paragraph, substitute:

20 (e) under the scheme determined under section 258 of the
21 MRCA (education scheme for certain eligible young persons
22 and other children).

23 **82 Part VII**

24 Repeal the Part.

25 **83 Subsection 128A(2)**

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

1 **84 Subsection 175(5)**

2 Repeal the subsection.

3 **85 Paragraph 197(2)(c)**

4 Omit “or Part VII”.

5 **Division 7—Additional compensation for children of**
6 **severely impaired veterans**

7 *Military Rehabilitation and Compensation Act 2004*

8 **86 Subsection 80(1)**

9 Repeal the subsection, substitute:

- 10 (1) This section applies to a person (the *impaired person*) if:
- 11 (a) either or both of the following apply:
- 12 (i) the Commission has accepted liability for one or more
- 13 injuries or diseases of the person (other than because of
- 14 the operation of section 24A of this Act);
- 15 (ii) the person is covered by subsection (1A) of this section;
- 16 and
- 17 (b) the Commission has determined that the degree of
- 18 impairment suffered by the person as a result of one or more
- 19 service injuries or diseases constitutes at least 80 impairment
- 20 points.
- 21 (1A) A person is covered by this subsection if:
- 22 (a) the Commission is taken to have accepted liability for an
- 23 injury sustained, or a disease contracted, by the person (the
- 24 *original condition*) because of the operation of section 24A;
- 25 and
- 26 (b) the Commission is satisfied that:
- 27 (i) the person has suffered additional impairment as result
- 28 of another injury or disease or as a result of a
- 29 deterioration in the original condition; and
- 30 (ii) the increase in the person’s overall impairment
- 31 constitutes at least 5 impairment points.

1 **87 Subsection 80(2)**

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

3 **88 Paragraph 80(2)(b)**

4 Omit “either”, substitute “the latest of whichever of the following is
5 applicable”.

6 **89 Subparagraph 80(2)(b)(i)**

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

8 **90 Subparagraph 80(2)(b)(ii)**

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

11 **91 At the end of paragraph 80(2)(b)**

12 Add:

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

17 **92 At the end of section 80**

18 Add:

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

22 **93 After section 80**

23 Insert:

24 **80A Whom the additional amount is payable to**

25 (1) An additional amount under section 80 in respect of an eligible
26 young person or child of the impaired person is payable to the
27 person or persons determined by the Commission in accordance
28 with an instrument made under subsection (3) of this section.

1 (2) If the additional amount in respect of an eligible young person or
2 child is payable to more than one person, a proportion of the
3 additional amount determined by the Commission in accordance
4 with an instrument made under subsection (3) is payable to each of
5 the persons.

6 Note: The sum of the amounts paid to each of the persons cannot exceed the
7 amount that the Commonwealth is liable to pay under section 80 in
8 respect of the eligible young person or child.

9 (3) The Commission may, by legislative instrument, specify criteria or
10 other requirements for determining:

11 (a) the person or persons to whom an additional amount in
12 respect of an eligible young person or child is payable; and

13 (b) if the additional amount is payable to more than one
14 person—the proportion of the additional amount that is
15 payable to each of the persons.

16 (4) Without limiting subsection (3), the criteria or other requirements
17 specified may relate to the circumstances surrounding legal
18 responsibility or other arrangements for the care of the eligible
19 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)”.

28 **96 Subsection 424(2)**

29 Repeal the subsection.

1 **Division 9—Repeals**

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

3 **97 The whole of the Act**

4 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

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.

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Variation or revocation of determination

(6) The Commission may, by written determination, vary or revoke a determination under subsection (3).

Determination etc. must be approved by the Minister

(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.

Legislative instruments

(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.

133 Section 324

Before “If a claim”, insert “(1)”.

134 At the end of section 324

Add:

(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.

Note: Subsections 27A(1) and (2) contain a presumption that certain injuries and diseases are attributable to defence service unless the contrary is established.

135 Section 332 (at the end of the paragraph beginning “There are 2 standards”)

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.”.

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 (Additional
20 Disablement Amount) during some period of the member’s life.

21 **153 Section 65 (paragraph beginning “Part 7”)**

22 Before “MRCA supplement”, insert “an Additional Disablement
23 Amount,”.

24 **154 After paragraph 199(1)(b)**

25 Insert:

26 (ba) either:

27 (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
32 Part 2 of this Chapter that the person would be paid if that section
33 did not apply to the person.

1 Note: Section 389 provides that compensation under Part 2 of Chapter 4 is
2 not payable to a person who chooses to institute proceedings for
3 damages against the Commonwealth. Under section 402,
4 compensation under this Act is not payable to a person who recovers
5 damages from a third party.

6 *Commonwealth superannuation*

- 7 (5) There is a reduction if the person:
8 (a) has retired voluntarily, or has been compulsorily retired, from
9 the person's work; and
10 (b) receives either or both a pension or lump sum under a
11 Commonwealth superannuation scheme as a result of the
12 retirement.
- 13 (6) The amount of the reduction under subsection (5) is 60% of the
14 reduction that would apply to the person under section 134, 135 or
15 136 if the person were receiving compensation worked out under
16 Division 2 of Part 4 of this Chapter.

17 *Relationship with subsection 415(4)*

- 18 (7) This section does not limit the application of subsection 415(4) in
19 relation to an Additional Disablement Amount.

20 Note: Subsection (7) has the effect that if the maximum weekly amount of
21 an Additional Disablement Amount is reduced in accordance with this
22 section, that amount may be further reduced in accordance with
23 subsection 415(4).

24 **220D Energy supplement for Additional Disablement Amount**

- 25 (1) The Commonwealth is liable to pay an energy supplement to a
26 person for a day if:
27 (a) an Additional Disablement Amount:
28 (i) is payable to the person for the day; or
29 (ii) would be payable to the person for the day apart from
30 section 220C and paragraph 398(3)(b); and
31 (b) the person resides in Australia on the day; and
32 (c) on the day the person either:
33 (i) is in Australia; or

Schedule 2 Single ongoing Act enhancements
Part 4 Additional disablement amount

1 (ii) is temporarily absent from Australia and has been so for
2 a continuous period not exceeding 6 weeks.

3 Note: Section 424L may affect the person's entitlement to the energy
4 supplement.

5 (2) The daily rate of the supplement is $\frac{1}{7}$ of \$10.75.

6 **157 Subparagraph 242(1)(a)(iii)**

7 Omit "and".

8 **158 At the end of paragraph 242(1)(a)**

9 Add:

10 (iv) Division 3A of Part 7 of Chapter 4 (Additional
11 Disablement Amount); and

12 **159 Subparagraph 255(1)(c)(iii)**

13 Omit "and".

14 **160 At the end of paragraph 255(1)(c)**

15 Add:

16 (iv) Division 3A of Part 7 of Chapter 4 (Additional
17 Disablement Amount); and

18 **161 After subparagraph 258(1)(a)(i)**

19 Insert:

20 (ia) a member or former member who satisfies the eligibility
21 criteria in section 220A (Additional Disablement
22 Amount), or who has satisfied those criteria during
23 some period of the member's life;

24 ***Veterans' Entitlements Act 1986***

25 **162 After paragraph 5H(8)(zs)**

26 Insert:

27 (zsa) a payment of an Additional Disablement Amount under
28 Division 3A of Part 7 of Chapter 4 of the MRCA;

29 (zsb) if subsection 220C(5) of the MRCA applies to a person—an
30 amount per fortnight, worked out under section 5IA of this

1 Act, that would, apart from this paragraph, be income of the
2 person;

3 Note: Subsection 220C(5) of the MRCA reduces an Additional
4 Disablement Amount by reference to amounts of Commonwealth
5 superannuation that the person has received or is receiving.

6 **163 Paragraph 5H(8)(zzg) (note)**

7 After “(zr)”, insert “, (zsb)”.

8 **164 After section 5I**

9 Insert:

10 **5IA Additional Disablement Amount reduction amount**

11 For the purposes of paragraphs 5H(8)(zsb) and 52Z(3A)(ib), the
12 amount per fortnight is:

13
$$\frac{\text{Additional Disablement Amount}}{\text{reduction amount}} \times \frac{10}{6}$$

14 where:

15 *Additional Disablement Amount reduction amount* means the
16 amount by which the Additional Disablement Amount (as reduced
17 under subsection 220C(3) of the MRCA) is reduced under
18 subsection 220C(6) of the MRCA (but not below zero).

19 **165 After paragraph 52Z(3A)(i)**

20 Insert:

- 21 (ia) a payment of an Additional Disablement Amount under
22 Division 3A of Part 7 of Chapter 4 of the MRCA;
23 (ib) if subsection 220C(5) of the MRCA applies to a person—an
24 amount per fortnight, worked out under section 5IA of this
25 Act;

26 **166 Subsection 52Z(3A) (after note 1)**

27 Insert:

28 Note 1A: Subsection 220C(5) of the MRCA reduces an Additional Disablement
29 Amount by reference to amounts of Commonwealth superannuation
30 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
29 (c) section 115S of the *Veterans' Entitlements Act 1986*.

1 **7 Subsection 345(1) (at the end of the definition of *reviewable***
2 ***determination*)**

3 Add:
4 ; or (d) a decision by the Principal Member under subsection
5 353C(4), (7) or (9) to dismiss an application for review.

6 **8 Section 345B**

7 Omit “under an instrument made under section 268B (about acute
8 support packages)”, substitute “or the Repatriation Commission under
9 an acute support package instrument”.

10 **9 Before paragraph 345B(a)**

11 Insert:
12 (aa) a reference to an original determination were a reference to
13 the decision; and

14 **10 Part 4 of Chapter 8**

15 Repeal the Part, substitute:

16 **Part 4—Review by the Board**

17 **Division 1—Preliminary**

18 **352 Definitions**

19 In this Part:

20 *applicant* means a person who makes an application for review.

21 *application for review* means an application under section 352A.

22 *relevant documentary medical evidence*, in relation to an
23 application for review of an original determination made in respect
24 of a person, means certificates, reports or other documents from:

25 (a) a medical practitioner; or

26 (b) a hospital, or similar institution, in which the person received
27 medical treatment;

28 about a medical condition of the person and reasonably used in
29 support of the application.

- 1 (2) If the report contains or refers to any information, opinion or other
2 matter that, in the opinion of the Commission:
3 (a) is of a confidential nature; or
4 (b) might be prejudicial to the physical or mental health or
5 well-being of the applicant to communicate to the applicant;
6 the document served on the applicant must not contain or refer to
7 that information, opinion or other matter.
- 8 (3) If a copy of a report is served on an applicant in accordance with
9 subsection (1), the applicant may, within 28 days after service of
10 the report or within such further period as the applicant may
11 request in writing before the expiration of that period, give to the
12 Commission in writing any comments the applicant wishes to
13 make concerning the report.
- 14 (4) The Commission must forward the following material to the
15 Principal Member of the Board:
16 (a) all of the relevant documents, including any comments given
17 to the Commission by the applicant concerning the report
18 served on the applicant;
19 (b) if a further investigation has been made in consequence of
20 the comments of the applicant—a supplementary report
21 referring to any evidence obtained in that further
22 investigation.
- 23 (5) The material must be forwarded:
24 (a) if the applicant gives comments in accordance with
25 subsection (3) and no further investigation is made in
26 consequence of those comments—as soon as practicable after
27 receipt of those comments; or
28 (b) if a further investigation is made in consequence of
29 comments given by the applicant—as soon as practicable
30 after the completion of that further investigation; or
31 (c) in any other case—as soon as practicable after the expiration
32 of the period or extended period referred to in subsection (3).

33 **352E Ongoing requirement for lodging material documents with**
34 **Board**

35 If:

- 1 (a) an application for review is made to the Board; and
2 (b) before the Board determines the review:
3 (i) a party to the review obtains possession of a document;
4 and
5 (ii) the document is relevant to the review; and
6 (iii) a copy of the document has not already been lodged
7 with the Board;
8 the party must, subject to any directions given under
9 subsection 359CL(2), lodge a copy of the document with the Board
10 as soon as practicable after obtaining possession.

11 **Division 3—Proceedings before the Board**

12 **352F Principal Member or Senior Member to preside at hearing**

- 13 (1) If the Principal Member is included in the Board members
14 constituting the Board for the purpose of a review, the Principal
15 Member is to preside at any hearing of the review.
- 16 (2) If the Principal Member is not included in the Board members
17 constituting the Board for the purpose of a review, the Senior
18 Member who is included in those Board members is to preside at
19 any hearing of the review.

20 Note: Section 359CJ deals with the constitution of the Board for the
21 purposes of a review.

22 **352G Parties to review before Board**

- 23 (1) The parties to a review are:
24 (a) the applicant for the review; and
25 (b) the Commission.
26 The Chief of the Defence Force may also choose to be a party to
27 the review.
- 28 (2) A party to a review may:
29 (a) appear in person, or be represented by a person other than a
30 legal practitioner, at any hearing of the review; and
31 (b) make such submissions, in writing, to the Board as the party,
32 or the party's representative, considers relevant to the review.

1 (3) A person is not entitled to ask for or receive any fee or other
2 reward, or any payment for expenses, for representing a party to a
3 review.

4 (4) In this section, *legal practitioner* includes a person who:

5 (a) holds a degree of Bachelor of Laws, Master of Laws or
6 Doctor of Laws or Bachelor of Legal Studies; or

7 (b) is otherwise qualified for admission as a barrister, solicitor,
8 or barrister and solicitor, of the High Court or of the Supreme
9 Court of a State or Territory.

10 **352H Notice of hearing etc.**

11 (1) As soon as practicable after receiving the relevant documents
12 relating to a review of an original determination, the Principal
13 Member must cause to be served on each party to the review a
14 notice:

15 (a) informing the party that the Board is to review the original
16 determination; and

17 (b) requesting the party to inform the Principal Member, in
18 writing, within a reasonable time specified in the notice,
19 whether:

20 (i) the party wishes to appear on the hearing of the review;
21 and

22 (ii) if the party wishes to appear, whether the party intends
23 to appear on the hearing in person, or be represented as
24 mentioned in section 352G.

25 (2) If either party to a review informs the Principal Member that the
26 party wishes to appear on the hearing of the review, the Principal
27 Member must:

28 (a) cause a date, time and place to be fixed for the hearing of the
29 review; and

30 (b) cause notice of the date, time and place so fixed to be served
31 on each party to the review.

32 (3) The Principal Member may defer fixing a date, time and place for
33 the hearing of a review until the parties to the review have
34 informed the Principal Member that they are ready to proceed at a
35 hearing.

- 1 (4) If a party to a review does not inform the Principal Member, within
2 the time specified in the notice served on the party under
3 subsection (1), that the party wishes to appear on the hearing of the
4 review, the review may be heard and determined in the absence of
5 that party.

6 **352J Procedure of Board**

7 *Directions hearings*

- 8 (1) A Board member may hold a directions hearing in relation to a
9 review.

10 *Directions before hearing commences*

- 11 (2) Before the hearing of a review has commenced, any of the
12 following persons may give directions in relation to the procedure
13 to be followed in connection with the review:
14 (a) a Board member;
15 (b) the National Registrar;
16 (c) a Registrar;
17 (d) a Deputy Registrar;
18 (e) a Conference Registrar.
- 19 (3) Without limiting subsection (2), a direction under that subsection
20 may:
21 (a) require any person who is a party to the review to provide
22 further information in relation to the review; or
23 (b) require the Commission to provide a statement of the
24 grounds on which the application for review will be resisted
25 at the hearing of the review; or
26 (c) require any person who is a party to the review to provide a
27 statement of matters or contentions upon which reliance is
28 intended to be placed at the hearing of the review.

29 *Directions by Principal Member*

- 30 (4) The Principal Member:

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) may give general directions as to the procedure of the Board
2 with respect to reviews before it, including reviews the
3 hearings of which have not been commenced; and
4 (b) may give directions as to the procedure of the Board with
5 respect to a particular review before the Board, either before
6 or after the hearing of the review has commenced.
- 7 (5) The power of the Principal Member under subsection (4) includes
8 the power to give directions:
9 (a) as to the manner of communication of documents, including
10 electronic documents, that are required or permitted to be
11 communicated to the Board; and
12 (b) as to the time at which such documents are to be taken to
13 have been so communicated.
- 14 (6) Without limiting the documents to which subsection (5) applies,
15 those documents include:
16 (a) documents, comments and supplementary reports forwarded
17 to the Principal Member under subsection 352D(4); and
18 (b) notices given to the Principal Member by a party to a review
19 for the purposes of section 352H; and
20 (c) documents produced to the Board under section 352Q for the
21 purposes of the hearing of a review; and
22 (d) further documents and reports of investigations or
23 examinations forwarded to the Board as a consequence of a
24 request made under subsection (8) of this section; and
25 (e) documents withdrawing or discontinuing applications for
26 review communicated to the Board under
27 subsection 353C(2).
- 28 *Direction by presiding member*
- 29 (7) The presiding member in respect of a review may, in respect of a
30 matter not dealt with by directions under subsection (4), give
31 directions as to the procedure to be followed on a hearing of the
32 review, either before or after the hearing of the review has
33 commenced.

1 *Requests by Principal Member*

- 2 (8) The Principal Member may, in relation to a review, request the
3 Commission:
4 (a) to obtain, and give to the Principal Member, further
5 documents; or
6 (b) to arrange for the making of any investigation or medical
7 examination and to give to the Principal Member a report of
8 the investigation or examination.
- 9 (9) If a request is made under subsection (8), the Board may adjourn
10 any hearing of the review to which the request relates.

11 *Limits on powers*

- 12 (10) A direction under subsection (2), (4) or (7) must not be inconsistent
13 with:
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
17 Principal Member or a presiding member must have regard to the
18 Board's objective in section 359BA.

19 Note: A direction under subsection (2), (4) or (7) that is given in writing is
20 not a legislative instrument (see section 353U).

21 **352K Participation by telephone etc.**

- 22 A Board member holding a directions hearing, or the Board in the
23 hearing of a review, may allow a person to participate by:
24 (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
29 use their best endeavours to assist the Board to fulfil the Board's
30 objective in section 359BA.

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:
35 (a) appear at a hearing of the review to give evidence;

1 (b) produce any document or other thing specified in the
2 summons.

3 (2) The day specified in the summons must be at least 14 days after the
4 day the summons is given to the person.

5 **352R Information may be made available to parties**

6 (1) If, after relevant documents relating to a review have been
7 forwarded to the Principal Member in accordance with
8 subsection 352D(4) and before the commencement of the hearing
9 of the review, a party to the review gives any information to the
10 Board for the purposes of the review, the Board must make that
11 information available to each other party to the review.

12 (2) However, if the Board is of the opinion that:

13 (a) any information under the control of the Board is of a
14 confidential nature; or

15 (b) it might be prejudicial to the physical or mental health or
16 well-being of the applicant to communicate any such
17 information to the applicant;

18 the Board may refrain from making it available to the applicant,
19 but may make it available to a person representing the applicant.

20 (3) Subsection (1) does not apply to information given by a party to a
21 review who is not the Commission unless the Board is of the
22 opinion that the information contains, or foreshadows the
23 presentation of, evidence or a submission that has not been
24 considered by the Commission in connection with the review.

25 **352S Board not bound by technicalities etc.**

26 (1) The Board, in conducting a review, in hearing a review or in
27 making a decision on a review of an original determination:

28 (a) is not bound to act in a formal manner and is not bound by
29 any rules of evidence, but may inform itself on any matter in
30 such manner as it thinks just; and

31 (b) must act according to substantial justice and the substantial
32 merits of the case, without regard to legal form and
33 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.
- 31 (5) The National Registrar, a Registrar or a Deputy Registrar, in
32 conducting an alternative dispute resolution process, does so in the
33 capacity of a Conference Registrar.

1 **352W Agreement about the terms of a decision etc.**

2 (1) If:

3 (a) in the course of an alternative dispute resolution process
4 under this Division, agreement is reached between the parties
5 to a review or their representatives as to the terms of a
6 decision of the Board:

7 (i) in the review; or

8 (ii) in relation to a part of the review; or

9 (iii) in relation to a matter arising out of the review;
10 that would be acceptable to the parties; and

11 (b) the terms of the agreement are reduced to writing, signed by
12 or on behalf of the parties and lodged with the Board; and

13 (c) 7 days pass after lodgement, and none of the parties has
14 notified the Board in writing that the party wishes to
15 withdraw from the agreement; and

16 (d) the Board is satisfied that a decision in the terms of the
17 agreement or consistent with those terms would be within the
18 powers of the Board;

19 the Board may, if it appears to it to be appropriate to do so, act in
20 accordance with whichever of subsection (2) or (3) is relevant in
21 the particular case.

22 (2) If the agreement reached is an agreement as to the terms of a
23 decision of the Board in the review, the Board may, without
24 holding a hearing of the review, make a decision in accordance
25 with those terms.

26 (3) If the agreement relates to:

27 (a) a part of the review; or

28 (b) a matter arising out of the review;

29 the Board may, in its decision on the review, give effect to the
30 terms of the agreement without dealing at the hearing of the review
31 with the part of the review, or the matter arising out of the review,
32 to which the agreement relates.

33 *Variation or revocation of decision*

34 (4) The Board may vary or revoke so much of a decision as it made in
35 accordance with subsection (2) or (3) if:

- 1 (a) the parties, or their representatives, reach agreement on the
2 variation or revocation; and
3 (b) the terms of the agreement are reduced to writing, signed by
4 or on behalf of the parties and lodged with the Board; and
5 (c) the variation or revocation appears appropriate to the Board;
6 and
7 (d) in the case of a variation—the Board is satisfied that it would
8 have been within the powers of the Board to have made the
9 decision as varied.

10 **352X Evidence not admissible**

- 11 (1) Evidence of anything said, or any act done, at an alternative
12 dispute resolution process under this Division is not admissible:
13 (a) in any court; or
14 (b) in any proceedings before a person authorised by a law of the
15 Commonwealth or of a State or Territory to hear evidence; or
16 (c) in any proceedings before a person authorised by the consent
17 of the parties to hear evidence.

18 *Exceptions*

- 19 (2) Subsection (1) does not apply so as to prevent, at the hearing of a
20 review before the Board, the admission of particular evidence if the
21 parties to the review agree to the evidence being admissible at the
22 hearing.
- 23 (3) Subsection (1) does not apply so as to prevent, at the hearing of a
24 review before the Board, the admission of:
25 (a) a case appraisal report prepared by a person conducting an
26 alternative dispute resolution process under this Division; or
27 (b) a neutral evaluation report prepared by a person conducting
28 an alternative dispute resolution process under this Division;
29 unless a party to the review notifies the Board before the hearing
30 begins that the party objects to the report being admissible at the
31 hearing.

1 **352Y Eligibility of person conducting alternative dispute resolution**
2 **process to sit as a member of the Board**

3 If:

- 4 (a) an alternative dispute resolution process under this Division
5 in relation to a review is conducted by a Board member; and
6 (b) a party to the review notifies the Board before the hearing
7 that the party objects to that Board member participating in
8 the hearing;

9 that Board member is not entitled to be a member of the Board as
10 constituted for the purposes of the review.

11 **352Z Participation by telephone etc.**

12 The person conducting an alternative dispute resolution process
13 under this Division may allow a person to participate by:

- 14 (a) telephone; or
15 (b) closed-circuit television; or
16 (c) any other means of communication.

17 **353 Engagement of persons to conduct alternative dispute resolution**
18 **processes**

- 19 (1) The National Registrar may, on behalf of the Commonwealth,
20 engage persons to conduct one or more kinds of alternative dispute
21 resolution processes under this Division.
- 22 (2) The National Registrar must not engage a person under
23 subsection (1) unless the National Registrar is satisfied, having
24 regard to the person's qualifications and experience, that the person
25 is a suitable person to conduct the relevant kind or kinds of
26 alternative dispute resolution processes under this Division.

27 **Division 5—Decisions of the Board**

28 **353A Decision of Board**

- 29 (1) On review of an original determination, the Board must have
30 regard to:

- 1 (a) the evidence that was before the Commission when the
2 determination was made; and
3 (b) any further evidence before the Board on the review that was
4 not before the Commission, being further evidence relevant
5 to the review.
- 6 (2) It is the duty of the Board, in reviewing an original determination,
7 to satisfy itself with respect to, or to determine, as the case
8 requires, all matters relevant to the review.
- 9 (3) For the purpose of reviewing an original determination, the Board
10 may exercise all the powers and discretions that are conferred on
11 the Commission by:
12 (a) this Act; and
13 (b) if the determination was made under another Act—that other
14 Act;
15 in like manner as they are required to be exercised by the
16 Commission.
- 17 (4) On review of an original determination, the Board must make a
18 decision, in writing:
19 (a) affirming the original determination; or
20 (b) varying the original determination; or
21 (c) setting aside the original determination and:
22 (i) making a decision in substitution for the original
23 determination; or
24 (ii) making a decision in substitution for the original
25 determination and, in relation to the substituted
26 decision, remitting one or more matters to the
27 Commission for consideration in accordance with any
28 directions or recommendations of the Board; or
29 (iii) remitting one or more matters to the Commission for
30 reconsideration in accordance with any directions or
31 recommendations of the Board.

1 **353B Board to give notice of decision and reasons to parties**

2 *Notice of decision*

- 3 (1) The Board must give a copy of its decision under section 353A to
4 each party to the review.

5 *Reasons*

- 6 (2) The Board must give reasons either orally or in writing for its
7 decision under section 353A.

- 8 (3) If the Board does not give reasons in writing for its decision:

- 9 (a) a party to the review may, within 28 days after the day a copy
10 of the decision is given to the party, request the Board for a
11 written statement of the Board's reasons for its decision; and
12 (b) the Board must comply with any request within 28 days after
13 receiving the request.

- 14 (4) If the Board gives reasons in writing for its decision, those reasons
15 must include its findings on material questions of fact and a
16 reference to the evidence or other material on which those findings
17 were based.

- 18 (5) If the Board gives reasons in writing for its decision and the
19 reasons contain or refer to any information, opinion or other matter
20 that, in the Board's opinion:

- 21 (a) is of a confidential nature; or
22 (b) might be prejudicial to the physical or mental health or
23 wellbeing of the applicant for the review to communicate to
24 the applicant;

25 any written statement of the Board's reasons for the decision given
26 to the applicant (or a person authorised by the applicant) must not
27 contain or refer to that information, opinion or other matter.

28 *Notice of review right*

- 29 (6) The Board must give the applicant for the review (or a person
30 authorised by the applicant) notice of the right under
31 subsection 354(1) (about review by the Tribunal).

1 *Filing of decision*

- 2 (7) The Board must file its decision under section 353A, and any
3 written statement of its reasons for the decision, with the records of
4 the case.

5 **353C Dismissal of applications**

6 *Dismissal if parties consent*

- 7 (1) If each party to the review of an original determination consents,
8 the Principal Member may dismiss the application for review
9 without proceeding to review the original determination or, if the
10 Board has started to review the original determination, without
11 completing the review.

12 *Dismissal if applicant discontinues or withdraws application*

- 13 (2) A person who has made an application to the Board for a review of
14 an original determination may, in writing, notify the Board that the
15 application is withdrawn or discontinued.
- 16 (3) If notification is so given, the Principal Member is taken to have
17 dismissed the application without proceeding to review the original
18 determination.

19 *Dismissal if applicant fails to appear*

- 20 (4) If the applicant for the review of an original determination fails to
21 appear in person, or to appear by a representative, at:
22 (a) a directions hearing for the review; or
23 (b) an alternative dispute resolution process held under
24 Division 4 in relation to the application; or
25 (c) the hearing of the review;
26 the Principal Member may dismiss the application without
27 proceeding to review the original determination.
- 28 (5) For the purposes of subsection (4):
29 (a) a person is taken to appear in person or by a representative at
30 an alternative dispute resolution process if the person or

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1 representative participates in it by a means allowed under
2 section 352Z; and
3 (b) a person is taken to appear in person or by a representative at
4 a directions hearing, or the hearing of the review, if the
5 person or representative participates in it by a means allowed
6 under section 352K.

7 (6) The Principal Member must, before exercising a power under
8 subsection (4), be satisfied that appropriate notice was given to the
9 applicant for the review of the time and place of the directions
10 hearing, the alternative dispute resolution process or the hearing of
11 the review.

12 *Dismissal if original determination not reviewable*

13 (7) If:
14 (a) the applicant for the review of an original determination is
15 notified in writing by the National Registrar that the original
16 determination does not appear to be reviewable by the Board;
17 and
18 (b) before the end of the period prescribed in an instrument
19 under subsection (8), the person is unable to show that the
20 original determination is so reviewable;
21 the Principal Member may dismiss the application without
22 proceeding to review the original determination.

23 (8) The Minister must, by legislative instrument, prescribe a period for
24 the purposes of paragraph (7)(b).

25 *Dismissal if applicant fails to proceed or fails to comply with*
26 *Board's direction*

27 (9) If the applicant for the review of an original determination fails
28 within a reasonable time:
29 (a) to proceed with the application; or
30 (b) to comply with a direction given to the applicant under this
31 Part or Chapter 8A in relation to the application;
32 the Principal Member may dismiss the application without
33 proceeding to review the original determination.

1 *Notice requirements*

- 2 (10) If the Principal Member dismisses an application under
3 subsection (4), (7) or (9), the Principal Member must:
4 (a) notify each party to the review of the dismissal; and
5 (b) the notice must include a statement to the effect that, if the
6 person is dissatisfied with the decision:
7 (i) application may, subject to the *Administrative Appeals*
8 *Tribunal Act 1975*, be made to the Tribunal under Part 5
9 of this Chapter for review of the decision; and
10 (ii) except where subsection 28(4) of the *Administrative*
11 *Appeals Tribunal Act 1975* applies, the person may
12 request a statement under section 28 of that Act.
- 13 (11) A failure to comply with paragraph (10)(b) does not affect the
14 validity of the decision.

15 **353D Consequence of dismissal of application**

16 If an application is dismissed under section 353C, the review to
17 which the application relates is taken to be concluded unless the
18 application is reinstated under section 353E.

19 **353E Circumstances in which application may be reinstated**

- 20 (1) If the Principal Member dismisses an application under subsection
21 353C(4):
22 (a) the applicant may, within 28 days after receiving notification
23 of the dismissal, apply to the Principal Member for
24 reinstatement of the application; and
25 (b) if the Principal Member considers it appropriate to do so, the
26 Principal Member may reinstate the application and give
27 such directions as appear to the Principal Member to be
28 appropriate in the circumstances.
- 29 (2) If it appears to the Principal Member that an application has been
30 dismissed under section 353C in error, the Principal Member may,
31 on the application of a party to the review or on the Principal
32 Member's own initiative, reinstate the application and give such
33 directions as appear to the Principal Member to be appropriate in
34 the circumstances.

1 **353F Date of operation of decision by Board**

- 2 (1) The Board must specify in its decision on a review of an original
3 determination the date from which its decision is to operate.
- 4 (2) Subsection (1) does not apply if the Board affirms the original
5 determination under review.

6 **353G Correction of errors in decisions or statements of reasons**

- 7 (1) If, after making a decision, the Board is satisfied that there is an
8 obvious error in the text of the decision or in a written statement of
9 reasons for the decision, the Board may direct the National
10 Registrar, a Registrar or a Deputy Registrar to alter the text of the
11 decision or statement in accordance with the directions of the
12 Board.
- 13 (2) If the text of a decision or statement is so altered, the altered text is
14 taken to be the decision of the Board or the statement of reasons
15 for the decision, as the case may be.
- 16 (3) Examples of obvious errors in the text of a decision or statement of
17 reasons are where:
18 (a) there is an obvious clerical or typographical error in the text
19 of the decision or statement of reasons; or
20 (b) there is an inconsistency between the decision and the
21 statement of reasons.
- 22 (4) The powers of the Board under this section may be exercised by
23 the Principal Member or by the Board member who presided in
24 respect of the review to which the decision relates.

25 **Division 6—Offences**

26 **353H Offence—failure of witness to attend**

- 27 (1) A person commits an offence if:
28 (a) the person has been served with a summons under section
29 352Q to appear at a hearing; and
30 (b) the person:
31 (i) fails to appear as required by the summons; or

- 1 (ii) fails to appear and report from day to day; and
2 (c) has not been excused or released by the Board from further
3 attendance.

4 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

5 (2) An offence under this section is an offence of strict liability.

6 (3) Subsection (1) does not apply if the person has a reasonable
7 excuse.

8 Note: The defendant bears an evidential burden in relation to the matter in
9 subsection (3). See subsection 13.3(3) of the *Criminal Code*.

10 **353J Offence—failure to take an oath, make an affirmation or**
11 **answer a question etc.**

12 (1) A person commits an offence if:

- 13 (a) the person is required under section 352P to take an oath or
14 make an affirmation; and
15 (b) the person fails to comply with the requirement.

16 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

17 (2) A person commits an offence if:

- 18 (a) the person appears as a witness before the Board; and
19 (b) the Board member presiding at the proceeding has required
20 the person to answer a question; and
21 (c) the person fails to answer the question.

22 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

23 (3) A person commits an offence if:

- 24 (a) the person has been served with a summons under section
25 352Q; and
26 (b) the summons required the person to produce a document; and
27 (c) the person fails to comply with the requirement.

28 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

29 (4) An offence against subsection (1), (2) or (3) is an offence of strict
30 liability.

1 (5) Subsections (1), (2) and (3) do not apply if the person has a
2 reasonable excuse.

3 Note: A defendant bears an evidential burden in relation to the matter in
4 subsection (5). See subsection 13.3(3) of the *Criminal Code*.

5 **353K Offence—giving false or misleading evidence**

6 A person commits an offence if:

- 7 (a) the person gives evidence before the Board; and
8 (b) the person does so knowing that the evidence is false or
9 misleading in a material particular.

10 Penalty: Imprisonment for 12 months or 60 penalty units, or both.

11 **353L Offence—contempt of Board**

12 *Insulting a person*

13 (1) A person commits an offence if:

- 14 (a) the person engages in conduct; and
15 (b) the person's conduct insults another person in, or in relation
16 to, the exercise of the other person's powers or functions
17 under this Part or Chapter 8A.

18 Penalty: Imprisonment for 6 months.

19 *Interrupting proceedings of the Board*

20 (2) A person commits an offence if:

- 21 (a) the person engages in conduct; and
22 (b) the person's conduct interrupts the proceedings of the Board.

23 Penalty: Imprisonment for 6 months.

24 *Creating a disturbance*

25 (3) A person commits an offence if:

- 26 (a) the person engages in conduct; and
27 (b) the person's conduct creates a disturbance in or near a place
28 where the Board is sitting.

1 Penalty: Imprisonment for 6 months.

2 *Taking part in creating or continuing a disturbance*

- 3 (4) A person commits an offence if:
4 (a) the person takes part in creating or continuing a disturbance;
5 and
6 (b) the disturbance is in or near a place where the Board is
7 sitting.

8 Penalty: Imprisonment for 6 months.

9 *Contempt of Board*

- 10 (5) A person commits an offence if:
11 (a) the person engages in conduct; and
12 (b) the person's conduct would, if the Board were a court of
13 record, constitute a contempt of that court.

14 Penalty: Imprisonment for 6 months.

15 **Division 7—Other matters**

16 **353M Immunity**

17 *Board members*

- 18 (1) A Board member has, in performing duties as a Board member, the
19 same protection and immunity as a Justice of the High Court.

20 *Registrars*

- 21 (2) The National Registrar, a Registrar, a Deputy Registrar or a
22 Conference Registrar has, in performing duties as such a person,
23 the same protection and immunity as a Justice of the High Court.

24 *Alternative dispute resolution practitioners*

- 25 (3) An alternative dispute resolution practitioner has, in performing
26 duties as an alternative dispute resolution practitioner under this
27 Part, the same protection and immunity as a Justice of the High
28 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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- (2) Subsection (1) does not apply to any relevant documentary medical evidence obtained before the day on which a copy or notice of the original determination that is subject to review was served on the applicant.

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- (3) The applicant is not to be paid:

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- (a) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to only one medical condition—more than the prescribed amount for medical expenses; or

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- (b) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to more than one medical condition—more than the

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- 1 prescribed amount for the medical expenses incurred in
2 respect of the evidence relating to any one of those
3 conditions.
- 4 (4) An amount is not payable in respect of medical expenses unless:
5 (a) the person who has incurred the expenses; or
6 (b) any person approved by that person or by the Commission;
7 applies in writing to the Commission for payment under
8 subsection (5).
- 9 (5) The application for payment must:
10 (a) be in accordance with a form approved by the Commission;
11 and
12 (b) be made within 3 months after the relevant documentary
13 medical evidence was submitted to the Board; and
14 (c) be lodged at a place approved by the Commission under
15 subsection 323(2).
- 16 (6) An application for payment lodged at a place approved by the
17 Commission under subsection 323(2) is taken to have been made
18 on a day determined under that subsection.

19 **353P Travelling expenses for obtaining medical evidence**

- 20 (1) If an applicant has had to travel to obtain any relevant documentary
21 medical evidence submitted to the Board, the applicant is, subject
22 to this section, entitled to be paid in relation to that travel the
23 travelling expenses that are prescribed.
- 24 (2) If:
25 (a) the applicant is accompanied by an attendant when travelling
26 to obtain the evidence; and
27 (b) the Commission is of the view that it is reasonable for the
28 applicant to be so accompanied by an attendant;
29 the attendant is, subject to this section, entitled to be paid in
30 relation to that travel the travelling expenses that are prescribed.
- 31 (3) Travelling expenses are not payable in respect of travel outside
32 Australia.
- 33 (4) Travelling expenses are not payable unless:

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) the person who has incurred the expenses; or
2 (b) any person approved by that person or by the Commission;
3 applies in writing to the Commission for payment under
4 subsection (5).
- 5 (5) The application for payment must:
6 (a) be in accordance with a form approved by the Commission;
7 and
8 (b) be made within:
9 (i) 12 months after the completion of the travel; or
10 (ii) if the Commission thinks that there are exceptional
11 circumstances that justify extending that period—such
12 further period as the Commission allows; and
13 (c) be lodged at a place approved by the Commission under
14 subsection 323(2).
- 15 (6) An application for payment lodged at a place approved by the
16 Commission under subsection 323(2) is taken to have been made
17 on a day determined under that subsection.
- 18 (7) The Commonwealth is to pay the travelling expenses to which a
19 person is entitled under this section.

20 **353Q Other travelling expenses**

21 *Applicant attending hearing*

- 22 (1) Subject to such conditions as are prescribed, an applicant for a
23 review is entitled, if the applicant travels in Australia for the
24 purpose of attending a hearing of the review, to receive such
25 travelling expenses in connection with that travel as are prescribed.

26 *Attendant accompanying applicant*

- 27 (2) Subject to such conditions as are prescribed, an attendant who
28 travels in Australia for the purpose of accompanying an applicant
29 to a hearing of a review is entitled to be paid such travelling
30 expenses in connection with that travel as are prescribed.

1 *Persons who make claim on behalf of claimant*

2 (3) If:

3 (a) a claim is made under section 319 by a person who, under
4 subsection 320(2), is entitled to make the claim; and

5 (b) the person travels within Australia, with the approval of the
6 Commission, for the purpose of attending a hearing of a
7 review of an original determination in respect of the claim;
8 the person is, subject to such conditions as are prescribed, entitled
9 to be paid such travelling expenses in connection with that travel as
10 are prescribed.

11 *Expenses are payable by the Commonwealth*

12 (4) Travelling expenses to which a person is entitled to under this
13 section are payable by the Commonwealth.

14 *Meaning of Australia*

15 (5) In this section:

16 *Australia*, when used in a geographical sense, includes the external
17 Territories.

18 **353R Applications for other travelling expenses**

19 (1) If a person who has travelled in Australia is entitled to be paid
20 travelling expenses under section 353Q in connection with that
21 travel, application for payment of travelling expenses in respect of
22 that travel may be made:

23 (a) by that person; or

24 (b) with the approval of that person; or

25 (c) if that person is, by reason of physical or mental ailment or of
26 that person's death, unable to approve another person to
27 make the application on the person's behalf—with the
28 approval of the Commission, by another person on behalf of
29 that person.

30 (2) An application under subsection (1) must be:

31 (a) in writing; and

32 (b) in accordance with a form approved by the Commission; and

- 1 (c) accompanied by such evidence available to the applicant as
2 the applicant considers may be relevant to the application;
3 and
4 (d) made within:
5 (i) 12 months after the completion of the travel to which
6 the application relates; or
7 (ii) if the Commission thinks that there are exceptional
8 circumstances that justify extending that period—such
9 further period as the Commission allows.
- 10 (3) An application under subsection (1) must be:
11 (a) unless paragraph (b) applies—lodged at a place approved by
12 the Commission under subsection 323(2); and
13 (b) if it is an application in respect of travel referred to in
14 subsection 353Q(1) or (2)—either:
15 (i) communicated to the Board in accordance with the
16 directions of the Principal Member given under
17 subsection 352J(4); or
18 (ii) lodged at a place approved by the Commission under
19 subsection 323(2).
- 20 (4) If an application is communicated to the Board in accordance with
21 the directions of the Principal Member given under
22 subsection 352J(4), it is taken to have been made on a day
23 determined in accordance with those directions.
- 24 (5) If an application is lodged at a place approved by the Commission
25 under subsection 323(2), it is taken to have been made on a day
26 determined under that subsection.

27 **353S Advance of travelling expenses for obtaining medical evidence**

- 28 (1) If the Commission is satisfied that:
29 (a) it is reasonable to expect that a person may become entitled
30 to travelling expenses under section 353P or 353Q; and
31 (b) it is appropriate, in all the circumstances, that the person
32 should be paid an advance on account of those expenses;
33 the Commission may authorise the payment of that advance to the
34 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 **353T Fees for witnesses**

- 14 (1) A person, other than the applicant, summoned to appear as a
15 witness at a hearing before the Board is entitled to be paid, in
16 respect of the person's attendance, fees, and allowances for
17 expenses, fixed by or in accordance with the regulations in respect
18 of the attendance.
- 19 (2) Subject to subsection (3), the fees and allowances are to be paid:
20 (a) in a case where the witness was summoned at the request of
21 the applicant—by the applicant; or
22 (b) in any other case—by the Commonwealth.
- 23 (3) The Board may, in its discretion, order that the fees and allowances
24 of a witness referred to in paragraph (2)(a) are to be paid, in whole
25 or in part, by the Commonwealth.

26 **353U Instruments that are not legislative instruments**

- 27 The following are not legislative instruments:
28 (a) a direction under subsection 352J(2), (4) or (7) that is given
29 in writing (procedure of Board);
30 (b) a direction under subsection 352N(2) that is given in writing
31 (hearing to be in private except in special circumstances);
32 (c) a direction under section 352U (referral of review for
33 alternative dispute resolution process);

1 (d) a direction under section 352V (directions by Principal
2 Member).

3 **11 Paragraph 357(6B)(c)**

4 Omit “subsection 148(4B) of the *Veterans’ Entitlements Act 1986*”,
5 substitute “subsection 352J(2)”.

6 **12 After Chapter 8**

7 Insert:

8 **Chapter 8A—Veterans’ Review Board**

9 **Part 1—Simplified outline of this Chapter**
10

11 **359A Simplified outline of this Chapter**

12 The Veterans’ Review Board is continued in existence under Part 2
13 of this Chapter. Part 2 also sets out the Board’s objective.

14 Part 3 deals with the administration of the Board, and includes
15 provisions relating to Board members, acting Board members and
16 procedures of the Board.

17 Part 4 deals with staff, delegations of the Principal Member and the
18 requirement for Board members to take an oath or make an
19 affirmation.

20 Part 7 of the *Acts Interpretation Act 1901* also has provisions that
21 are relevant to Board members and acting Board members.

22 **Part 2—Establishment of Board**
23

24 **359B Establishment**

25 (1) The Veterans’ Review Board that was, immediately before the
26 commencement of this section, in existence by virtue of the

1 *Veterans' Entitlements Act 1986*, is continued in existence under
2 the same name.

- 3 (2) The Board consists of:
4 (a) a Principal Member; and
5 (b) such number of Senior Members as are appointed in
6 accordance with this Act; and
7 (c) such number of other members as are appointed in
8 accordance with this Act.

9 **359BA Board's objective**

- 10 In carrying out its functions, the Board must pursue the objective
11 of providing a mechanism of review that:
12 (a) is accessible; and
13 (b) is fair, just, economical, informal and quick; and
14 (c) is proportionate to the importance and complexity of the
15 matter; and
16 (d) promotes public trust and confidence in the decision-making
17 of the Board.

18 **Part 3—Administration**

19 **Division 1—Membership**

20 **359C Appointment of members**

21 *Appointment by Governor-General*

- 22 (1) The members of the Board are to be appointed by the
23 Governor-General by written instrument.

24 Note: A Board member may be reappointed (see section 33AA of the *Acts*
25 *Interpretation Act 1901*).

- 26 (2) The Board must, at all times, have among its members persons
27 selected from lists submitted to the Minister in accordance with
28 subsection (3).
29 (3) The Minister may, from time to time, request organisations
30 representing veterans throughout Australia to submit to the

1 Minister lists of names of persons from which the organisation
2 concerned recommends that a selection be made of persons to
3 serve as Services members of the Board.

4 *Period of appointment*

5 (4) A Board member holds office for the period specified in the
6 instrument of appointment. The period must not exceed 5 years.

7 *Basis of appointment*

8 (5) The Principal Member is to be appointed on a full-time basis.

9 (6) A Board member other than the Principal Member may be
10 appointed on a full-time basis or on a part-time basis.

11 **359CA Acting appointments**

12 The Minister may, by written instrument, appoint a person to act as
13 a Board member:

14 (a) during a vacancy in the office of a Board member (whether
15 or not an appointment has previously been made to the
16 office); or

17 (b) during any period, or during all periods, when the Board
18 member:

19 (i) in the case of a full-time Board member—is absent from
20 duty or from Australia; or

21 (ii) in the case of a full-time or part-time Board member—
22 is, for any reason, unable to perform the duties of the
23 office.

24 Note: For rules that apply to acting appointments, see sections 33AB and
25 33A of the *Acts Interpretation Act 1901*.

26 **359CB Remuneration**

27 (1) A Board member is to be paid the remuneration that is determined
28 by the Remuneration Tribunal. If no determination of that
29 remuneration by the Tribunal is in operation, the Board member is
30 to be paid the remuneration that is prescribed by the regulations.

1 (2) A Board member is to be paid the allowances that are prescribed
2 by the regulations.

3 (3) This section has effect subject to the *Remuneration Tribunal Act*
4 *1973*.

5 **359CC Leave of absence**

6 (1) A full-time Board member has the recreation leave entitlements
7 that are determined by the Remuneration Tribunal.

8 (2) The Minister may grant a full-time Board member leave of
9 absence, other than recreation leave, on the terms and conditions as
10 to remuneration or otherwise that the Minister determines.

11 **359CD Other paid work**

12 A full-time Board member must not engage in paid work outside
13 the duties of the Board member without the Minister's approval.

14 **359CE Other terms and conditions**

15 A Board member holds office on the terms and conditions (if any)
16 in relation to matters not covered by this Act that are determined
17 by the Governor-General.

18 **359CF Resignation**

19 (1) A Board member may resign the Board member's appointment by
20 giving the Governor-General a written resignation.

21 (2) The resignation takes effect on the day it is received by the
22 Governor-General or, if a later day is specified in the resignation,
23 on that later day.

24 **359CG Termination of appointment**

25 (1) The Governor-General may terminate the appointment of a Board
26 member:

27 (a) for misbehaviour; or

- 1 (b) if the Board member is unable to perform the duties of the
2 Board member's office because of physical or mental
3 incapacity.
- 4 (2) The Governor-General must terminate the appointment of a Board
5 member if:
- 6 (a) the Board member:
- 7 (i) becomes bankrupt; or
8 (ii) applies to take the benefit of any law for the relief of
9 bankrupt or insolvent debtors; or
10 (iii) compounds with the Board member's creditors; or
11 (iv) makes an assignment of the Board member's
12 remuneration for the benefit of the Board member's
13 creditors; or
- 14 (b) in the case of a full-time Board member—the Board member:
- 15 (i) is absent, except on leave of absence, for 14 consecutive
16 days or for 28 days in any 12 months; or
17 (ii) engages, except with the Minister's approval, in paid
18 work outside the duties of the member's office (see
19 section 359CD); or
- 20 (c) the Board member fails, without reasonable excuse, to
21 comply with section 359CI (disclosure of interests).

22 **359CH Suspension of Board members**

- 23 (1) The Minister may suspend the appointment of a Board member:
- 24 (a) for misbehaviour; or
25 (b) if the Board member is unable to perform the duties of the
26 Board member's office because of physical or mental
27 incapacity.
- 28 (2) If the Minister suspends the appointment of a Board member, the
29 Governor-General may, on the recommendation of the Minister:
- 30 (a) terminate the appointment of the Board member under
31 subsection 359CG(1); or
32 (b) direct that the suspension of the Board member continue for
33 such further period as the Governor-General specifies; or
34 (c) direct that the suspension of the Board member terminate.

- 1 (3) The suspension of the appointment of a Board member does not
2 affect any entitlement of the Board member to be paid
3 remuneration and allowances.

4 **359CI Disclosure of interests**

- 5 (1) This section applies in relation to a Board member who is one of
6 the Board members who constitute, or are deemed to constitute, the
7 Board for the purposes of a review by the Board under Part 4 of
8 Chapter 8.
- 9 (2) If the Board member has or acquires an interest, pecuniary or
10 otherwise, that could conflict with the proper performance of the
11 Board member's functions in relation to the review, the Board
12 member must disclose the interest to the applicant in the review
13 and to the Commission.
- 14 (3) The disclosure must be made as soon as possible after the relevant
15 facts have come to the Board member's knowledge.
- 16 (4) The Board member must not take part in the review, or exercise
17 any powers in relation to the review, unless the applicant in the
18 review, and the Commission, consent to the Board member doing
19 so.
- 20 (5) If the Principal Member becomes aware that the Board member has
21 or acquires an interest, pecuniary or otherwise, that could conflict
22 with the proper performance of the Board member's functions in
23 relation to the review:
- 24 (a) if the Principal Member considers that the Board member
25 should not take part, or should not continue to take part, in
26 the review—the Principal Member must give a direction to
27 the Board member accordingly; or
- 28 (b) in any other case—the Principal Member must cause the
29 interest of the Board member to be disclosed to the applicant
30 in the review and to the Commission.

1 **Division 2—Procedures of the Board**

2 **359CJ Constitution of Board for exercise of powers**

- 3 (1) Subject to subsections (2) and (3), for the purposes of a review by
4 the Board under Part 4 of Chapter 8, the Board must be constituted
5 by:
6 (a) the Principal Member or a Senior Member; and
7 (b) a Services member; and
8 (c) one other Board member.
- 9 (2) The Board may, for the purposes of a particular review, be
10 constituted by:
11 (a) the Principal Member; and
12 (b) a Senior Member; and
13 (c) a Services member.
- 14 (3) The Board may, for the purposes of a particular review, or of a
15 review included in a particular class of reviews, be constituted by:
16 (a) the Principal Member or a Senior Member; or
17 (b) one Board member, not being the Principal Member or a
18 Senior Member;
19 only.

20 **359CK Management of administrative affairs of Board**

- 21 (1) The Principal Member is responsible for managing the
22 administrative affairs of the Board.
- 23 (2) In the management of the administrative affairs of the Board, the
24 Principal Member is assisted by the National Registrar.
- 25 (3) The National Registrar has power to do all things necessary or
26 convenient to be done for the purpose of assisting the Principal
27 Member.
- 28 (4) In particular, the National Registrar may act on behalf of the
29 Principal Member in relation to the administrative affairs of the
30 Board.

1 (5) The Principal Member may give the National Registrar written
2 directions regarding the exercise of the National Registrar's powers
3 under this Act.

4 Note: A direction under subsection (5) is not a legislative instrument (see
5 section 359DD).

6 **359CL Arrangement of business of Board**

7 (1) The Principal Member is responsible for ensuring the expeditious
8 and efficient discharge of the business of the Board.

9 (2) Without limiting subsection (1), the Principal Member may give
10 written directions as to:

11 (a) the operations of the Board generally; and

12 (b) the operations of the Board at a particular place; and

13 (c) the procedure of the Board generally; and

14 (d) the procedure of the Board at a particular place; and

15 (e) the conduct of reviews by the Board under Part 4 of
16 Chapter 8; and

17 (f) the arrangement of the business of the Board; and

18 (g) the places in Australia at which the Board may sit; and

19 (h) the provision of documents under section 352E, including
20 documents that are or are not required to be lodged under that
21 section.

22 Note: A direction under subsection (2) is not a legislative instrument (see
23 section 359DD).

24 **359CM Board members to constitute Board for purposes of a review**

25 (1) This section applies in relation to reviews by the Board under
26 Part 4 of Chapter 8.

27 (2) The Principal Member may give directions, from time to time, in
28 writing, as to the persons who are to constitute the Board:

29 (a) for the purpose of a particular review or particular reviews;
30 or

31 (b) for the purposes of reviews listed for hearing at a specified
32 place during a specified period, or during specified periods,

1 being reviews so listed for hearing by, or in accordance with
2 the directions of, the Principal Member.

3 (3) If the Board, constituted in accordance with a direction given under
4 subsection (2):

5 (a) completes its hearing of a review listed for hearing at the
6 place and during a period specified in that direction; but

7 (b) does not make its decision on the review;

8 then, unless the Principal Member otherwise directs, the Board
9 members who constitute the Board in accordance with that
10 direction, by force of this subsection, continue to constitute the
11 Board for the purpose of making a decision in writing on that
12 review.

13 Note: A direction under this section is not a legislative instrument (see
14 section 359DD).

15 **359CN Board member ceasing to be Board member etc.**

16 (1) If one of the Board members constituting the Board, by virtue of a
17 direction under section 359CM, for the purposes of a review by the
18 Board under Part 4 of Chapter 8:

19 (a) ceases to be a Board member; or

20 (b) ceases, for any reason, to be available for the purposes of a
21 review at the place where the review is to be, or is being,
22 heard or continued;

23 the 2 remaining Board members are deemed to constitute the Board
24 by virtue of the direction given under section 359CM until the
25 Principal Member re-allocates the review, under that section, for
26 further hearing.

27 (2) If the Board member referred to in subsection (1) is the Principal
28 Member or a Senior Member, the Principal Member must direct
29 which of the 2 remaining Board members is to preside at any
30 hearing of the review.

31 (3) If:

32 (a) the hearing of a review has been commenced but has not
33 been completed before the Board; and

34 (b) the review has not been re-allocated as mentioned in
35 subsection (1);

1 the review may be listed for further hearing at a particular place
2 and time in accordance with directions given by the Principal
3 Member with respect to the listing of reviews for hearing or further
4 hearing and, if it is so listed:

5 (c) the Board constituted by the Board members directed to
6 constitute the Board for the hearing of reviews listed for
7 hearing at that place during the period in which that time
8 occurs may continue the hearing of the review and decide the
9 review; and

10 (d) the review is deemed to have been re-allocated for further
11 hearing and decision accordingly.

12 (4) The Board to which a review is deemed to have been re-allocated
13 under subsection (3) may, but need not, include a Board member
14 who was one of the Board members who constituted the Board for
15 the purpose of hearing the review before the re-allocation took
16 place.

17 (5) If a review re-allocated as mentioned in subsection (1), or deemed
18 to have been re-allocated under subsection (3), had been
19 commenced, but had not been completed, before the re-allocation
20 took place, the Board as constituted for the purpose of that review
21 by virtue of that re-allocation may, in the review before it, have
22 regard to any record of the review before the Board as previously
23 constituted.

24 **Part 4—Other matters**

25

26 **359D Staff**

27 (1) Any staff required to assist the Board are to be persons engaged
28 under the *Public Service Act 1999* and made available for the
29 purpose by the Secretary.

30 (2) Without limiting subsection (1), the staff required to assist the
31 Board may include one or more of the following:

32 (a) a National Registrar;

33 (b) Registrars;

34 (c) Deputy Registrars;

1 (d) Conference Registrars.

2 **359DA Delegation by Principal Member**

3 (1) The Principal Member may, in writing, delegate all or any of the
4 Principal Member's functions or powers under this Act to:

- 5 (a) a Senior Member; or
6 (b) an acting Senior Member.

7 (2) The Principal Member may, in writing, delegate all or any of the
8 Principal Member's functions or powers under the following
9 provisions to the National Registrar:

- 10 (a) section 352H (notice of hearing etc.);
11 (b) section 352J (procedure of Board);
12 (c) section 353C (dismissal of applications);
13 (d) section 353E (circumstances in which application may be
14 reinstated);
15 (e) section 359CL (arrangement of business of Board);
16 (f) section 359CM (Board members to constitute Board for
17 purposes of a review);
18 (g) section 359CN (Board member ceasing to be Board member
19 etc.).

20 (3) The Principal Member may, in writing, delegate all or any of the
21 Principal Member's functions or powers under subsection 352J(8)
22 (requests by Principal Member), section 353C (dismissal of
23 applications) or section 353E (circumstances in which application
24 may be reinstated) to:

- 25 (a) a Registrar; or
26 (b) a Deputy Registrar; or
27 (c) a Conference Registrar.

28 (4) In performing a delegated function or exercising a delegated
29 power, the delegate must comply with any written directions of the
30 Principal Member.

31 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
32 provisions relating to delegations.

1 **359DB Annual report**

2 The Principal Member must, as soon as practicable after the end of
3 each financial year, prepare and give to the Minister, for
4 presentation to the Parliament, a report on the Board's activities
5 during the financial year.

6 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
7 contains extra rules about annual reports.

8 **359DC Oath or affirmation of office**

9 (1) A person who is appointed or re-appointed as a Board member, or
10 to act as a Board member, must take an oath or make an
11 affirmation, in the applicable form set out in the following table,
12 before discharging the duties of the office.
13

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> , <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.
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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

12

13 Paragraph 423(ca)

13

Omit “section 353 because of the application of subsections 132(5), (6), (9), (10), (11), (11A), (11B) and (11C) of the *Veterans’ Entitlements Act 1986*”, substitute “sections 353P, 353Q and 353S”.

14

15

16

14 After paragraph 423(ca)

17

Insert:

18

- (cb) fees and allowances of witnesses payable under section 353T;

19

20

15 Section 437A

21

Before “The Minister”, insert “(1)”.

22

16 Section 437A

23

Omit “his or her functions or powers under this Act”, substitute “the Minister’s functions or powers under this Act (other than section 359CA or 359CC)”.

24

25

26

17 At the end of section 437A

27

Add:

28

- (2) The Minister may, by writing, delegate all or any of the Minister’s powers under section 359CA or 359CC to the Principal Member of the Board.

29

30

1 ***Safety, Rehabilitation and Compensation (Defence-related***
2 ***Claims) Act 1988***

3 **18 Subsection 3A(3) (note)**

4 Omit “Part VI”, substitute “section 62 (reconsideration and review of
5 determinations etc.)”.

6 **19 Subsection 3A(4)**

7 Omit “Part VI (about reconsideration and review of determinations)”,
8 substitute “section 62 (reconsideration and review of determinations
9 etc.)”.

10 **20 Subsection 4(1)**

11 Insert:

12 *Board* has the same meaning as in the MRCA.

13 **21 Subsection 4(1) (definition of *proceeding under Part VI*)**

14 Repeal the definition.

15 **22 Subsection 4(12)**

16 Repeal the subsection.

17 **23 Subsection 26(4)**

18 Repeal the subsection, substitute:

19 (4) This section does not apply if an application for review of the
20 determination under section 24 or 25 has been made under Part 4
21 of Chapter 8 of the MRCA (see section 62 of this Act).

22 **24 Subsection 41B(1) (note)**

23 Omit “(see section 60A)”, substitute “under Part 4 of Chapter 8 of the
24 MRCA (see section 345B of that Act)”.

25 **25 Subsection 60(1)**

26 Omit “(1)”.

1 **26 Subsection 60(1) (definition of *decision*)**

2 Repeal the definition.

3 **27 Subsection 60(1) (definition of *reviewable decision*)**

4 Omit “or section 62”.

5 **28 Subsection 60(2)**

6 Repeal the subsection.

7 **29 Section 60A**

8 Repeal the section.

9 **30 Paragraph 61(1)(c)**

10 Omit “request a reconsideration of the determination under
11 subsection 62(2)”, substitute “make an application for review of the
12 determination by the Board under Part 4 of Chapter 8 of the MRCA (see
13 section 62 of this Act)”.

14 **31 Sections 62 to 67**

15 Repeal the sections, substitute:

16 **62 Reconsideration and review of determinations etc.**

17 (1) Section 347 of the MRCA applies in relation to a determination as
18 if it were an original determination made by the Commission.

19 Note: This means that the Commission may, on its own initiative, reconsider
20 a determination.

21 (2) If a determination (the *reconsideration determination*) is made
22 under subsection 347(3) of the MRCA because of the operation of
23 subsection (1) of this section, section 346 of the MRCA applies in
24 relation to the reconsideration determination as if:

25 (a) the reconsideration determination were an original
26 determination made by the Commission; and

27 (b) a person in respect of whom the reconsideration
28 determination was made were the claimant.

29 Note: This means that the Commission must give notice of the
30 reconsideration determination.

- 1 (3) Part 4 of Chapter 8 of the MRCA applies in relation to a
2 determination, a reconsideration determination and a reviewable
3 decision as if:
4 (a) the determination, reconsideration determination or
5 reviewable decision were an original determination; and
6 (b) a person in respect of whom the determination,
7 reconsideration determination or reviewable decision was
8 made were the claimant; and
9 (c) paragraph 353Q(3)(a) of that Part referred to a claim made by
10 a person under Part V of this Act on behalf of another person.

11 Note: This means that a determination, a reconsideration determination and
12 a reviewable decision may be reviewed by the Board under Part 4 of
13 Chapter 8 of the MRCA.

- 14 (4) If the Board reviews a determination, reconsideration
15 determination or reviewable decision (the *DRCA determination*)
16 under Part 4 of Chapter 8 of the MRCA, Part 5 of that Chapter
17 applies in relation to the determination made by the Board on
18 review as if:
19 (a) the Board's determination on review were a reviewable
20 determination; and
21 (b) a person in respect of whom the DRCA determination was
22 made were the claimant.

23 Note: This means that the Board's determination on review of a DRCA
24 determination may be reviewed by the Administrative Appeals
25 Tribunal under Part 5 of Chapter 8 of the MRCA.

26 **32 Subsection 111(5)**

27 Repeal the subsection.

28 **33 Sections 129 and 129A**

29 Repeal the sections, substitute:

30 **129A Reconsideration and review of certain determinations under** 31 **1971 Act**

32 Part VI of this Act applies in relation to a determination under the
33 1971 Act that had effect immediately before the commencing day
34 as if:

- 1 (a) the person in respect of whom the determination was made
2 were a claimant under this Act; and
3 (b) the determination were a determination by the MRCC within
4 the meaning of Part VI of this Act.

5 **34 Subsection 151A(1B)**

6 Omit “reconsideration or review under Part VI”, substitute
7 “reconsideration under section 347 of the MRCA, or the review under
8 Part 4 of Chapter 8 of the MRCA,”.

9 ***Veterans’ Entitlements Act 1986***

10 **35 Subsection 5Q(1) (definition of *Board*)**

11 Repeal the definition, substitute:

12 *Board* has the same meaning as in the MRCA.

13 **36 Subsection 5T(1) (note)**

14 Omit “the Veterans’ Review Board,”.

15 **37 Subsection 5T(1) (note)**

16 Omit “IX,”.

17 **38 Paragraph 22(5)(c)**

18 Omit “subsection 31(6)”, substitute “section 31”.

19 **39 Division 6 of Part II**

20 Repeal the Division, substitute:

21 **Division 6—Reconsideration of decisions by Commission**

22 **31 Commission may initiate reconsideration of decisions**

23 (1) This section applies in relation to any decision of the Commission
24 in respect of the following claims or applications (including a
25 decision under section 20 or 21 but not a decision under
26 subsection 19A(1)):

- 27 (a) a claim for a pension under section 14;

- 1 (b) an application for a pension, or for an increased pension,
2 under section 15;
3 (c) an application for attendant allowance under section 98.

- 4 (2) Section 347 of the MRCA applies in relation to the decision as if:
5 (a) the decision were an original determination made by the
6 Commission; and
7 (b) a reference in that section to the Commission were a
8 reference to the Repatriation Commission.

9 Note: This means that the Commission may, on its own initiative, reconsider
10 the decision.

- 11 (3) If a determination (the *reconsideration determination*) is made
12 under subsection 347(3) of the MRCA because of the operation of
13 subsection (2) of this section, section 346 of the MRCA applies in
14 relation to the reconsideration determination as if:
15 (a) the reconsideration determination were an original
16 determination made by the Commission; and
17 (b) a person in respect of whom the reconsideration
18 determination was made were the claimant; and
19 (c) a reference in that section to the Commission were a
20 reference to the Repatriation Commission.

21 Note: This means that the Commission must give notice of the
22 reconsideration determination.

23 **40 Subsection 32(1)**

24 Omit “its review under section 31”, substitute “its reconsideration under
25 section 31”.

26 **41 Subparagraph 32(1)(c)(ii)**

27 Repeal the subparagraph, substitute:

- 28 (ii) in the case of a reconsideration under section 31—a
29 person likely to be affected by the reconsideration or the
30 Secretary;

31 **42 Paragraph 32(1)(c)**

32 Omit “or the review”, substitute “or the reconsideration”.

1 **43 Subparagraph 32(1)(d)(ii)**

2 Repeal the subparagraph, substitute:

- 3 (ii) in the case of a reconsideration under section 31—the
4 person likely to be affected by the reconsideration;

5 **44 Paragraph 32(1)(d)**

6 Omit “of the review”, substitute “of the reconsideration”.

7 **45 Paragraph 32(1)(d)**

8 Omit “or the review”, substitute “or the reconsideration”.

9 **46 Paragraph 32(2)(b)**

10 Repeal the paragraph, substitute:

- 11 (b) for the purpose of a reconsideration under section 31—a
12 person likely to be affected by the reconsideration;

13 **47 Paragraph 32(5)(b)**

14 Omit “review under section 31”, substitute “reconsideration under
15 section 31”.

16 **48 Subsection 32(9)**

17 Omit “review”, substitute “reconsideration”.

18 **49 Paragraphs 34(1)(c) to (e)**

19 Repeal the paragraphs.

20 **50 Paragraph 34(2)(b)**

21 Omit “, (c), (d) or (e)”.

22 **51 Subsection 115S(1) (note)**

23 Omit “135A”, substitute “345B of the MRCA”.

24 **52 Paragraph 119(1)(c)**

25 Omit “review”, substitute “reconsideration”.

26 **53 Paragraph 119(1)(d)**

27 Repeal the paragraph.

1 **54 Subsection 126(4)**

2 Omit “section 135 or 175”, substitute “section 175 of this Act or Part 4
3 or 5 of Chapter 8 of the MRCA (because of the operation of section 134
4 of this Act)”.

5 **55 Subparagraphs 129A(1)(a)(ii) and (d)(ii)**

6 Repeal the subparagraphs.

7 **56 Paragraphs 132(1)(b) to (d)**

8 Omit “review”, substitute “reconsideration”.

9 **57 Subsection 132(2)**

10 Omit “review”, substitute “reconsideration”.

11 **58 Subsections 132(5) and (6)**

12 Repeal the subsections.

13 **59 Subsection 132(9)**

14 Repeal the subsection, substitute:

15 (9) If:

16 (a) a claim for a pension:

17 (i) is made on behalf of the claimant by a person who is a
18 dependant of the claimant or who is approved under
19 paragraph 16(b), (c) or (d) to make the claim on behalf
20 of the claimant; or

21 (ii) is prosecuted by a person who is the legal personal
22 representative of the claimant, or by a person approved
23 under section 126, following the death of the claimant;
24 and

25 (b) that person travels within Australia with the approval of the
26 Commission for the purpose of an investigation, by the
27 Department or the Commission, of the claim;

28 the person is, subject to such conditions as are prescribed, entitled
29 to be paid such travelling expenses in connection with that travel as
30 are prescribed.

1 **60 Subsection 132(11A)**

2 Repeal the subsection, substitute:

3 (11A) An application must be lodged at an office of the Department in
4 Australia in accordance with section 5T.

5 **61 Subsection 132(11B)**

6 Repeal the subsection.

7 **62 Subsection 132(12)**

8 Omit “or 135”.

9 **63 Section 132A**

10 Repeal the section.

11 **64 Part IX (heading)**

12 Repeal the heading, substitute:

13 **Part IX—Review of decisions by Board**
14

15 **65 Division 1 of Part IX (heading)**

16 Repeal the heading.

17 **66 Subsection 133(1)**

18 Omit “(1)”.

19 **67 Subsection 133(1)**

20 Repeal the following definitions:

- 21 (a) definition of *alternative dispute resolution processes*;
- 22 (b) definition of *applicant*;
- 23 (c) definition of *application*;
- 24 (d) definition of *Conference Registrar*.

25 **68 Subsection 133(1)**

26 Insert:

27 *decision* means:

- 1 (a) any decision of the Commission in respect of the following
2 claims or applications (including a decision under section 20
3 or 21 but not a decision under subsection 19A(1)):
4 (i) a claim for a pension under section 14;
5 (ii) an application for a pension, or for an increased
6 pension, under section 15;
7 (iii) an application for attendant allowance under section 98;
8 or
9 (b) a determination made by the Commission under
10 subsection 347(3) of the MRCA because of the operation of
11 subsection 31(2) of this Act.

12 **69 Subsection 133(1)**

13 Repeal the following definitions:

- 14 (a) definition of *Deputy Registrar*;
15 (b) definition of *member*;
16 (c) definition of *National Registrar*;
17 (d) definition of *Principal Member*;
18 (e) definition of *Registrar*;
19 (f) definition of *relevant documentary medical evidence*;
20 (g) definition of *review*;
21 (h) definition of *Senior Member*;
22 (i) definition of *Services member*.

23 **70 Subsection 133(2)**

24 Repeal the subsection.

25 **71 Section 133A**

26 Repeal the section.

27 **72 Division 2 of Part IX**

28 Repeal the Division.

29 **73 Division 3 of Part IX (heading)**

30 Repeal the heading.

1 **74 Before section 135**

2 Insert:

3 **134 Review of decisions by the Board**

- 4 (1) Subject to this Part, Part 4 of Chapter 8 of the MRCA applies in
5 relation to a decision as if:
6 (a) the decision were an original determination; and
7 (b) a person in respect of whom the decision was made were the
8 claimant; and
9 (c) a reference in that Part to the Commission were a reference to
10 the Repatriation Commission; and
11 (d) a reference in that Part to subsection 323(2) were a reference
12 to section 5T of this Act; and
13 (e) paragraph 353Q(3)(a) of that Part referred to a claim for a
14 pension made by a person mentioned in paragraph 132(9)(a)
15 of this Act.

16 Note: This means that a decision may be reviewed by the Board under Part 4
17 of Chapter 8 of the MRCA.

- 18 (2) Subject to Part X of this Act, if the Board reviews a decision (the
19 **VEA decision**) under Part 4 of Chapter 8 of the MRCA, Part 5 of
20 that Chapter applies in relation to the determination made by the
21 Board on review as if:
22 (a) the Board's determination on review were a reviewable
23 determination; and
24 (b) a person in respect of whom the VEA decision was made
25 were the claimant; and
26 (c) a reference in that Part to the Commission were a reference to
27 the Repatriation Commission.

28 Note: This means that the Board's determination on review of a VEA
29 decision may be reviewed by the Administrative Appeals Tribunal
30 under Part 5 of Chapter 8 of the MRCA.

31 **75 Section 135 (heading)**

32 Repeal the heading, substitute:

1 **137 Variation of pension assessment pending completion of review**

2 If:

3 (a) a request has been made under subsection 352J(8) of the
4 MRCA (requests by Principal Member) in relation to a
5 review; and

6 (b) under subsection 352J(9) of that Act, the Board adjourns a
7 hearing of the review; and

8 (c) the review is of a decision with respect to a pension
9 assessment;

10 the Board may vary the pension assessment pending the
11 completion of the review, having regard to the records and
12 evidence on which the Commission reached that decision.

13 **86 Divisions 4 and 4A of Part IX**

14 Repeal the Divisions.

15 **87 Division 5 of Part IX (heading)**

16 Repeal the heading.

17 **88 Sections 146 to 153**

18 Repeal the sections.

19 **89 Sections 155 and 155A**

20 Repeal the sections.

21 **90 Division 6 of Part IX (heading)**

22 Repeal the heading.

23 **91 Subsection 156(1)**

24 Omit “under this Part”.

25 **92 Subparagraph 157(2)(a)(ii)**

26 Omit “at an office of the Department in Australia”, substitute “by the
27 Board”.

28 **93 Paragraph 157(2)(b)**

29 Repeal the paragraph, substitute:

1 (b) if the substituted decision, or the varied decision, as the case
2 may be, is a decision of a kind specified in subsection (3)—
3 the Board must remit the matter to the Commission to fix the
4 date from which the Board’s decision is to operate, being the
5 date of the first available pension pay-day occurring after the
6 date on which a copy of the Board’s decision is given to the
7 Commission under section 353B of the MRCA;

8 **94 Subsection 157(4A)**

9 Omit “subparagraph 139(3)(c)(iii)”, substitute “subparagraph
10 353A(4)(c)(iii) of the MRCA”.

11 **95 Divisions 7 and 8 of Part IX**

12 Repeal the Divisions.

13 **96 At the end of subsection 174(1)**

14 Add:

15 Note: See subsection 134(2) for decisions of the Board that are reviewable
16 by the Administrative Appeals Tribunal.

17 **97 Subsections 175(1), (1AA) and (3)**

18 Repeal the subsections.

19 **98 Subsection 176(2)**

20 Repeal the subsection.

21 **99 Subsection 176(3)**

22 Repeal the subsection, substitute:

23 (3) Section 28 of the *Administrative Appeals Tribunal Act 1975* does
24 not apply to or in relation to a person whose interests are affected
25 by a reviewable decision if:

26 (a) the decision is of a kind referred to in subsection 175(2),
27 (2A), (2D) or (4); and

28 (b) the person has been served with a copy of that decision, and
29 with the statement related to that decision, in accordance with
30 section 57E, 64F, 118ZX or 140 of this Act, whichever was
31 applicable.

1 **100 Subsection 176(7)**

2 Repeal the subsection.

3 **101 Subsection 177(2)**

4 Omit “made under subsection 175(1)”.

5 **102 Subparagraphs 177(2)(b)(i) and (ii)**

6 Omit “under subsection 175(1)”, substitute “for review by the
7 Tribunal”.

8 **103 Subsection 177(3)**

9 Omit “176(7), (8)”, substitute “176(8)”.

10 **104 Subsection 178(1)**

11 Omit “reviewable”.

12 **105 Subsections 212(1) to (3)**

13 Repeal the subsections, substitute:

14 (1) The Minister may, by writing, delegate all or any of the Minister’s
15 powers under this Act to:

16 (a) a commissioner; or

17 (b) an APS employee.

18 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
19 provisions relating to delegations.

20 **106 Subsections 215(4) to (6)**

21 Repeal the subsections.

22 **107 Schedule 4**

23 Repeal the Schedule.

1 **Division 2—Application and transitional provisions**

2 ***Military Rehabilitation and Compensation (Consequential***
3 ***and Transitional Provisions) Act 2004***

4 **108 Subsection 4(1)**

5 Insert:

6 *Simplification Act* means the *Veterans' Entitlements, Treatment*
7 *and Support (Simplification and Harmonisation) Act 2025*.

8 **109 After Part 4**

9 Insert:

10 **Part 5—Transitional provisions relating to reviews**
11 **by the Veterans' Review Board**

12 **Division 1—Preliminary**

13 **25 Definitions**

14 In this Part:

15 *new law* means the MRCA, the DRCA and the VEA as amended
16 by Part 1 of Schedule 3 to the Simplification Act.

17 *old law* means the MRCA, the DRCA and the VEA as in force
18 immediately before the review pathway commencement day.

19 *old VEA* means the VEA, as in force immediately before the
20 review pathway commencement day.

21 *review pathway commencement day* means the day on which
22 Part 1 of Schedule 3 to the Simplification Act commences.

1 **Division 2—Application of new review pathway**

2 **26 Original determinations under the MRCA**

3 Subject to this Part, the amendments of the MRCA made by Part 1
4 of Schedule 3 to the Simplification Act apply in relation to an
5 original determination that is made on or after the review pathway
6 commencement day, whether the claim to which the determination
7 relates was made before, on or after that day.

8 **27 Determinations under the DRCA**

9 Subject to this Part, the amendments of the DRCA made by Part 1
10 of Schedule 3 to the Simplification Act apply in relation to a
11 determination that is made under the DRCA on or after the review
12 pathway commencement day, whether the claim to which the
13 determination relates was made before, on or after that day.

14 **28 Decisions under the VEA**

15 Subject to this Part, the amendments of the VEA made by Part 1 of
16 Schedule 3 to the Simplification Act apply in relation to a decision
17 that is made under the VEA on or after the review pathway
18 commencement day, whether the claim or application to which the
19 decision relates was made before, on or after that day.

20 **Division 3—Continuation of Board**

21 **29 Members of the Board**

- 22 (1) This section applies to a person who was, immediately before the
23 review pathway commencement day, holding office as a member
24 of the Board under section 158 of the old VEA.
- 25 (2) The person is taken, on and after the review pathway
26 commencement day, to have been appointed under section 359C of
27 the MRCA:
- 28 (a) for the balance of the person's term of appointment that
29 remained immediately before that day; 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 day.

4 Note: The person's remuneration will not be better than their remuneration
5 as a member of the Board under section 158 of the old VEA unless a
6 higher level of remuneration is determined by the Remuneration
7 Tribunal.

8 **30 Acting members of the Board**

9 (1) This section applies to a person who was appointed to act as a
10 member of the Board under section 161 of the old VEA if the
11 appointment was in force immediately before the review pathway
12 commencement day.

13 (2) The person is taken, on and after the review pathway
14 commencement day, to have been appointed under section 359CA
15 of the MRCA:

16 (a) for the balance of the person's term of appointment that
17 remained immediately before that day; and

18 (b) on terms and conditions (including remuneration) that are
19 equal to, or better than, the terms and conditions that applied
20 to the person immediately before that day.

21 **31 Leave of absence**

22 (1) This section applies to a leave of absence if:

23 (a) the leave of absence was granted under section 162 of the old
24 VEA before the review pathway commencement day; and

25 (b) the period of leave is, or includes, that day.

26 (2) On and after the review pathway commencement day, the leave of
27 absence is taken to have been granted under section 359CC of the
28 MRCA.

29 **32 Staff**

30 (1) This section applies to a person who, immediately before the
31 review pathway commencement day, was engaged and made
32 available to assist the Board under section 172 of the old VEA.

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 (2) The person is taken, on and after the review pathway
2 commencement day, to be engaged and made available to assist the
3 Board under section 359D of the MRCA.

4 (3) The repeal of section 172 of the old VEA does not affect the
5 continuity of employment of the person.

6 **33 Delegations by Principal Member**

7 A delegation under section 166 of the old VEA that is in force
8 immediately before the review pathway commencement day
9 continues in force (and may be dealt with) on and after that day as
10 if the delegation had been made under section 359DA of the
11 MRCA.

12 **34 Delegations by Minister to Principal Member**

13 A delegation under paragraph 212(1)(b) of the old VEA that is in
14 force immediately before the review pathway commencement day
15 continues in force (and may be dealt with) on and after that day as
16 if the delegation had been made under subsection 437A(2) of the
17 MRCA.

18 **35 Board annual reports**

19 *For the financial year ending before review pathway*
20 *commencement day*

21 (1) Subsection (2) applies if:

22 (a) the review pathway commencement day occurs after the end
23 of a financial year; and

24 (b) the report referred to in subsection 215(4) of the old VEA
25 had not been prepared for the financial year before the review
26 pathway commencement day.

27 (2) Despite the repeal of subsections 215(4) to (6) of the old VEA by
28 Part 1 of Schedule 3 to the Simplification Act, those subsections
29 continue to apply in relation to the report for the financial year as if
30 that repeal had not happened.

1 **38 Continued effect of certain instruments**

2 (1) If:

3 (a) before the review pathway commencement day, an
4 instrument was made under, or for the purposes of, a
5 provision of the old VEA mentioned in column 1 of an item
6 of the following table; and

7 (b) immediately before the review pathway commencement day,
8 the instrument is in force;

9 the instrument continues to have effect, on and after the review
10 pathway commencement day, as if it had been made under the
11 provision of the MRCA mentioned in column 2 of the item.

12

Continued effect of certain instruments

Item	Column 1	Column 2
	Provision of the old VEA	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)

13

14 (2) If:

15 (a) before the review pathway commencement day, an
16 instrument was made under subsection 132(9) of the old
17 VEA; and

18 (b) immediately before the review pathway commencement day,
19 the instrument is in force;

20 the instrument continues to have effect, on and after the review
21 pathway commencement day, as if it had been made under
22 subsection 132(9) of the VEA as substituted by Part 1 of
23 Schedule 3 to the Simplification Act.

1 **39 Transitional regulations**

- 2 (1) The Governor-General may make regulations prescribing matters
3 of a transitional nature (including prescribing any saving or
4 application provisions) arising out of the enactment of Schedule 3
5 to the Simplification Act.
- 6 (2) This Part does not limit the regulations that may be made for the
7 purposes of subsection (1).

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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13

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16

Part 3 deals with the administration of the Commission, and includes provisions relating to Commissioners, acting Commissioners and meetings of the Commission.

17

18

19

Part 4 deals with staff, contractors, delegations of the Commission and the Commission’s annual report.

20

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.

1 *Veteran Family Advocate Commissioner*

- 2 (5) A person meets the requirements of this subsection if the Minister
3 is satisfied the person will represent families of veterans.

4 *Commissioner representing Comcare*

- 5 (6) A person meets the requirements of this subsection if:
6 (a) the person is nominated by the SRC Minister; and
7 (b) the person is:
8 (i) the Chief Executive Officer of Comcare; or
9 (ii) a person described in subsection 89E(1) of the *Safety,*
10 *Rehabilitation and Compensation Act 1988*; or
11 (iii) a person engaged under the *Public Service Act 1999* and
12 performing duties in the Department administered by
13 the SRC Minister.

14 *Commissioner representing the Commonwealth Superannuation*
15 *Corporation*

- 16 (7) A person meets the requirements of this subsection if:
17 (a) the person is nominated by the Minister administering the
18 *Governance of Australian Government Superannuation*
19 *Schemes Act 2011*; and
20 (b) the person is:
21 (i) a director of the Commonwealth Superannuation
22 Corporation; or
23 (ii) a person engaged under the *Public Service Act 1999* and
24 performing duties in the Department administered by
25 the Minister mentioned in paragraph (a).

26 *Commissioner nominated by the Defence Minister*

- 27 (8) A person meets the requirements of this subsection if:
28 (a) the person is nominated by the Defence Minister; and
29 (b) either of the following apply:
30 (i) the person is a Permanent Forces member;
31 (ii) the person is engaged under the *Public Service Act 1999*
32 and performing duties in the Defence Department.

360CA Appointment of Commissioners

The appointed Commissioners are to be appointed by the Governor-General, by written instrument.

Note: The *appointed Commissioners* are the Commissioners other than the President (see section 5).

360CB Period and basis of appointment

(1) An appointed Commissioner mentioned in paragraph 360C(1)(b) or (c) is to be appointed on a full-time basis.

(2) Each other appointed Commissioner is to be appointed on a part-time basis.

(3) An appointed Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: An appointed Commissioner may be reappointed (see section 33AA of the *Acts Interpretation Act 1901*).

360CC Acting appointments

Acting by operation of law

- (1) The person acting as the Secretary is to act as the President:
- (a) during a vacancy in the office of the President (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the President:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For the appointment of a person to act as the Secretary, see section 61 of the *Public Service Act 1999*.

Acting appointments

- (2) Subject to subsection (3), the Minister may, by written instrument, appoint a person to act as an appointed Commissioner:

- 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 **360CG Other terms and conditions**

2 An appointed Commissioner holds office on the terms and
3 conditions (if any) in relation to matters not covered by this Act
4 that are determined by the Governor-General.

5 **360CH Resignation**

- 6 (1) An appointed Commissioner may resign the Commissioner's
7 appointment by 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 **360CI Termination of appointment**

- 12 (1) The Governor-General may terminate the appointment of an
13 appointed Commissioner:
14 (a) for misbehaviour; or
15 (b) if the Commissioner is unable to perform the duties of the
16 Commissioner's office because of physical or mental
17 incapacity.
- 18 (2) The Governor-General must terminate the appointment of an
19 appointed Commissioner if:
20 (a) the Commissioner:
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 Commissioner's creditors; or
25 (iv) makes an assignment of the Commissioner's
26 remuneration for the benefit of the Commissioner's
27 creditors; or
28 (b) in the case of a full-time appointed Commissioner—the
29 Commissioner:
30 (i) engages, except with the approval of the Minister, in
31 paid work outside the duties of the Commissioner's
32 office (see section 360CF); or

- 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;
 34 (c) a decision relating to:

- 1 (i) acceptance of liability or for compensation; or
2 (ii) a claim for acceptance of liability or for compensation;
3 that the Commission is reviewing, is to review or is
4 considering whether to review;
5 (d) a claim or application for a pension that the Commission is
6 considering or is to consider;
7 (e) a pension that the Commission is reviewing or is to review;
8 (f) a decision relating to:
9 (i) a pension; or
10 (ii) a claim or application for a pension;
11 that the Commission is reviewing or is to review.

12 Note: This section does not apply to persons (other than Commissioners) to
13 whom the Commission has delegated functions and powers under
14 section 360DB. However other disclosure requirements may apply to
15 such persons (for example, under the *Public Service Act 1999* or in
16 contractual terms and conditions).

- 17 (2) If the Commissioner has or acquires an interest, pecuniary or
18 otherwise, that could conflict with the proper performance of the
19 Commissioner's functions in relation to a matter mentioned in
20 subsection (1), the Commissioner must disclose the interest to:
21 (a) the person making the claim, the applicant or the person
22 receiving the pension (as the case requires); and
23 (b) the Minister.
- 24 (3) The disclosure must be made as soon as possible after the relevant
25 facts have come to the Commissioner's knowledge.
- 26 (4) The Commissioner must not take part in the Commission's
27 consideration or review of the matter, unless both of the following
28 consent to the Commissioner doing so:
29 (a) the person making the claim, the applicant or the person
30 receiving the pension (as the case requires);
31 (b) the Minister.
- 32 (5) If the Minister becomes aware that the Commissioner has or
33 acquires an interest, pecuniary or otherwise, that could conflict
34 with the proper performance of the Commissioner's functions in
35 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 **360CN Quorum**

- 2 (1) At a meeting of the Commission, a quorum is constituted by a
3 majority of Commissioners.
- 4 (2) However, if:
- 5 (a) a Commissioner is required by:
- 6 (i) section 360CK (disclosure of interests); or
- 7 (ii) a direction given by the Minister under section 360CK;
8 or
- 9 (iii) rules made for the purposes of section 29 of the *Public*
10 *Governance, Performance and Accountability Act 2013*;
11 not to be present during the deliberations, or to take part in
12 any decision, of the Commission with respect to a particular
13 matter; and
- 14 (b) when the Commissioner leaves the meeting concerned there
15 is no longer a quorum present;
16 the remaining Commissioners at the meeting constitute a quorum
17 for the purpose of any deliberation or decision at that meeting with
18 respect to that matter.

19 **360CO Voting at meetings**

- 20 (1) A question arising at a meeting of the Commission is to be
21 determined by a majority of the votes of the Commissioners
22 present and voting.
- 23 (2) The person presiding at a meeting of the Commission has a
24 deliberative vote and, if the votes are equal, a casting vote.

25 **360CP Conduct of meetings**

26 The Commission may, subject to this Division, regulate
27 proceedings at its meetings as it considers appropriate.

28 Note: Section 33B of the *Acts Interpretation Act 1901* contains further
29 information about the ways in which Commissioners may participate
30 in meetings.

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.
- 30 (2) When performing services for the Commission, the staff are
- 31 subject to the directions of the Commission.

1 **360DA Contractors**

2 The Commission may engage persons under a written agreement to
3 assist the Commission to perform or exercise the functions or
4 powers of the Commission.

5 **360DB Delegation by the Commission**

- 6 (1) The Commission may, in writing, delegate all or any of its
7 functions or powers (other than the Commission's power under
8 subsection 6B(5) of this Act or subsection 69B(6) of the VEA) to:
9 (a) a Commissioner; or
10 (b) a member of the staff assisting the Commission; or
11 (c) a person engaged by the Commission under section 360DA.

12 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
13 provisions relating to delegations.

- 14 (2) In performing a delegated function or exercising a delegated
15 power, the delegate must comply with any written directions of the
16 Commission.

17 **360DC Annual report**

18 The Commission must, as soon as practicable after the end of each
19 financial year, prepare and give to the Minister, for presentation to
20 the Parliament, a report on the Commission's activities during the
21 financial year.

22 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
23 contains extra rules about annual reports.

24 **24 Subsection 409(5) (paragraph (d) of the definition of**
25 **receiving Commonwealth body)**

26 Repeal the paragraph.

27 **25 Paragraphs 410(1)(a) and (2)(a) and 411(1)(a)**

28 Repeal the paragraphs, substitute:

- 29 (a) is or was a Commissioner; or

26 After section 427

Insert:

427A Commission may accept contributions

- (1) The Commission may accept from a person contributions of money and other property made to it:
 - (a) for a purpose specified by the person, if application of the money or other property for that purpose is necessary or convenient to be done for, or in connection with, the performance of the Commission's functions or duties; or
 - (b) for application by the Commission, as it deems fit, for, or in connection with, the performance of the Commission's functions or duties.
- (2) Contributions accepted by the Commission in accordance with subsection (1) may be applied:
 - (a) if the person making the contribution specified that the person desired the contribution to be applied for a particular purpose, for the benefit of a particular class of persons or for the benefit of a particular institution maintained by the Commission—for the purpose so specified; or
 - (b) in any other case—by the Commission as it deems fit, for, or in connection with, the performance of the Commission's functions or duties.
- (3) Subject to subsection (2), contributions accepted by the Commission in accordance with subsection (1) are to be dealt with as prescribed and, subject to the regulations (if any) prescribing the manner in which those contributions are to be dealt with, as determined by the Commission.

427B Commission may administer trusts

- (1) Subject to this section, the Commission may be appointed, and may in its corporate name act, as trustee:
 - (a) under a will, settlement or other instrument creating a trust for the benefit of members, former members, dependants of members or former members or other persons who were dependent on members or former members; or

- 1 (b) under the will of a member or former member creating a trust
2 for beneficiaries under that will.
- 3 (2) The Commission may decline to accept, or accept subject to such
4 conditions as it deems fit, a trust or appointment to act as trustee.
- 5 (3) If the Commission accepts an appointment as trustee of a trust, the
6 Commission:
7 (a) has the same powers, duties and liabilities; and
8 (b) is entitled to the same rights and immunities; and
9 (c) is subject to the same control by a court;
10 as a natural person would have, be entitled to and be subject to if
11 appointed to be, and acting as, trustee of that trust.
- 12 (4) If the Commission is a trustee of 2 or more trusts under this
13 section, the Commission may, subject to subsection (5), for the
14 purpose of investing the trust funds, pool the trust funds in respect
15 of those trusts.
- 16 (5) The Commission must not pool trust funds under subsection (4), or
17 invest trust funds pooled under that subsection, in a way that
18 prevents the trust funds held in respect of each trust being
19 identified sufficiently to enable the Commission to properly
20 perform its functions as trustee.
- 21 (6) The Commission may:
22 (a) make an arrangement with another person for the other
23 person to manage the trust funds; and
24 (b) for the purposes of such an arrangement, transfer the trust
25 funds to the other person;
26 but the making of such an arrangement, or the transferring of the
27 trust funds, does not relieve the Commission of any duties or
28 liabilities as trustee.
- 29 (7) The regulations may make provision for and in relation to the
30 investment of money vested in the Commission as trustee pending
31 application in accordance with the trust or for the purpose of
32 deriving income for application in accordance with the trust.
- 33 (8) In this section:

- 1 (3) The Commission may, in writing, revoke:
2 (a) the appointment of a trustee; or
3 (b) the assumption by the Commission of the office of trustee.
- 4 (4) If the Commission revokes the appointment of a trustee:
5 (a) the Commission may, in writing:
6 (i) appoint a new trustee; or
7 (ii) itself assume the office of trustee; and
8 (b) the trust funds vest in:
9 (i) if subparagraph (a)(i) applies—the new trustee; or
10 (ii) if subparagraph (a)(ii) applies—the Commission.
- 11 (5) If the Commission revokes the assumption by the Commission of
12 the office of trustee:
13 (a) the Commission may, in writing, appoint a new trustee; and
14 (b) the trust funds vest in the new trustee.
- 15 (6) If the Commission:
16 (a) revokes the appointment of a trustee and does not exercise its
17 powers under paragraph (4)(a); or
18 (b) revokes the assumption by the Commission of the office of
19 trustee and does not exercise its powers under
20 paragraph (5)(a);
21 the trust is terminated.

22 **31 Subsection 433(1)**

23 Repeal the subsection, substitute:

- 24 (1) If a trustee is appointed, or the Commission assumes the office of
25 trustee, under section 432 in respect of payments of compensation
26 and other benefits mentioned in paragraph 432(1)(a), the payments
27 are payable to the trustee.

28 **32 Paragraph 433(3)(a)**

29 After “compensation”, insert “or other benefit”.

30 **33 Subsection 434(1)**

31 Repeal the subsection, substitute:

- 1 (1) This section applies if:
2 (a) a trustee appointed under section 432 is the Commonwealth
3 or an APS employee; or
4 (b) the Commission assumes the office of trustee under
5 section 432.

6 **34 Subsection 434(3)**

7 Omit “under this Act”, substitute “or other benefits mentioned in
8 paragraph 432(1)(a)”.

9 **35 Subsection 434(5)**

10 After “compensation”, insert “or other benefits mentioned in
11 paragraph 432(1)(a)”.

12 **36 Paragraph 434(6)(a)**

13 After “compensation”, insert “or other benefits”.

14 **37 Subsection 435(1)**

15 After “compensation”, insert “or other benefits mentioned in
16 paragraph 432(1)(a)”.

17 **38 Subsection 435(1)**

18 Omit “employee of the Australian Public Service”, substitute “APS
19 employee”.

20 **39 Subsection 435(2)**

21 After “compensation”, insert “or other benefit”.

22 **40 Paragraph 437A(1)(a)**

23 Omit “Commission member”, substitute “Commissioner”.

24 ***Safety, Rehabilitation and Compensation (Defence-related***
25 ***Claims) Act 1988***

26 **41 Subsection 4(1)**

27 Insert:

28 ***Commission*** has the same meaning as in the MRCA.

1 **42 Subsection 4(1) (definition of MRCC)**

2 Repeal the definition.

3 **43 Section 110**

4 Repeal the section.

5 **44 Subsection 115(2)**

6 Omit “Repatriation”.

7 **45 Section 140**

8 Omit “Military Rehabilitation and Compensation”.

9 **46 The whole of the Act**

10 Omit every occurrence of “MRCC”, substitute “Commission”.

11 ***Veterans’ Entitlements Act 1986***

12 **47 Section 5 (paragraph beginning “Sections 5A to”)**

13 Omit “5A”, substitute “5B”.

14 **48 Section 5A**

15 Repeal the section.

16 **49 Subsection 5Q(1)**

17 Repeal the following definitions:

- 18 (a) definition of *acting commissioner*;
- 19 (b) definition of *Acting Deputy President*;
- 20 (c) definition of *Acting President*.

21 **50 Subsection 5Q(1) (definition of Commission)**

22 Omit “: see section 5A”, substitute “has the same meaning as in the
23 MRCA”.

24 **51 Subsection 5Q(1) (definition of commissioner)**

25 Repeal the definition.

52 Subsection 5Q(1)

Insert:

Commissioner has the same meaning as in the MRCA.

53 Subsection 5Q(1)

Repeal the following definitions:

- (a) definition of *Deputy President*;
- (b) definition of *Military Rehabilitation and Compensation Commission*;
- (c) definition of *President*.

54 Subsection 5Q(1A)

Omit “Parts VIII, XI and XIA,”, substitute “Part VIII”.

55 Subparagraph 38(1BA)(b)(iii)

Omit “Military Rehabilitation and Compensation”.

56 Paragraph 45SB(1)(g)

Omit “Military Rehabilitation and Compensation”.

57 Section 58C

Omit “and sections 202 to 202B”, substitute “of this Act and sections 432 to 435 of the MRCA”.

58 Subsection 91(8)

Repeal the subsection, substitute:

- (8) If the Pharmaceutical Benefits Remuneration Tribunal submits the recommendations and a copy of the report to the Minister, the Commission may:
 - (a) under subsection (4), vary the Repatriation Pharmaceutical Benefits Scheme; or
 - (b) under subsection 286(5) of the MRCA, vary the pharmaceutical benefits determination under section 286 of that Act;
 in any manner the Commission considers desirable as a result of its consideration of the recommendations and the report.

1 **59 Section 106 (note)**

2 Omit “Military Rehabilitation and Compensation”.

3 **60 Subsection 122AA(1)**

4 Omit “commissioner of the Commission”, substitute “Commissioner”.

5 **61 Subsections 122AA(2) to (4)**

6 Repeal the subsections, substitute:

7 *Interaction with Privacy Act 1988*

8 (2) For the purposes of the *Privacy Act 1988*, the use of the details of
9 an account in accordance with subsection (1) is taken to be a use
10 that is authorised by this Act.

11 **62 Section 131 (paragraph (c) of the definition of *receiving***
12 ***Commonwealth body*)**

13 Repeal the paragraph.

14 **63 Part XI**

15 Repeal the Part.

16 **64 Sections 200 to 202B**

17 Repeal the sections.

18 **65 Subsection 203(4)**

19 Omit “, or the Military Rehabilitation and Compensation Commission,”.

20 **66 Subsection 212(1)**

21 Omit “(1)”.

22 **67 Paragraph 212(1)(a)**

23 Omit “commissioner”, substitute “Commissioner”.

24 **68 Subsection 212(4)**

25 Repeal the subsection.

1 **69 Sections 213 and 215**

2 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 directed
10 by the Review Council—reasonable hypothesis); or
11 (d) subsection 370CN(3) (Statement of Principles where directed
12 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

22

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.

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Part 2—Establishment of Authority

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370B Establishment

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- (1) The Repatriation Medical Authority 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 Authority:
 - (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 Authority in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

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370BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Authority

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 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 hypothesis**

- 32 (1) If the Authority is of the view that there is sound medical-scientific
33 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).

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 of
11 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 respect
19 of a kind of injury, disease or death that can be related to service
20 rendered by a person, the Authority must do one or more of the
21 following as the case requires:
- 22 (a) determine a Statement of Principles under section 370CB or
23 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 370CC,
28 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:
- 33 (a) that there is no sound medical-scientific evidence on which it
34 can rely to determine a Statement of Principles under section

1 **Subdivision C—Requests for investigation or review**

2 **370CH Request for investigation or review**

- 3 (1) Any of the following may request the Authority to carry out an
4 investigation or review of a kind mentioned in subsection (2):
5 (a) the Commission;
6 (b) a person eligible to make a claim for compensation under
7 section 319;
8 (c) an organisation representing veterans, Australian mariners or
9 members of the Forces (all within the meaning of the VEA);
10 (d) an organisation representing members or their dependants.
- 11 (2) For the purposes of subsection (1), the kinds of investigation or
12 review are as follows:
13 (a) an investigation under section 370CD in respect of a
14 particular kind of injury, disease or death;
15 (b) a review of a decision of the Authority not to make a
16 Statement of Principles in respect of a particular kind of
17 injury, disease or death following an investigation under
18 section 370CD;
19 (c) a review of some or all of the contents of a Statement of
20 Principles.
- 21 (3) A request under subsection (1) must be made:
22 (a) in a form approved by the Authority; and
23 (b) in a manner approved by the Chair of the Authority.
- 24 (4) If the request is a request for a review of a kind mentioned in
25 paragraph (2)(b) or (c), the request must also:
26 (a) state the grounds on which the review is sought; and
27 (b) identify any information relied on to support those grounds.

28 **370CI Authority may consolidate requests**

29 If:

- 30 (a) 2 or more requests for review are made under section 370CH;
31 and

- 1 (b) the requests are in relation to the same injury, disease or
2 death;
3 the Authority may carry out one investigation in relation to those
4 requests.

5 **Subdivision D—Conduct of investigations**

6 **370CJ Notice of investigation**

- 7 (1) As soon as practicable after the Authority:
8 (a) has been asked under section 370CH to carry out:
9 (i) an investigation; or
10 (ii) a review of a decision of the Authority not to make a
11 Statement of Principles; or
12 (iii) a review of some or all of the contents of a Statement of
13 Principles;
14 regarding a particular kind of injury, disease or death; or
15 (b) has decided on its own initiative to carry out such an
16 investigation or such a review;
17 the Authority must, by notifiable instrument:
18 (c) give notice stating that the Authority intends to carry out an
19 investigation in respect of that kind of injury, disease or
20 death; and
21 (d) invite persons or organisations authorised under
22 subsection 370CL(1) to do so to make written submissions to
23 the Authority.
- 24 (2) The notifiable instrument under subsection (1):
25 (a) must specify:
26 (i) the date on which the Authority will hold its first
27 meeting for the purposes of the investigation; and
28 (ii) the date by which all submissions must have been
29 received by the Authority; and
30 (b) must be made at least 28 days before the date of the first
31 meeting of the Authority.
- 32 (3) A failure to comply with paragraph (2)(a) does not affect the
33 validity of the notifiable instrument.

370CK Powers of Authority with respect to investigations

- 1
- 2 (1) The Authority may not, for the purposes of an investigation, carry
- 3 out any new research work (including any test or experiment).
- 4 (2) The Authority may, for the purposes of an investigation, ask the
- 5 Secretary:
- 6 (a) to forward to the Authority any information:
- 7 (i) in the possession of the Secretary; or
- 8 (ii) that the Secretary may obtain;
- 9 relating to the kind of injury, disease or death under
- 10 investigation; or
- 11 (b) to carry out research (including any test or experiment) to
- 12 obtain, confirm or disprove specific information about the
- 13 kind of injury, disease or death under investigation and
- 14 forward a report to the Authority.
- 15 (3) In forming any view during the investigation, the Authority:
- 16 (a) may rely only on sound medical-scientific evidence:
- 17 (i) that has been submitted to it; or
- 18 (ii) that it has obtained on its own initiative or from the
- 19 Secretary (under subsection (2)) or from a consultant;
- 20 and
- 21 (b) must consider and evaluate all the evidence so made
- 22 available to it.

370CL Submissions to the Authority

- 23
- 24 (1) If the Authority is carrying out an investigation under
- 25 section 370CD or 370CE, any person or organisation referred to in
- 26 any of paragraphs 370CH(1)(a) to (d) may make a submission in
- 27 writing to the Authority on any matter (other than a legal matter)
- 28 relevant to the investigation.
- 29 (2) A person having expertise in a field relevant to the investigation
- 30 may make a submission in writing to the Authority on any matter
- 31 (other than a legal matter) within the person's expertise that is
- 32 relevant to the investigation.
- 33 (3) If an individual, the Commission or an organisation has made a
- 34 written submission, the individual or the individual's

1 representative, or a representative of the Commission or of the
2 organisation may, subject to subsection (4), appear before the
3 Authority to make an oral submission complementing the written
4 submission. The oral submission may not cover any legal matter.

5 (4) A person or organisation may not be represented before the
6 Authority by a legal practitioner.

7 **Division 4—Matters relating to reviews by the Review**
8 **Council**

9 **370CM Authority to send information to Review Council**

10 The Authority must, within 28 days after being notified that the
11 Review Council has been asked to review:

- 12 (a) a Statement of Principles; or
13 (b) a decision of the Authority not to determine a Statement of
14 Principles in respect of a particular kind of injury, disease or
15 death; or
16 (c) a decision of the Authority not to amend a Statement of
17 Principles in respect of a particular kind of injury, disease or
18 death; or
19 (d) a decision of the Authority under subsection 370CF(1) not to
20 carry out an investigation in respect of a particular kind of
21 injury, disease or death;

22 send to the Review Council a copy of all the information that was
23 available to the Authority when it:

- 24 (e) determined, amended, or last amended, the Statement of
25 Principles; or
26 (f) decided, or last decided, not to determine, or not to amend, a
27 Statement of Principles in respect of that kind of injury,
28 disease or death; or
29 (g) decided not to carry out the investigation.

1 **370CN Action following review by Review Council**

2 *Determining a Statement of Principles where directed by the*
3 *Review Council—reasonable hypothesis*

4 (1) If, after reviewing a decision of the Authority not to determine a
5 Statement of Principles under section 370CB in respect of a
6 particular kind of injury, disease or death, the Review Council
7 directs the Authority under subsection 380C(4) to determine such a
8 Statement of Principles, the Authority must, by legislative
9 instrument, determine a Statement of Principles in respect of that
10 kind of injury, disease or death.

11 (2) The Statement of Principles must set out, in accordance with the
12 direction of the Review Council:

13 (a) the factors that must as a minimum exist; and

14 (b) which of those factors must be related to service rendered by
15 a person;

16 before it can be said that a reasonable hypothesis has been raised
17 connecting an injury, disease or death of that kind with the
18 circumstances of that service.

19 *Determining a Statement of Principles where directed by the*
20 *Review Council—balance of probabilities*

21 (3) If, after reviewing a decision of the Authority not to determine a
22 Statement of Principles under section 370CC in respect of a
23 particular kind of injury, disease or death, the Review Council
24 directs the Authority under subsection 380C(4) to determine such a
25 Statement of Principles, the Authority must, by legislative
26 instrument, determine a Statement of Principles in respect of that
27 kind of injury, disease or death.

28 (4) The Statement of Principles must set out, in accordance with the
29 direction of the Review Council:

30 (a) the factors that must exist; and

31 (b) which of those factors must be related to service rendered by
32 a person;

33 before it can be said that, on the balance of probabilities, an injury,
34 disease or death of that kind is connected with the circumstances of
35 that service.

1 *Amending a Statement of Principles where directed by the Review*
2 *Council*

3 (5) If, under subsection 380C(4), the Review Council directs the
4 Authority to amend a Statement of Principles in respect of a kind
5 of injury, disease or death, the Authority must do so in accordance
6 with the directions of the Review Council.

7 *Requirements where Statement of Principles made or amended*
8 *under this section*

- 9 (6) A Statement of Principles as determined or amended under this
10 section:
11 (a) is taken to have commenced on the day on which the Review
12 Council made the notifiable instrument under
13 subsection 380C(4) directing the Authority to do so; and
14 (b) must specify that day.
- 15 (7) Subsection 12(2) (retrospective application of legislative
16 instruments) of the *Legislation Act 2003* does not apply in relation
17 to a Statement of Principles determined or amended under this
18 section.

19 *Amendment and revocation of Statement of Principles made or*
20 *amended under this section*

- 21 (8) A Statement of Principles, as determined or amended under this
22 section, may be amended or revoked by the Authority in the same
23 way as if it had been determined or amended under section 370CB
24 or 370CC, as applicable.

25 **Part 4—Administration**

26 **Division 1—Membership etc.**

27 **370D Membership**

28 The Authority consists of the Chair of the Authority and 4 other
29 members.

1 **370DA Appointment of Authority members**

2 (1) The Authority members are to be appointed by the Minister by
3 written instrument.

4 Note: An Authority member may be reappointed (see section 33AA of the
5 *Acts Interpretation Act 1901*).

6 (2) The Minister must not appoint a person as Chair of the Authority
7 unless the person is a medical practitioner, or a medical scientist,
8 with at least 10 years' experience.

9 (3) In making appointments, the Minister must ensure that at least one
10 Authority member has at least 5 years' experience in the field of
11 epidemiology.

12 **370DB Basis and period of appointment**

13 (1) An Authority member is to be appointed on a part-time basis.

14 (2) An Authority member holds office for the period specified in the
15 instrument of appointment. The period must not exceed 5 years.

16 **370DC Acting appointments**

17 The Minister may, by written instrument, appoint an Authority
18 member to act as the Chair of the Authority:

19 (a) during a vacancy in the office of the Chair (whether or not an
20 appointment has previously been made to the office); or

21 (b) during any period, or during all periods, when the Chair:

22 (i) is absent from duty; or

23 (ii) is, for any reason, unable to perform the duties of the
24 office.

25 **370DD Remuneration**

26 (1) An Authority member is to be paid the remuneration that is
27 determined by the Remuneration Tribunal. If no determination of
28 that remuneration by the Tribunal is in operation, the Authority
29 member is to be paid the remuneration that is prescribed under
30 subsection (4).

- 1 (2) An Authority member is to be paid the allowances that are
2 prescribed under subsection (4).
- 3 (3) This section has effect subject to the *Remuneration Tribunal Act*
4 *1973*.
- 5 (4) The Minister may, by legislative instrument, prescribe:
6 (a) remuneration for the purposes of subsection (1); and
7 (b) allowances for the purposes of subsection (2).

8 **370DE Other terms and conditions**

9 An Authority member holds office on the terms and conditions (if
10 any) in relation to matters not covered by this Act that are
11 determined by the Minister.

12 **370DF Resignation**

- 13 (1) An Authority member may resign the Authority member's
14 appointment by giving the Minister a written resignation.
- 15 (2) The resignation takes effect on the day it is received by the
16 Minister or, if a later day is specified in the resignation, on that
17 later day.

18 **370DG Termination of appointment**

- 19 The Minister may terminate the appointment of an Authority
20 member:
21 (a) for misbehaviour; or
22 (b) if the Authority member is unable to perform the duties of
23 the Authority member's office because of physical or mental
24 incapacity; or
25 (c) if the Authority member:
26 (i) becomes bankrupt; or
27 (ii) applies to take the benefit of any law for the relief of
28 bankrupt or insolvent debtors; or
29 (iii) compounds with the Authority member's creditors; or

- 1 (iv) makes an assignment of the Authority member's
2 remuneration for the benefit of the Authority member's
3 creditors; or
4 (d) the Authority member fails, without reasonable excuse, to
5 comply with section 29 of the *Public Governance,*
6 *Performance and Accountability Act 2013* (which deals with
7 the duty to disclose interests) or rules made for the purposes
8 of that section.

9 **Division 2—Procedures of the Authority**

10 **370DH Convening meetings**

- 11 (1) The Authority must hold such meetings as are necessary for the
12 efficient performance of its functions.
13 (2) The Chair of the Authority may convene a meeting at any time.

14 **370DI Presiding at meetings**

15 The Chair of the Authority must preside at all meetings of the
16 Authority.

17 **370DJ Quorum**

- 18 (1) At a meeting of the Authority, a quorum is constituted by 3
19 Authority members.
20 (2) However, if:
21 (a) an Authority member is required by rules made for the
22 purposes of section 29 of the *Public Governance,*
23 *Performance and Accountability Act 2013* not to be present
24 during the deliberations, or to take part in any decision, of the
25 Authority with respect to a particular matter; and
26 (b) when the Authority member leaves the meeting concerned
27 there is no longer a quorum present;
28 the remaining Authority members constitute a quorum for the
29 purposes of any deliberation or decision at that meeting with
30 respect to that matter.

1 **370DK Voting at meetings**

- 2 (1) A question arising at a meeting of the Authority is to be determined
3 by a majority of the votes of the Authority members present and
4 voting.
- 5 (2) The Chair of the Authority has a deliberative vote but, if the votes
6 are equal, does not have a casting vote.

7 **370DL Conduct of meetings**

8 The Authority may, subject to this Division, regulate proceedings
9 at its meetings as it considers appropriate.

10 Note: Section 33B of the *Acts Interpretation Act 1901* contains further
11 information about the ways in which Authority members may
12 participate in meetings.

13 **370DM Minutes**

14 The Authority must keep minutes of its meetings.

15 **Part 5—Other matters**
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17 **370E Staff**

- 18 (1) Any staff required to assist the Authority are to be persons engaged
19 under the *Public Service Act 1999* and made available for the
20 purpose by the Secretary.
- 21 (2) When performing services for the Authority, the staff are subject to
22 the directions of the Authority.

23 **370EA Consultants**

- 24 (1) The Authority may engage consultants to provide expert advice to
25 the Authority about any disease, injury or death that the Authority
26 is investigating.
- 27 (2) The Authority must not engage a consultant without the approval
28 of the Minister.

1 **370EB Delegation by Chair of the Authority**

2 (1) The Chair of the Authority may, in writing, delegate the Chair's
3 power under subsection 370DH(2) to:

- 4 (a) an Authority member; or
5 (b) a member of the staff assisting the Authority.

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 Chair.

10 **370EC Annual report**

11 The Authority must, as soon as practicable after the end of each
12 financial year, prepare and give to the Minister, for presentation to
13 the Parliament, a report on the Authority's activities during the
14 financial year.

15 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
16 contains extra rules about annual reports.

17 **Chapter 9B—Specialist Medical Review**
18 **Council**

19 **Part 1—Simplified outline of this Chapter**
20

21 **380A Simplified outline of this Chapter**

22 The Specialist Medical Review Council is continued in existence
23 under Part 2 of this Chapter.

24 Part 2 also sets out the Review Council's functions. The Review
25 Council's main function is to review decisions of the Authority in
26 relation to Statements of Principles.

27 Part 3 sets out the process for reviews undertaken by the Review
28 Council.

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Part 4 deals with the administration of the Review Council, and includes provisions relating to Councillors and meetings of the Review Council.

Part 5 deals with staff and delegations by the Convener of the Review Council.

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Councillors.

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Part 2—Establishment of Review Council

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380B Establishment

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- (1) The Specialist Medical Review Council 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 Review Council:
 - (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 Review Council in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

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380BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Review Council

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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 Review Council is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

1 Note: This means that the Councillors are officials of the Department for the
2 purposes of the *Public Governance, Performance and Accountability*
3 *Act 2013*.

4 **380BB Functions and powers of the Review Council**

- 5 (1) The functions of the Review Council are:
- 6 (a) to review decisions made by the Authority in relation to
7 Statements of Principles; and
8 (b) any other function conferred on the Review Council by this
9 Act, the regulations or any other law of the Commonwealth.
- 10 (2) The Review Council has power to do all things necessary or
11 convenient to be done for or in connection with the performance of
12 its functions.

13 **Part 3—Reviews by the Review Council**

14 **Division 1—Review of decisions of the Authority**

15 **380C Review of decision relating to Statement of Principles**

16 *When review is to be carried out*

- 17 (1) If the Review Council is asked under section 380CB to review:
- 18 (a) some or all of the contents of a Statement of Principles in
19 respect of a particular kind of injury, disease or death; or
20 (b) a decision of the Authority not to determine a Statement of
21 Principles in respect of a particular kind of injury, disease or
22 death; or
23 (c) a decision of the Authority not to amend a Statement of
24 Principles in respect of a particular kind of injury, disease or
25 death;
- 26 then, subject to subsection (2), the Review Council must, for that
27 purpose, carry out a review of all the information that was
28 available to the Authority when it:
- 29 (d) determined, amended, or last amended, the Statement of
30 Principles; or
31 (e) decided, or last decided, not to determine, or not to amend, a
32 Statement of Principles;

- 1 in respect of that kind of injury, disease or death.
- 2 (2) If the Review Council has been asked to review some or all of the
3 contents of a Statement of Principles, the Review Council may
4 carry out a review under subsection (1) only if:
- 5 (a) the period within which the Statement of Principles may be
6 disallowed under section 42 of the *Legislation Act 2003* has
7 ended; and
8 (b) the Statement of Principles has not been disallowed.
- 9 (3) If:
- 10 (a) the Review Council has been asked to review some or all of
11 the contents of a Statement of Principles in respect of a
12 particular kind of injury, disease or death; and
13 (b) there is another Statement of Principles in force in respect of
14 that kind of injury, disease or death, but the Review Council
15 has not been asked to review some or all of the contents of
16 that other Statement of Principles;
- 17 then the Review Council must also review that other Statement of
18 Principles by reviewing the information subsection (1) requires it
19 to review in reviewing the Statement of Principles it has been
20 asked to review.

21 *Outcome of review*

- 22 (4) If, after carrying out the review, the Review Council is of the view
23 that there is sound medical-scientific evidence on which the
24 Authority could have relied:
- 25 (a) to amend either or both of the Statements of Principles in
26 force in respect of that kind of injury, disease or death; or
27 (b) to determine a Statement of Principles in respect of that kind
28 of injury, disease or death;
- 29 the Review Council must, by notifiable instrument, make a
30 declaration stating its views, setting out the evidence in support
31 and:
- 32 (c) directing the Authority to amend either or both of the
33 Statements of Principles, or determine a Statement of
34 Principles (as the case may be), in accordance with the
35 directions given by the Review Council; or

- 1 (d) remitting the matter for reconsideration by the Authority in
2 accordance with any directions or recommendations of the
3 Review Council.
- 4 (5) If, after carrying out the review, the Review Council is of the view:
5 (a) that there is no sound medical-scientific evidence that
6 justifies the making of a Statement of Principles, or an
7 amendment of either or both of the Statements of Principles,
8 in respect of that kind of injury, disease or death; or
9 (b) that the sound medical-scientific evidence available to the
10 Authority is insufficient to justify the making of a Statement
11 of Principles, or an amendment of either or both of the
12 Statements of Principles, in respect of that kind of injury,
13 disease or death;
14 the Review Council must, by notifiable instrument, make a
15 declaration to that effect giving the reasons for its decision. The
16 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 *Notification of outcome of review*

- 21 (6) The Review Council must give a copy of the notifiable instrument
22 made under subsection (4) or (5) to:
23 (a) the person or organisation that asked for the review; and
24 (b) the Commission (if it is not the person referred to in
25 paragraph (a) of this subsection); and
26 (c) the Authority.

27 **380CA Review of decision not to carry out investigation**

- 28 (1) If the Review Council is asked under section 380CC to review a
29 decision of the Authority under subsection 370CF(1) not to carry
30 out an investigation in respect of a particular kind of injury, disease
31 or death, the Review Council must consider:
32 (a) the reasons given by the Authority for making the decision;
33 and
34 (b) the information on which the Authority relied in making that
35 decision; and

- 1 (c) the grounds on which the request for the review was made
2 and any submission made in support of those grounds.
- 3 (2) If, after considering the matters referred to in paragraphs (1)(a), (b)
4 and (c), the Review Council is of the view that:
- 5 (a) there appears to be a new body of sound medical-scientific
6 evidence in respect of that kind of injury, disease or death
7 that has not been previously considered by the Authority; and
- 8 (b) that new body of evidence, together with the sound
9 medical-scientific evidence available to the Authority, could
10 justify the making of a Statement of Principles, or an
11 amendment of the Statement of Principles already
12 determined, in respect of that kind of injury, disease or death;
- 13 the Review Council must, by notifiable instrument, make a
14 declaration to that effect giving the reasons for its decision and
15 directing the Authority to carry out an investigation under
16 subsection 370CE in respect of that kind of injury, disease or
17 death. The Review Council may include in the declaration any
18 recommendation or direction that the Review Council considers fit
19 to make about the carrying out of the investigation.
- 20 (3) If, after considering the matters referred to in paragraphs (1)(a), (b)
21 and (c), the Review Council is not of the view referred to in
22 subsection (2) in respect of that kind of injury, disease or death, the
23 Review Council must, by notifiable instrument, make a
24 declaration:
- 25 (a) affirming the decision of the Authority not to carry out the
26 investigation; and
- 27 (b) giving the reasons for its decision.
- 28 The Review Council may include in the declaration any
29 recommendation that it considers fit to make about any future
30 investigation that the Authority may carry out in respect of that
31 kind of injury, disease or death.
- 32 (4) The Review Council must give a copy of the notifiable instrument
33 made under subsection (2) or (3) to:
- 34 (a) the person or organisation that asked for the review; and
35 (b) the Commission (if it is not the person referred to in
36 paragraph (a) of this subsection); and
37 (c) the Authority.
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Division 2—Requests for review**380CB Request for review of contents of Statement of Principles**

(1) Subject to subsection (2), any of the following:

- (a) the Commission;
- (b) a person eligible to make a claim for compensation under section 319;
- (c) an organisation representing veterans, Australian mariners or members of the Forces (all within the meaning of the VEA);
- (d) an organisation representing members or their dependants;

may ask the Review Council to review:

- (e) some or all of the contents of a Statement of Principles; or
- (f) a decision of the Authority not to make, or not to amend, a Statement of Principles in respect of a particular kind of injury, disease or death.

(2) The request must be made:

- (a) in the case of a request to review some or all of the contents of a Statement of Principles—within 3 months after the Statement of Principles was made, amended or last amended; or
- (b) in any other case—within 3 months after the decision of the Authority.

(3) A request must:

- (a) state the grounds on which the review is sought; and
- (b) be made in a manner approved by the Convener of the Review Council.

(4) The Review Council must notify the Secretary and the Authority of the request within 28 days after receiving the request.

380CC Request for review of decision of Authority not to carry out an investigation

(1) If:

- (a) a person or organisation asks the Authority under section 370CH to review:

- 1 (i) some or all of the contents of a Statement of Principles
2 in respect of a particular kind of injury, disease or death;
3 or
4 (ii) the Authority's decision not to make a Statement of
5 Principles in respect of a particular kind of injury,
6 disease or death; and
7 (b) the Authority refuses under subsection 370CF(1) to carry out
8 an investigation in respect of that kind of injury, disease or
9 death;
10 the person or organisation may, within 3 months after the refusal,
11 ask the Review Council to review the decision of the Authority not
12 to carry out the investigation.
- 13 (2) The request must:
14 (a) state the grounds on which the review is sought; and
15 (b) be accompanied by any submission that the person or
16 organisation wishes to submit in support of those grounds;
17 and
18 (c) be made in a manner approved by the Convener of the
19 Review Council.
- 20 (3) The Review Council must notify the Secretary and the Authority of
21 the request within 28 days after receiving the request.

22 **Division 3—Conduct of investigations**

23 **380CD Notice of investigation**

- 24 (1) As soon as practicable after the Review Council has been asked
25 under section 380CB to review:
26 (a) a decision of the Authority not to make, or not to amend, a
27 Statement of Principles in respect of a particular kind of
28 injury, disease or death; or
29 (b) some or all of the contents of a Statement of Principles in
30 respect of a particular kind of injury, disease or death;
31 the Review Council must, by notifiable instrument:
32 (c) give notice stating that the Review Council intends to carry
33 out a review of the information available to the Authority
34 about that kind of injury, disease or death; and

- 1 (d) invite persons or organisations authorised under
2 subsection 380CE(1) to do so to make written submissions to
3 the Review Council.
- 4 (2) The notifiable instrument under subsection (1):
5 (a) must specify the date by which all submissions must have
6 been received by the Review Council; and
7 (b) must be made at least 28 days before the date of the first
8 meeting of the Review Council for the purposes of the
9 review.
- 10 (3) A failure to comply with paragraph (2)(a) does not affect the
11 validity of the notifiable instrument.

12 **380CE Submissions to Review Council**

- 13 (1) If the Review Council is carrying out a review under section 380C,
14 any person or organisation referred to in any of paragraphs
15 380CB(1)(a) to (c) may make a submission in writing to the
16 Review Council about any information (***relevant information***) that
17 was both available to the Authority and is relevant to the review.
- 18 (2) A person having expertise in a field relevant to the investigation
19 may make a submission in writing to the Review Council on any
20 relevant information pertaining to that field.
- 21 (3) If an individual, the Commission or an organisation has made a
22 written submission, the individual or the individual's
23 representative, or a representative of the Commission or of the
24 organisation may, subject to subsection (5), appear before the
25 Review Council to make an oral submission complementing the
26 written submission.
- 27 (4) If the Review Council is carrying out a review under
28 section 380CA at the request of an individual, the Commission or
29 an organisation, the individual or the individual's representative, or
30 a representative of the Commission or of the organisation may,
31 subject to subsection (5), appear before the Review Council to
32 make an oral submission complementing the written submission (if
33 any) made under paragraph 380CC(2)(b).

1 (5) A person or organisation may not be represented before the Review
2 Council by a legal practitioner.

3 (6) In this section, a reference to a submission does not include a
4 submission on a legal matter.

5 **Division 4—Payment of medical and travelling expenses**

6 **380CF Medical expenses**

7 (1) The Commonwealth may, subject to this section, pay to a person
8 (the *applicant*) who asks the Review Council to conduct a review
9 under this Part an amount to cover the medical expenses incurred
10 by the applicant in respect of medical evidence relevant to, and
11 obtained by the applicant for the purposes of, the review and
12 submitted to the Review Council.

13 (2) The applicant must not be paid more than the amount prescribed
14 by, or worked out in accordance with, the regulations.

15 (3) An amount is not payable in respect of medical expenses unless:
16 (a) the person who has incurred the expenses; or
17 (b) any person approved by that person or by the Review
18 Council;
19 applies in writing to the Review Council for payment.

20 (4) The application for payment must:
21 (a) be made within 3 months after the medical evidence was
22 submitted to the Review Council; and
23 (b) be accompanied by any document that the applicant
24 considers relevant; and
25 (c) be made in a manner approved by the Convener of the
26 Review Council.

27 **380CG Travelling expenses for obtaining medical evidence**

28 (1) If the applicant has had to travel to obtain any medical evidence
29 submitted to the Review Council as mentioned in
30 subsection 380CF(1), the applicant is, subject to this section,
31 entitled to be paid in relation to that travel the travelling expenses
32 that are prescribed.

-
- 1 (2) If:
- 2 (a) the applicant is accompanied by an attendant when travelling
- 3 to obtain the evidence; and
- 4 (b) the Review Council is of the view that it is reasonable for the
- 5 applicant to be so accompanied by an attendant;
- 6 the attendant is, subject to this section, entitled to be paid in
- 7 relation to that travel the travelling expenses that are prescribed.
- 8 (3) Travelling expenses are not payable in respect of travel outside
- 9 Australia.
- 10 (4) Travelling expenses are not payable unless:
- 11 (a) the person who has incurred the expenses; or
- 12 (b) any person approved by that person or by the Review
- 13 Council;
- 14 applies in writing to the Review Council for payment under
- 15 subsection (5).
- 16 (5) The application for payment must:
- 17 (a) be made within:
- 18 (i) 3 months after the completion of the travel; or
- 19 (ii) if the Review Council thinks that there are exceptional
- 20 circumstances that justify extending that period—such
- 21 further period as the Review Council allows; and
- 22 (b) be accompanied by any document that the applicant
- 23 considers relevant; and
- 24 (c) be made in a manner approved by the Convener of the
- 25 Review Council.
- 26 (6) The Commonwealth is to pay the travelling expenses to which a
- 27 person is entitled under this section.

28 **380CH Advance of travelling expenses for obtaining medical**

29 **evidence**

- 30 (1) If the Review Council is satisfied that:
- 31 (a) it is reasonable to expect that a person may become entitled
- 32 to travelling expenses under section 380CG; and
- 33 (b) it is appropriate, in all the circumstances, that the person
- 34 should be paid an advance on account of those expenses;

1 the Review Council may authorise the payment of that advance to
2 the person.

3 (2) If:

- 4 (a) a person has received an advance on account of any
5 travelling expenses that the person is likely to incur; and
6 (b) the person:
7 (i) does not incur those travelling expenses; or
8 (ii) incurs travelling expenses that are less than the amount
9 of the advance;

10 the person is liable to repay to the Commonwealth:

- 11 (c) the amount of the advance; or
12 (d) the difference between the amount of the advance and the
13 amount of the travelling expenses;

14 as the case requires.

15 **380CI Travelling expenses for making oral submissions**

16 (1) If:

17 (a) either:

- 18 (i) the Review Council is carrying out a review under
19 section 380C and an individual, or an organisation
20 referred to in paragraph 380CB(1)(c), has made a
21 written submission in relation to the review; or
22 (ii) the Review Council is carrying out a review under
23 section 380CA at the request of an individual or an
24 organisation; and

25 (b) a person who is one of the following appears before the
26 Review Council to make an oral submission in relation to the
27 review:

- 28 (i) the individual or the individual's representative;
29 (ii) a representative of the organisation;

30 the person is, subject to this section, entitled to be paid, for travel
31 that the person undertook to appear, the travelling expenses that are
32 prescribed.

33 (2) If:

- 34 (a) the person is accompanied by an attendant when travelling to
35 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

30 (ii) is, for any reason, unable to perform the duties of the
31 office.

1 **380DE Remuneration**

- 2 (1) A Councillor is to be paid the remuneration that is determined by
3 the Remuneration Tribunal. If no determination of that
4 remuneration by the Tribunal is in operation, the Councillor is to
5 be paid the remuneration that is prescribed under subsection (4).
- 6 (2) A Councillor is to be paid the allowances that are prescribed under
7 subsection (4).
- 8 (3) This section has effect subject to the *Remuneration Tribunal Act*
9 *1973*.
- 10 (4) The Minister may, by legislative instrument, prescribe:
11 (a) remuneration for the purposes of subsection (1); and
12 (b) allowances for the purposes of subsection (2).

13 **380DF Other terms and conditions**

14 A Councillor holds office on the terms and conditions (if any) in
15 relation to matters not covered by this Act that are determined by
16 the Minister.

17 **380DG Resignation**

- 18 (1) A Councillor may resign the Councillor's appointment by giving
19 the Minister a written resignation.
- 20 (2) The resignation takes effect on the day it is received by the
21 Minister or, if a later day is specified in the resignation, on that
22 later day.

23 **380DH Termination of appointment**

- 24 The Minister may terminate the appointment of a Councillor:
25 (a) for misbehaviour; or
26 (b) if the Councillor is unable to perform the duties of the
27 Councillor's office because of physical or mental incapacity;
28 or
29 (c) if the Councillor:
30 (i) becomes bankrupt; or

- 1 (ii) applies to take the benefit of any law for the relief of
2 bankrupt or insolvent debtors; or
3 (iii) compounds with the Councillor's creditors; or
4 (iv) makes an assignment of the Councillor's remuneration
5 for the benefit of the Councillor's creditors; or
6 (d) the Councillor fails, without reasonable excuse, to comply
7 with section 29 of the *Public Governance, Performance and*
8 *Accountability Act 2013* (which deals with the duty to
9 disclose interests) or rules made for the purposes of that
10 section.

11 **Division 2—Procedures of the Review Council**

12 **380DI Constitution of Review Council for reviews**

13 The Review Council is, for the purposes of a review under Part 3,
14 to be constituted by at least 3, but not more than 5, Councillors
15 selected by the Convener of the Review Council.

16 **380DJ Convening meetings**

17 The Convener of the Review Council or the presiding Councillor
18 may convene such meetings of the Review Council as are
19 necessary to carry out a review under Part 3.

20 **380DK Presiding at meetings**

- 21 (1) If the Review Council as constituted for the purposes of a review
22 under Part 3 includes the Convener of the Review Council, the
23 Convener must preside at all meetings of the Review Council as so
24 constituted at which the Convener is present.
- 25 (2) If the Review Council as constituted for the purposes of a review
26 under Part 3 does not include the Convener, the Convener must
27 appoint a Councillor (the *presiding Councillor*) selected for the
28 purposes of the review to preside at all meetings of the Review
29 Council as so constituted at which the presiding Councillor is
30 present.

1 **380DL Voting at meetings**

- 2 (1) A question arising at a meeting of the Review Council is to be
3 determined by a majority of the votes of the Councillors present
4 and voting.
- 5 (2) The person presiding at a meeting of the Review Council has a
6 deliberative vote but, if the votes are equal, does not have a casting
7 vote.

8 **380DM Conduct of meetings**

9 The Review Council may, subject to this Division, regulate
10 proceedings at its meetings as it considers appropriate.

11 Note: Section 33B of the *Acts Interpretation Act 1901* contains further
12 information about the ways in which Councillors may participate in
13 meetings.

14 **380DN Minutes**

15 The Review Council must keep minutes of its meetings.

16 **Part 5—Other matters**
17

18 **380E Staff**

- 19 (1) Any staff required to assist the Review Council are to be persons
20 engaged under the *Public Service Act 1999* and made available for
21 the purpose by the Secretary.
- 22 (2) When performing services for the Review Council, the staff are
23 subject to the directions of the Review Council.

24 **380EA Delegation by Convener of the Review Council**

- 25 (1) The Convener of the Review Council, or a presiding Councillor,
26 may, in writing, delegate their power under section 380DJ to:
27 (a) a Councillor; or
28 (b) a member of the staff assisting the Review Council.

1 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
2 provisions relating to delegations.

3 (2) In performing a delegated power, the delegate must comply with
4 any written directions of the Convener or the presiding Councillor
5 (as the case requires).

6 **27 After section 411**

7 Insert:

8 **411A Copyright in submissions**

9 (1) The Authority or the Review Council is not the owner of any
10 copyright subsisting in material (*submitted material*) contained in
11 a submission made to the Authority or the Review Council (as the
12 case may be) for the purposes of an investigation under Part 3 of
13 Chapter 9A.

14 (2) Despite the *Copyright Act 1968*, the Authority or the Review
15 Council does not infringe any copyright subsisting in submitted
16 material if, in performing its functions or exercising its powers, the
17 Authority or the Review Council (as the case may be) does an act
18 comprised in the copyright without the licence of the owner of the
19 copyright.

20 **411B Access to information**

21 (1) Subject to subsection (2), any person or organisation referred to in
22 any of paragraphs 370CH(1)(a) to (d) or 380CB(1)(a) to (c) is
23 entitled, on request made in writing to:

24 (a) in the case of a person or organisation referred to in
25 paragraphs 370CH(1)(a) to (d)—the Authority; or

26 (b) in the case of a person or organisation referred to in
27 paragraphs 380CB(1)(a) to (c)—the Review Council;

28 to have reasonable access to any document containing information
29 considered by the Authority or the Review Council (as the case
30 may be) for the purposes of an investigation.

31 (2) The Authority or the Review Council (as the case may be) may not
32 disclose any personal information about a particular person if the
33 information is likely to reveal the identity of that person.

1 ***Veterans' Entitlements Act 1986***

2 **28 Section 5AB**

3 Repeal the section.

4 **29 Subsection 5Q(1)**

5 Insert:

6 *Authority* has the same meaning as in the MRCA.

7 **30 Subsection 5Q(1)**

8 Repeal the following definitions:

9 (a) definition of *Chairperson*;

10 (b) definition of *Convener*;

11 (c) definition of *councillor*;

12 (d) definition of *member*;

13 (e) definition of *registered medical practitioner*;

14 (f) definition of *Review Council*;

15 (g) definition of *sound medical-scientific evidence*.

16 **31 Subsection 5T(1) (note)**

17 Repeal the note.

18 **32 Subsection 120A(2)**

19 Omit "Repatriation Medical Authority has given notice under
20 section 196G", substitute "Authority has given notice under section
21 370CJ of the MRCA".

22 **33 Paragraph 120A(2)(a)**

23 Omit "subsection 196B(2)", substitute "section 370CB of the MRCA".

24 **34 Paragraph 120A(3)(a)**

25 Omit "subsection 196B(2) or (11)", substitute "section 370CB, or
26 subsection 370CN(1), of the MRCA".

27 **35 Paragraph 120A(3)(b)**

28 Omit "180A(2)", substitute "120C(2)".

1 **36 Subsection 120A(4)**

2 Omit “subsection 196B(2)”, substitute “section 370CB of the MRCA”.

3 **37 Subsection 120B(2)**

4 Omit “Repatriation Medical Authority has given notice under
5 section 196G”, substitute “Authority has given notice under section
6 370CJ of the MRCA”.

7 **38 Paragraph 120B(2)(a)**

8 Omit “subsection 196B(3)”, substitute “section 370CC of the MRCA”.

9 **39 Subparagraph 120B(3)(b)(i)**

10 Omit “subsection 196B(3) or (12)”, substitute “section 370CC, or
11 subsection 370CN(3), of the MRCA”.

12 **40 Subparagraph 120B(3)(b)(ii)**

13 Omit “180A(3)”, substitute “120C(3)”.

14 **41 Subsection 120B(4)**

15 Omit “subsection 196B(3)”, substitute “section 370CC of the MRCA”.

16 **42 After section 120B**

17 Insert:

18 **120C Determination by Commission overriding Authority’s decision**
19 **in relation to Statements of Principles**

20 (1) If:

21 (a) the Authority has determined, or has declared that it does not
22 propose to make or amend, a Statement of Principles in
23 respect of a particular kind of injury, disease or death (see
24 Part 3 of Chapter 9A of the MRCA); and

25 (b) the Commission is of the opinion that, because the Statement
26 of Principles is in force, or because of the decision by the
27 Authority not to make or amend the Statement of Principles:

28 (i) claims for pensions in respect of incapacity from injury
29 or disease of that kind made by veterans, members of

- 1 the Forces, or members of a Peacekeeping Force, of a
2 particular class; or
3 (ii) claims for pensions made by dependants of those
4 veterans or members in respect of the death of such a
5 veteran or member;
6 cannot succeed; and
7 (c) the Commission is also of the opinion that, in all the
8 circumstances of the case, those veterans, members or their
9 dependants should receive a pension;
10 the Commission may, in its discretion, make a determination in
11 respect of that kind of injury, disease or death under subsection (2)
12 or (3), or determinations under both subsections (as the case
13 requires).
- 14 (2) A determination under this subsection in respect of a particular
15 kind of injury, disease or death must be by legislative instrument
16 and must:
17 (a) state that it has effect only in relation to the class of veterans,
18 members of the Forces, or members of a Peacekeeping Force
19 referred to in subparagraph (1)(b)(i); and
20 (b) state that it applies only in respect of claims relating to:
21 (i) operational service rendered by a veteran; or
22 (ii) peacekeeping service rendered by a member of a
23 Peacekeeping Force; or
24 (iii) hazardous service rendered by a member of the Forces;
25 or
26 (iv) British nuclear test defence service rendered by a
27 member of the Forces; and
28 (c) set out:
29 (i) the factors that must as a minimum exist; and
30 (ii) which of those factors must be related to service (within
31 the meaning of the MRCA) rendered by a person;
32 before it can be said that a reasonable hypothesis has been
33 raised connecting an injury, disease or death of that kind with
34 the circumstances of that service.
- 35 (3) A determination under this subsection in respect of a particular
36 kind of injury, disease or death must be by legislative instrument
37 and must:
-

- 1 (a) state that it has effect only in relation to the class of veterans
2 or members of the Forces referred to in
3 subparagraph (1)(b)(i); and
4 (b) state that it applies only in respect of claims relating to:
5 (i) eligible war service (other than operational service)
6 rendered by a veteran; or
7 (ii) defence service (other than hazardous service and
8 British nuclear test defence service) rendered by a
9 member of the Forces; and
10 (c) set out:
11 (i) the factors that must exist; and
12 (ii) which of those factors must be related to service (within
13 the meaning of the MRCA) rendered by a person;
14 before it can be said, on the balance of probabilities, that an
15 injury, disease or death of that kind is connected with the
16 circumstances of that service.
- 17 (4) While there is in force under subsection (2) a determination in
18 respect of a particular kind of injury, disease or death, any
19 Statement of Principles in force under section 370CB of the
20 MRCA in respect of that kind of injury, disease or death does not
21 apply in respect of any veteran, member of the Forces, member of
22 any Peacekeeping Force or dependant in relation to whom the
23 determination has effect.
- 24 (5) While there is in force under subsection (3) a determination in
25 respect of a particular kind of injury, disease or death, any
26 Statement of Principles in force under section 370CC of the
27 MRCA in respect of that kind of injury, disease or death does not
28 apply in respect of any veteran or member of the Forces or
29 dependant in relation to whom the determination has effect.

30 **43 Paragraph 129A(1)(a)**

- 31 Repeal the paragraph, substitute:
32 (a) a provision of this Act requires or permits a notice or other
33 document to be given to a person by the Secretary, the
34 Department, an officer of the Department, or the
35 Commission; and

1 **44 Paragraph 129A(1)(d)**

2 Repeal the paragraph, substitute:

3 (d) in a manner approved in writing by the Commission.

4 **45 Parts XIA and XIB**

5 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 **Schedule 7—Application and transitional**
2 **provisions**
3

4 *Military Rehabilitation and Compensation Act 2004*

5 **1 Subsection 53B(4)**

6 Repeal the subsection.

7 *Military Rehabilitation and Compensation (Consequential*
8 *and Transitional Provisions) Act 2004*

9 **2 Section 3**

10 Repeal the section.

11 **3 Subsection 4(1)**

12 Insert:

13 *1912 Act* means the *Commonwealth Workmen’s Compensation Act*
14 *1912*.

15 *1930 Act* means the *Commonwealth Employees’ Compensation Act*
16 *1930*.

17 *1971 Act* means the *Compensation (Commonwealth Government*
18 *Employees) Act 1971*.

19 **4 Subsection 4(1) (definition of commencement date)**

20 Repeal the definition.

21 **5 Subsection 4(1)**

22 Insert:

23 *date of commencement* means 1 July 2026.

24 *injury* includes an injury sustained before the commencement of
25 Part X of the DRCA.

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
34 disease for one or more other periods under section 19, 20, 21,

1 21A, 22 or 31 of the DRCA, as in force immediately before the
2 date of commencement.

3 Note: See also section 92 of this Act in respect of persons who are being
4 paid compensation for incapacity under section 19, 20, 21, 21A, 22 or
5 31 of the DRCA immediately before the date of commencement.

6 *Compensation in respect of a person's death*

7 (4) A person is not entitled to compensation under Part 2, 3 or 4 of
8 Chapter 5 of the MRCA in respect of the death of another person if
9 the first-mentioned person has received compensation in respect of
10 the death under:

- 11 (a) section 17 of the DRCA; or
12 (b) the 1912 Act, the 1930 Act or the 1971 Act.

13 (5) A person is not entitled to compensation under Part 2, 3 or 4 of
14 Chapter 5 of the MRCA (other than Division 6 of Part 3 of that
15 Chapter) in respect of the death of another person if:

- 16 (a) the death occurred before the date of commencement; and
17 (b) the first-mentioned person is entitled to, and is receiving, a
18 pension under section 13A of the VEA in respect of the
19 death.

20 Note: Section 111 of this Act provides for the transfer of certain VEA
21 Veterans' Children Education Scheme recipients to the scheme
22 established under Division 6 of Part 3 of Chapter 5 of the MRCA.

23 (6) A person is not entitled to the lump sum amount mentioned in
24 paragraph 234(1)(a) of the MRCA in respect of the death of
25 another person if:

- 26 (a) the death occurs on or after the date of commencement; and
27 (b) the first-mentioned person is entitled to, and is receiving, a
28 pension under section 13A of the VEA in respect of the
29 death.

30 *Compensation in respect of funeral expenses*

31 (7) A person is not entitled to compensation under Part 5 of Chapter 5
32 of the MRCA in respect of the cost of a deceased member's funeral
33 if:

- 34 (a) the person has received compensation in respect of the
35 funeral under:
-

- 1 (i) section 18 of the DRCA; or
2 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
3 (b) a funeral benefit has been paid to the estate of the deceased
4 member under section 98B of the VEA.

5 *Compensation in respect of medical expenses etc.*

- 6 (8) A person is not entitled to compensation under Part 4 of Chapter 6
7 of the MRCA in respect of the cost of treatment, or costs incurred
8 in respect of a journey made to obtain treatment or in respect of
9 accommodation required during such a journey, if the person has
10 received compensation in respect of those costs under:
11 (a) section 16 of the DRCA; or
12 (b) the 1912 Act, the 1930 Act or the 1971 Act.

13 *Provision of treatment*

- 14 (9) A person is not entitled to be provided with treatment under Part 3
15 of Chapter 6 of the MRCA for an injury or disease for a period if
16 the person is being provided with treatment under subsection 85(1)
17 or (2) of the VEA for that injury or disease for that period.

18 Note: A person who is being provided with treatment under subsection 85(1)
19 or (2) of the VEA for an injury or disease may become entitled to be
20 provided with treatment under Part 3 of Chapter 6 of the MRCA for
21 that injury or disease (see section 117 of this Act).

22 **10 Subsection 13(1)**

23 Repeal the subsection, substitute:

- 24 (1) This section applies to a claim that is made under section 319 of
25 the MRCA on or after the date of commencement, including a
26 claim in respect of a person who has:
27 (a) a war-caused or defence-caused injury or disease (within the
28 meaning of the VEA) (the *old injury or disease*); or
29 (b) an injury or disease (within the meaning of the DRCA) (the
30 *old injury or disease*).

31 **11 At the end of Part 3**

32 Add:

1 **14A Offsetting VEA and DRCA payments against Additional**
2 **Disablement Amount**

3 (1) For the purposes of section 220C of the MRCA, the maximum
4 weekly amount of Additional Disablement Amount that could be
5 payable to a person, at a time, must also be reduced by one half of
6 the fortnightly rate at which any pension because of
7 paragraph 13(1)(b) or 70(1)(b) of the VEA is payable to the person
8 at that time.

9 (2) For the purposes of section 220C of the MRCA, the maximum
10 weekly amount of Additional Disablement Amount that could be
11 payable to a person must also be reduced by the sum of any
12 previous payments of a lump sum to the person under section 24,
13 25 or 27 of the DRCA, converted to a weekly amount in
14 accordance with regulations made for the purposes of subsection
15 122(2) of this Act.

16 **12 Part 4 (heading)**

17 Omit “transitional provisions”, substitute “matters”.

18 **13 Sections 15 to 21**

19 Repeal the sections.

20 **14 Section 22**

21 Omit “commencement date”, substitute “date on which section 3 of the
22 MRCA commenced”.

23 **15 Section 23**

24 Omit “(other than a decision made under or in respect of a provision
25 being inserted or amended by Schedule 1 or 2 to this Act)”.

26 **16 After Part 5**

27 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
27 of an appointment under section 182 of the old VEA, other than a

1 person who was holding office as the Deputy President of the
2 Commission.

- 3 (2) The person is taken, on and after the date of commencement, to
4 have been appointed under section 360CA of the MRCA:
5 (a) for the balance of the person's term of appointment that
6 remained immediately before that date; and
7 (b) on terms and conditions (including remuneration) that are
8 equal to, or better than, the terms and conditions that applied
9 to the person immediately before that date.

10 Note: The person's remuneration will not be better than their remuneration
11 as a commissioner under section 182 of the old VEA unless a higher
12 level of remuneration is determined by the Remuneration Tribunal.

13 **42 Acting Commissioners**

- 14 (1) This section applies to a person who was appointed to act as a
15 commissioner under section 191 of the old VEA if the appointment
16 was in force immediately before the date of commencement.
- 17 (2) The person is taken, on and after the date of commencement, to
18 have been appointed under section 360CC of the MRCA:
19 (a) for the balance of the person's term of appointment that
20 remained immediately before that date; and
21 (b) on terms and conditions (including remuneration) that are
22 equal to, or better than, the terms and conditions that applied
23 to the person immediately before that date.

24 **43 Cessation of appointment of Deputy President**

- 25 (1) This section applies to a person who, immediately before the date
26 of commencement, was holding office as a commissioner (because
27 of an appointment under section 182 of the old VEA) and as the
28 Deputy President of the Commission.
- 29 (2) The person ceases to hold those offices at the start of the date of
30 commencement.
- 31 (3) Nothing in this section prevents the person being appointed to an
32 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
34 in force (and may be dealt with), on and after that date, as if the

1 determination had been made under subsection 120C(2) of the
2 VEA.

3 (2) A determination under subsection 180A(3) of the old VEA that is
4 in force immediately before the date of commencement continues
5 in force (and may be dealt with), on and after that date, as if the
6 determination had been made under subsection 120C(3) of the
7 VEA.

8 **53 Effect of things done by, or in relation to, the Commission**

9 A thing done by, or in relation to, the Commission under a law of
10 the Commonwealth before the date of commencement is not
11 affected by the amendments made by Schedule 4 to the
12 Simplification Act.

13 **Division 3—Transitional provisions relating to the MRCC**

14 **Subdivision A—Things done by or in relation to the MRCC**

15 **54 Members of the MRCC**

- 16 (1) This section applies to a person who was, immediately before the
17 date of commencement:
- 18 (a) holding office as a member of the MRCC because of an
19 appointment under subsection 365(1) of the old MRCA; and
 - 20 (b) a member of the MRCC described in
21 subparagraph 364(1)(b)(ii) or (iii) of the old MRCA.
- 22 (2) The person is taken, on and after the date of commencement, to
23 have been appointed under section 360CA of the MRCA:
- 24 (a) for the balance of the person's term of appointment that
25 remained immediately before that date; and
 - 26 (b) on terms and conditions (including remuneration) that are
27 equal to, or better than, the terms and conditions that applied
28 to the person immediately before that date.

29 Note: The person's remuneration will not be better than their remuneration
30 as a member of the MRCC under section 365 of the old MRCA unless
31 a higher level of remuneration is determined by the Remuneration
32 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
30 (b) a notice, authority, order or instruction;

1 (c) an instrument made under an Act or regulation.

2 **66 Compensation for acquisition of property**

3 (1) If the operation of this Part would result in an acquisition of
4 property (within the meaning of paragraph 51(xxxi) of the
5 Constitution) from a person otherwise than on just terms (within
6 the meaning of that paragraph), the Commonwealth is liable to pay
7 a reasonable amount of compensation to the person.

8 (2) If the Commonwealth and the person do not agree on the amount
9 of the compensation, the person may institute proceedings in the
10 Federal Court of Australia or the Supreme Court of a State or
11 Territory for the recovery from the Commonwealth of such
12 reasonable amount of compensation as the Court determines.

13 **Division 4—Transitional provisions relating to the**
14 **Repatriation Medical Authority**

15 **Subdivision A—Continuance of the Authority**

16 **67 Members of the Authority**

17 (1) This section applies to a person who, immediately before the date
18 of commencement, was holding office as a member of the
19 Authority under section 196L of the old VEA.

20 (2) The person is taken, on and after the date of commencement, to
21 have been appointed under section 370DA of the MRCA:
22 (a) for the balance of the person's term of appointment that
23 remained immediately before that date; and
24 (b) on terms and conditions (including remuneration) that are
25 equal to, or better than, the terms and conditions that applied
26 to the person immediately before that date.

27 Note: The person's remuneration will not be better than their remuneration
28 as a member of the Authority under section 196L of the old VEA
29 unless a higher level of remuneration is determined by the
30 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 of
25 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 of
30 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).

29 **83 Requests for review of Statement of Principles by the Review 30 Council**

- 31 (1) This section applies if:
-

- 1 (a) before the date of commencement, the Review Council
2 received a request under section 196Y of the old VEA to
3 review:
4 (i) some or all of the contents of a Statement of Principles;
5 or
6 (ii) a decision of the Repatriation Medical Authority not to
7 make, or not to amend, a Statement of Principles; and
8 (b) immediately before that date, the Review Council had not
9 reviewed the Statement of Principles or the decision.
- 10 (2) The request has effect, on and after the date of commencement, as
11 if it were a request made under section 380CB of the MRCA.

12 **84 Requests for review of decision by the Authority**

- 13 (1) This section applies if:
14 (a) before the date of commencement, the Review Council
15 received a request under section 196Z of the old VEA to
16 review a decision by the Authority not to carry out an
17 investigation in respect of a kind of injury, disease or death;
18 and
19 (b) immediately before that date, the Review Council had not
20 reviewed the decision.
- 21 (2) The request has effect, on and after the date of commencement, as
22 if it were a request made under section 380CC of the MRCA.

23 **85 Payment of medical and travel expenses**

24 Division 4 of Part 3 of Chapter 9B of the MRCA applies in relation
25 to expenses incurred by a person in connection with, or for the
26 purposes of, a review by the Review Council, whether the review
27 is conducted before, on or after the date of commencement.

28 **86 Continued effect of regulations relating to medical and travel**
29 **expenses**

30 If:

- 1 (a) before the date of commencement, regulations were made for
 2 the purposes of a provision of the old VEA mentioned in
 3 column 1 of an item of the following table; and
 4 (b) immediately before that date, the regulations are in force;
 5 the regulations continue to have effect, on and after that date, as if
 6 they had been made for the purposes of the provision of the MRCA
 7 mentioned in column 2 of the item.

8

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)

9 **87 Directions about lodgement of requests and applications**

- 10 (1) If a direction under section 196ZR of the old VEA as to the manner
 11 of lodging a request for the purposes of paragraph 196Y(3)(c) of
 12 the old VEA is in force immediately before the date of
 13 commencement, that manner of lodging a request is taken, on and
 14 after that date, to be a manner approved by the Convener of the
 15 Review Council for the purposes of paragraph 380CB(3)(b) of the
 16 MRCA.
- 17 (2) If a direction under section 196ZR of the old VEA as to the manner
 18 of lodging a request for the purposes of paragraph 196Z(2)(d) of
 19 the old VEA is in force immediately before the date of
 20 commencement, that manner of lodging a request is taken, on and
 21 after that date, to be a manner approved by the Convener of the
 22 Review Council for the purposes of paragraph 380CC(2)(c) of the
 23 MRCA.
- 24 (3) If a direction under section 196ZR of the old VEA as to the manner
 25 of lodging an application for the purposes of
 26 paragraph 196ZN(4)(d) of the old VEA is in force immediately
 27 before the date of commencement, that manner of lodging an

1 application is taken, on and after that date, to be a manner
2 approved by the Convener of the Review Council for the purposes
3 of paragraph 380CF(4)(c) of the MRCA.

4 (4) If a direction under section 196ZR of the old VEA as to the manner
5 of lodging an application for the purposes of
6 paragraph 196ZO(5)(d) of the old VEA is in force immediately
7 before the date of commencement, that manner of lodging an
8 application is taken, on and after that date, to be a manner
9 approved by the Convener of the Review Council for the purposes
10 of paragraph 380CG(5)(c) of the MRCA.

11 (5) If a direction under section 196ZR of the old VEA as to the manner
12 of lodging an application for the purposes of
13 paragraph 196ZQ(5)(c) of the old VEA is in force immediately
14 before the date of commencement, that manner of lodging an
15 application is taken, on and after that date, to be a manner
16 approved by the Convener of the Review Council for the purposes
17 of paragraph 380CI(5)(c) of the MRCA.

18 **Division 6—Other application and transitional provisions**

19 **Subdivision A—Amendments made by Schedule 1**

20 **88 Effect of closing eligibility to DRCA on pending claims**

- 21 (1) This section applies if:
- 22 (a) before the date of commencement, a claim was made under
23 Part V of the old DRCA; and
- 24 (b) immediately before that date, the claim had not been finally
25 determined.
- 26 (2) To avoid doubt, section 14AA of the DRCA, as inserted by Part 1
27 of Schedule 1 to the Simplification Act, does not affect the
28 continued operation of other provisions of the DRCA, as in force
29 on and after the date of commencement, in relation to the
30 determination of that claim (including any reconsideration or
31 review of a decision made in relation to that claim).
- 32 (3) This section is subject to sections 93 and 107 of this Act.

1 Note: Under sections 93 and 107 of this Act, certain pending claims made
2 under the old DRCA are taken, on and after the date of
3 commencement, to be claims for compensation made under
4 section 319 of the MRCA.

5 **89 Effect of closing eligibility to VEA on pending claims and**
6 **applications**

- 7 (1) This section applies if:
- 8 (a) before the date of commencement, a claim or an application
9 was made under the VEA; and
 - 10 (b) immediately before that date, the claim or application had not
11 been finally determined; and
 - 12 (c) the claim or application is of a kind that could not be made
13 on or after that date because of the operation of section 12AA
14 of the VEA, as inserted by Part 1 of Schedule 1 to the
15 Simplification Act.
- 16 (2) To avoid doubt, section 12AA of the VEA does not affect the
17 continued operation of other provisions of that Act, as in force on
18 and after the date of commencement, in relation to the
19 determination of the claim or application (including any
20 reconsideration or review of a decision made in relation to that
21 claim or application).

- 22 (3) This section is subject to sections 106, 110 and 112 of this Act.

23 Note: Under sections 106, 110 and 112 of this Act, certain pending claims
24 and applications made under the old VEA are taken, on and after the
25 date of commencement, to be claims for compensation made under
26 section 319 of the MRCA or applications made under certain other
27 provisions of the MRCA.

28 **90 Bringing across certain instruments relating to pre-2004**
29 **operations**

- 30 If:
- 31 (a) before the date of commencement, an instrument was made
32 under, or for the purposes of, a provision of the VEA
33 mentioned in column 1 of an item of the following table; and
 - 34 (b) immediately before that date, the instrument is in force;

the instrument is taken to have been made, on that date, under the provision of the MRCA mentioned in column 2 of the item.

Note: The instruments continue in force for the purposes of the VEA.

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

91 Application provision—permanent impairment

The amendments of the MRCA made by Division 1 of Part 3 of Schedule 1 to the Simplification Act apply in relation to a claim for compensation that is made on or after the date of commencement.

92 Transfer of old DRCA incapacity compensation recipients to MRCA

(1) This section applies in relation to a person if, immediately before the date of commencement, compensation under section 19, 20, 21, 21A, 22 or 31 of the old DRCA is being paid to the person in respect of an injury or disease.

Continued application of old DRCA to weeks before transfer week

(2) Despite the amendments of the old DRCA made by Division 2 of Part 3 of Schedule 1 to the Simplification Act, the old DRCA continues to apply, on and after the date of commencement, in relation to an amount of compensation payable to the person under section 19, 20, 21, 21A, 22 or 31 of the old DRCA for a week that ends before the transfer week starts, as if those amendments had not been made.

- 1 (a) despite the repeal of that section by Division 2 of Part 3 of
2 Schedule 1 to the Simplification Act, that section continues
3 to apply, on and after that date, in relation to the person as if
4 that repeal had not happened; and
5 (b) section 127 of the MRCA does not apply in relation to the
6 person on or after that date unless the Commonwealth ceases
7 to be liable to pay compensation under section 22 of the old
8 DRCA to the person.

9 *Meaning of transfer week*

- 10 (5) In this section:

11 *transfer week* means the first week that starts on or after the date
12 of commencement.

13 **93 Pending claims for DRCA incapacity compensation**

- 14 (1) This section applies if:
15 (a) before the date of commencement, a claim was made under
16 the old DRCA for compensation under section 19, 20, 21,
17 21A, 22 or 31 of that Act; and
18 (b) immediately before that date, the claim had not been finally
19 determined.
20 (2) The claim is taken, on and after the date of commencement, to be a
21 claim for compensation made under section 319 of the MRCA.

22 **94 References in certain instruments to employees receiving**
23 **compensation under section 19, 20, 21, 21A, 22 or 31 of the**
24 **DRCA**

- 25 (1) This section applies to an instrument if:
26 (a) the instrument is in force under section 41B of the DRCA
27 immediately before the date of commencement; and
28 (b) the instrument contains a reference to an employee who is
29 receiving, or is eligible to receive, compensation under
30 section 19, 20, 21, 21A, 22 or 31 of the DRCA.
31 (2) The instrument has effect, on and after the date of commencement,
32 as if the reference to an employee who is receiving, or is eligible to

1 receive, compensation under section 19, 20, 21, 21A, 22 or 31 of
2 the DRCA were a reference to a person who is receiving
3 compensation under the MRCA because of the operation of section
4 92 of this Act.

5 (3) This section does not prevent the instrument from being amended
6 or repealed on or after the date of commencement.

7 **95 Continued effect of acute support packages under the old DRCA**

8 (1) This section applies if:

9 (a) before the date of commencement, a person was granted an
10 acute support package under an instrument made for the
11 purposes of section 41B of the old DRCA; and

12 (b) immediately before that date:

13 (i) the period during which assistance or benefits in the
14 acute support package may be provided had not ended;
15 and

16 (ii) the acute support package had not been revoked.

17 (2) The amendments of the old DRCA made by Division 2 of Part 3 of
18 Schedule 1 to the Simplification Act do not affect the continuity of
19 the acute support package.

20 **96 Application provision—section 30D of the VEA**

21 The amendment of section 30D of the VEA made by Division 2 of
22 Part 3 of Schedule 1 to the Simplification Act applies in relation to
23 each day in a periodic payments period that occurs on or after the
24 date of commencement, whether the period starts before, on or
25 after that date.

26 **97 Application provision—liability restrictions on tobacco use**

27 The amendment of the MRCA made by Division 3 of Part 3 of
28 Schedule 1 to the Simplification Act applies in relation to a claim
29 that is made on or after the date of commencement.

1 **98 Application provision—medical event on duty**

- 2 (1) Paragraph 27(da) of the MRCA, as inserted by Division 4 of Part 3
3 of Schedule 1 to the Simplification Act, applies in relation to a
4 claim for acceptance of liability for an injury that is made on or
5 after the date of commencement, regardless of when the injury was
6 sustained.
- 7 (2) Paragraph 28(ea) of the MRCA, as inserted by Division 4 of Part 3
8 of Schedule 1 to the Simplification Act, applies in relation to a
9 claim for acceptance of liability for a death that is made on or after
10 the date of commencement, regardless of when the death occurred.
- 11 (3) The amendments of sections 338 and 339 of the MRCA made by
12 Division 4 of Part 3 of Schedule 1 to the Simplification Act apply
13 in relation to a claim for acceptance of liability that is made on or
14 after the date of commencement.

15 **99 Application provision—posthumous permanent impairment**
16 **payments**

17 The amendments made by Division 5 of Part 3 of Schedule 1 to the
18 Simplification Act apply in relation to compensation payable in
19 respect of a person who dies on or after the date of
20 commencement, whether the claim for compensation was made
21 before, on or after that date.

22 **100 Application provision—overpayments and debts**

- 23 (1) The amendments of section 415 of the MRCA made by Division 6
24 of Part 3 of Schedule 1 to the Simplification Act apply, on and
25 after the date of commencement, in relation to amounts paid, and
26 amounts liable to be paid, before, on or after that date.
- 27 (2) The amendment of section 416 of the MRCA made by Division 6
28 of Part 3 of Schedule 1 to the Simplification Act applies in relation
29 to a person who retires on or after the date of commencement.
- 30 (3) The amendments of sections 428 and 429 of the MRCA made by
31 Division 6 of Part 3 of Schedule 1 to the Simplification Act apply,
32 on and after the date of commencement, in relation to debts that
33 become due to the Commonwealth before, on or after that date.

- 1 (4) Despite the repeal of sections 114A and 114B of the old DRCA by
2 Division 6 of Part 3 of Schedule 1 to the Simplification Act, those
3 sections continue to apply, on and after the date of commencement,
4 in relation to a person who retires before that date, as if that repeal
5 had not happened.

6 **101 Application provision—common law damages**

7 The amendment of the MRCA made by Division 8 of Part 3 of
8 Schedule 1 to the Simplification Act applies in relation to an action
9 or proceeding instituted on or after the date of commencement.

10 **102 Application provision—information sharing**

11 Sections 406 and 409 of the MRCA, as amended by Division 9 of
12 Part 3 of Schedule 1 to the Simplification Act, and sections 407A,
13 407B and 409A of the MRCA, as inserted by that Division, apply
14 in relation to the use and disclosure of information and documents
15 on or after the date of commencement, whether the information or
16 documents were obtained before, on or after that date.

17 **103 Offsetting**

- 18 (1) Section 388 of the MRCA, as amended by Division 10 of Part 3 of
19 Schedule 1 to the Simplification Act, applies in relation to an
20 action brought on or after the date of commencement.
- 21 (2) Sections 390 and 391 of the MRCA, as amended by Division 10 of
22 Part 3 of Schedule 1 to the Simplification Act, apply in relation to a
23 claim for damages made on or after the date of commencement.
- 24 (3) Sections 399, 401 and 402 of the MRCA, as amended by
25 Division 10 of Part 3 of Schedule 1 to the Simplification Act, apply
26 in relation to damages recovered on or after the date of
27 commencement.
- 28 (4) Section 403 of the MRCA, as amended by Division 10 of Part 3 of
29 Schedule 1 to the Simplification Act, applies in relation to:
30 (a) an agreement to pay damages that is made on or after the date
31 of commencement; and
32 (b) damages awarded on or after the date of commencement.

- 1 (5) If:
2 (a) on or after the date of commencement, a provision of
3 Chapter 10 of the MRCA applies in relation to a particular
4 case; and
5 (b) apart from this subsection, a relevant DRCA or VEA
6 provision would also apply in relation to that particular case;
7 the relevant DRCA or VEA provision has no effect in relation to
8 the particular case.

- 9 (6) In this section:
10 *relevant DRCA or VEA provision* means a provision of:
11 (a) Part IV of the DRCA; or
12 (b) Division 5A of Part II of the VEA; or
13 (c) Division 4 of Part IV of the VEA.

14 **104 Bringing across rehabilitation programs under the DRCA and**
15 **VEA**

- 16 (1) This section applies if, immediately before the date of
17 commencement, a person is undertaking a rehabilitation program
18 (the *old program*) under the old DRCA or the old VEA.
19 (2) On and after the date of commencement:
20 (a) the old program is taken to be an approved rehabilitation
21 program for the purposes of the MRCA; and
22 (b) the person's rehabilitation authority for the purposes of the
23 old DRCA or the old VEA is taken to be the person's
24 rehabilitation authority for the purposes of the MRCA; and
25 (c) the person is taken to be a person to whom Part 2 of
26 Chapter 3 of the MRCA applies.

27 **Subdivision B—Amendments made by Schedule 2**

28 **105 Application provision—funeral compensation**

- 29 (1) Subject to subsection (2), the amendments of the MRCA made by
30 Division 1 of Part 1 of Schedule 2 to the Simplification Act, apply
31 in relation to a claim for compensation that is made on or after the

1 date of commencement, whether the claim relates to the funeral of
2 a person who dies before, on or after that date.

3 (2) Section 268AA of the MRCA, as added by Division 1 of Part 1 of
4 Schedule 2 to the Simplification Act, applies in relation to the
5 funeral of a person who dies on or after the date of
6 commencement.

7 **106 Pending applications for VEA funeral benefits**

8 (1) This section applies if:

- 9 (a) before the date of commencement, an application was made
10 under the old VEA for funeral benefits under section 99 or
11 100 of that Act; and
12 (b) immediately before that date, the application had not been
13 finally determined.

14 (2) The application is taken, on and after the date of commencement,
15 to be a claim for compensation made under section 319 of the
16 MRCA.

17 **107 Pending claims for DRCA funeral expenses**

18 (1) This section applies if:

- 19 (a) before the date of commencement, a claim was made under
20 the old DRCA for compensation under section 18 of that Act;
21 and
22 (b) immediately before that date, the application had not been
23 finally determined.

24 (2) The claim is taken, on and after the date of commencement, to be a
25 claim for compensation made under section 319 of the MRCA.

26 **108 Decoration allowance**

27 Despite the repeal of section 102 of the old VEA by Division 4 of
28 Part 1 of Schedule 2 to the Simplification Act, that section
29 continues to apply, on and after the date of commencement, in
30 relation to a pension period (within the meaning of the old VEA)
31 that starts before that date and ends on or after that date, as if that
32 repeal had not happened.

1 **109 Transfer of old VEA prisoner of war recognition supplement**
2 **recipients to MRCA**

- 3 (1) This section applies in relation to a person if, immediately before
4 the date of commencement, prisoner of war recognition
5 supplement under Part VIB of the old VEA is being paid to the
6 person.

7 *Continued application of old VEA to fortnights before transfer*
8 *fortnight*

- 9 (2) Despite the amendments of the old VEA made by Division 5 of
10 Part 1 of Schedule 2 to the Simplification Act, the old VEA
11 continues to apply, in relation to an amount of prisoner of war
12 recognition supplement payable to the person under Part VIB of
13 that Act for a fortnight that ends before the transfer fortnight, as if
14 those amendments had not been made.

15 *Application of MRCA to transfer fortnight and later fortnights*

- 16 (3) For the transfer fortnight and each later fortnight, Part 3 of
17 Chapter 5AA of the MRCA has effect in relation to the person as if
18 section 268AO were omitted.

19 Note: Subsection (3) means that the person is eligible for prisoner of war
20 supplement under Part 3 of Chapter 5AA of the MRCA without the
21 person needing to make a claim for compensation under section 319
22 of the MRCA.

23 *Meaning of transfer fortnight*

- 24 (4) In this section:

25 *transfer fortnight* means the fortnight that starts immediately after
26 the end of the last pension period (within the meaning of the VEA)
27 that ends before the date of commencement.

28 **110 Pending claims for prisoner of war recognition supplement and**
29 **prisoner of war compensation**

- 30 (1) This section applies if:
31 (a) before the date of commencement, a claim was made under:
-

- 1 (i) Schedule 5 to the *Social Security and Veterans' Affairs*
2 *Legislation Amendment (One-off Payments and Other*
3 *2007 Budget Measures) Act 2007* for a compensation
4 payment under that Schedule; or
5 (ii) section 115Q of the old VEA for prisoner of war
6 recognition supplement under Part VIB of that Act; or
7 (iii) section 7 of the *Veterans' Entitlements (Clarke Review)*
8 *Act 2004* for a compensation payment under Part 2 of
9 that Act; or
10 (iv) section 6 of the *Compensation (Japanese Internment)*
11 *Act 2001* for a compensation payment under that Act;
12 and
13 (b) immediately before that date, the claim had not been finally
14 determined.
- 15 (2) The claim is taken, on and after the date of commencement, to be a
16 claim for compensation made under section 319 of the MRCA.

17 **111 Transfer of VEA Veterans' Children Education Scheme**
18 **recipients to MRCA**

- 19 (1) This section applies in relation to a person if, immediately before
20 the date of commencement, the person is receiving a payment or
21 other benefit under the VEA Veterans' Children Education
22 Scheme.
- 23 (2) On and after the date of commencement:
24 (a) the scheme established under section 258 of the MRCA (the
25 ***MRCA education scheme***) applies, with any necessary
26 modifications, in relation to the person:
27 (i) as if the person were an eligible young person; and
28 (ii) as if the MRCA education scheme provided for the
29 person to receive the same payments and other benefits
30 as the person was receiving under the VEA Veterans'
31 Children Education Scheme immediately before the date
32 of commencement; and
33 (b) despite subsection 258(2) of the MRCA, a claim under
34 section 319 in respect of the person is not required in order
35 for the person to be provided with those same payments and
36 other benefits.

1 (3) Subsection (2) does not prevent the Commission from varying or
2 revoking the MRCA education scheme in accordance with
3 section 258 of the MRCA, including the scheme as it applies to a
4 person because of this section.

5 (4) In the section:

6 *VEA Veterans' Children Education Scheme* means the Veterans'
7 Children Education Scheme in force under section 117 of the VEA
8 immediately before the date of commencement.

9 **112 Pending applications under Part VII of the old VEA**

10 (1) This section applies if:

11 (a) before the date of commencement, an application was made
12 under:

13 (i) section 116B of the old VEA; or

14 (ii) section 116CB of the old VEA; or

15 (iii) the Veterans' Children Education Scheme (within the
16 meaning of the old VEA); and

17 (b) immediately before that date, the application had not been
18 finally determined.

19 (2) The application is taken, on and after the date of commencement,
20 to be:

21 (a) if subparagraph (1)(a)(i) applies—an application made under
22 paragraph 257C(1)(a) of the MRCA; or

23 (b) if subparagraph (1)(a)(ii) applies—an application made under
24 paragraph 257C(1)(b) of the MRCA; or

25 (c) if subparagraph (1)(a)(iii) applies—a claim for compensation
26 made under section 319 of the MRCA.

27 **113 Reviews under section 116D of the old VEA**

28 *Reviews under section 116D of the old VEA*

29 (1) If:

30 (a) before the date of commencement, a request was made under
31 section 116D of the old VEA for review of a decision; and

1 (b) immediately before that date, a decision on the review had
2 not been made;
3 then, despite the repeal of section 116D and subsection 175(5) of
4 the old VEA by Division 6 of Part 1 of Schedule 2 to the
5 Simplification Act, those provisions continue to apply, on and after
6 that date, in relation to the review as if those repeals had not
7 happened.

8 *Applications made under subsection 175(5) of the old VEA*

9 (2) To avoid doubt, the repeal of subsection 175(5) of the old VEA by
10 Division 6 of Part 1 of Schedule 2 to the Simplification Act does
11 not affect any application made under that provision before the
12 date of commencement.

13 **114 Continued effect of certain determinations made under Part VII**
14 **of the old VEA**

15 If:

16 (a) before the date of commencement, a determination was made
17 for the purposes of a provision of the old VEA mentioned in
18 column 1 of an item of the following table; and

19 (b) immediately before that date, the determination is in force;
20 the determination continues to have effect, on and after that date,
21 as if it has been made for the purposes of the provision of the
22 MRCA mentioned in column 2 of the item.

23

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)

1 **115 Application provision—additional compensation for children of**
2 **severely impaired veterans**

3 The amendments of the MRCA made by Division 7 of Part 1 of
4 Schedule 2 to the Simplification Act apply in relation to a claim for
5 compensation that is made on or after the date of commencement.

6 **116 Travel for treatment arrangements**

7 (1) The amendments of the MRCA made by Division 1 of Part 2 of
8 Schedule 2 to the Simplification Act apply in relation to a journey
9 that starts on or after the date of commencement.

10 (2) Despite the repeal of subsections 16(6) to (9) and 144B(6) of the
11 old DRCA made by Division 1 of Part 2 of Schedule 2 to the
12 Simplification Act, those provisions, as in force immediately
13 before the date of commencement, continue to apply on and after
14 that date in relation to a journey that starts before that date.

15 (3) Despite the repeal of section 110, and the amendments of
16 sections 111 and 112, of the old VEA made by Division 1 of Part 2
17 of Schedule 2 to the Simplification Act, those provisions, as in
18 force immediately before the date of commencement, continue to
19 apply on and after that date in relation to a journey that starts
20 before that date.

21 **117 All treatment to be provided under MRCA in certain**
22 **circumstances**

23 (1) This section applies if:

24 (a) apart from this section, at a time (the *transfer time*) on or
25 after the date of commencement, a person becomes entitled
26 to be provided with treatment for a service injury or disease
27 under Part 3 of Chapter 6 of the MRCA; and

28 (b) at that time, the person is eligible to be, or is being, provided
29 with treatment under subsection 85(1) or (2) of the VEA for a
30 separate war-caused or defence-caused injury or disease
31 (within the meaning of that Act) (the *VEA injury or disease*).

32 (2) At the transfer time:

- 1 (a) the person becomes entitled to be provided with treatment
2 under Part 3 of Chapter 6 of the MRCA for the VEA injury
3 or disease; and
4 (b) the person ceases to be eligible to be provided with treatment
5 under subsection 85(1) or (2) of the VEA for that injury or
6 disease.
- 7 (3) However, section 288A of the MRCA does not apply in respect of
8 any treatment obtained for the VEA injury or disease before the
9 transfer time.

10 **118 Application provision—treatment arrangements**

11 Despite the repeal of section 85B of the old VEA by Division 2 of
12 Part 2 of Schedule 2 to the Simplification Act, that section
13 continues to apply, on and after the date of commencement, in
14 relation to treatment provided during a period that starts before that
15 date and ends on or after that date, as if that repeal had not
16 happened.

17 **119 Application provision—presumptive liability**

18 The amendments of the MRCA made by Part 3 of Schedule 2 to
19 the Simplification Act apply in relation to a claim for acceptance of
20 liability that is made on or after the date of commencement.

21 **120 Application provision—additional disablement amount**

22 The amendment of section 199 of the MRCA made by Part 4 of
23 Schedule 2 to the Simplification Act applies in relation to a written
24 offer of a choice that is made on or after the date of
25 commencement.

26 **Subdivision C—Amendments made by Schedule 6**

27 **121 Application provision—disability compensation cessation date**

28 The amendments of the VEA made by Schedule 6 to the
29 Simplification Act apply in relation to a pension period (within the
30 meaning of the VEA) that starts on or after the date of
31 commencement.

1 **Subdivision D—Other matters**

2 **122 Transitional regulations**

- 3 (1) The Governor-General may make regulations prescribing matters:
4 (a) required or permitted by this Part to be prescribed by the
5 regulations; or
6 (b) of a transitional nature (including any saving or application
7 provisions) arising out of the enactment of the Simplification
8 Act.
- 9 (2) Without limiting subsection (1), the regulations may provide a
10 method of converting a lump sum amount into weekly amounts for
11 the purpose of subsection 14A(2) of this Act.
- 12 (3) This Part does not limit the regulations that may be made for the
13 purposes of subsection (1).

14 **17 Schedules 1 to 4**

15 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*”.

24 ***Defence Force Discipline Act 1982***

25 **24 Paragraph 3(7)(c)**

26 Omit “Part IV of the *Veterans' Entitlements Act 1986*”, substitute “the
27 *Military Rehabilitation and Compensation Act 2004*”.

1 ***Dental Benefits Act 2008***

2 **25 Subparagraph 41(1)(c)(vi)**

3 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
4 *Military Rehabilitation and Compensation Act 2004*”.

5 ***Disability Discrimination Act 1992***

6 **26 Subsection 53(2) (definition of *peacekeeping service*)**

7 Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military*
8 *Rehabilitation and Compensation Act 2004*”.

9 ***Health Insurance Act 1973***

10 **27 Subsection 3(1) (definition of *Veterans’ Affairs Minister*)**

11 Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the
12 *Military Rehabilitation and Compensation Act 2004*”.

13 ***Higher Education Support Act 2003***

14 **28 Subparagraphs 46-20(2)(n)(ii) and (iii)**

15 Repeal the subparagraphs.

16 **29 Subparagraph 46-20(2)(n)(iv)**

17 After “administers”, insert “section 1 of”.

18 **30 Subclause 1(1) of Schedule 1 (definition of *Military*
19 *Rehabilitation and Compensation Commission*)**

20 Repeal the definition.

21 **31 Subclause 1(1) of Schedule 1 (definition of *Repatriation*
22 *Commission*)**

23 Omit “the body corporate continued in existence by section 179 of the
24 *Veterans’ Entitlements Act 1986*”, substitute “the Repatriation
25 Commission continued in existence by section 360B of the *Military*
26 *Rehabilitation and Compensation Act 2004*”.

1 ***Housing Australia Future Fund Act 2023***

2 **32 Section 4 (definition of Veterans' Affairs Minister)**

3 Omit "the *Veterans' Entitlements Act 1986*", substitute "section 1 of the
4 *Military Rehabilitation and Compensation Act 2004*".

5 ***Income Tax Assessment Act 1936***

6 **33 Subsection 6(1) (definition of Veterans' Affairs Secretary)**

7 Omit "the *Veterans' Entitlements Act 1986*", substitute "section 1 of the
8 *Military Rehabilitation and Compensation Act 2004*".

9 **34 Subparagraph 160AAAA(2)(a)(i)**

10 Omit "(other than Part VII)".

11 **35 Subsections 202CB(8) and 202CE(9)**

12 Omit "Military Rehabilitation and Compensation Commission",
13 substitute "Repatriation Commission".

14 **36 Subsection 265A(4)**

15 Omit "*Veterans' Entitlements Act 1986* on a question affecting the right
16 of a dependant of a deceased veteran to a pension under Part II or IV of
17 that Act, or any decision of the Military Rehabilitation and
18 Compensation Commission established under section 361 of the
19 *Military Rehabilitation and Compensation Act 2004* on a question
20 affecting the right of a dependant of a deceased member (within the
21 meaning of that Act) to compensation under Chapter 5 of that Act",
22 substitute "*Military Rehabilitation and Compensation Act 2004* (the
23 **MRCA**) on a question affecting the right of a dependant of a deceased
24 veteran to a pension under Part II or IV of the *Veterans' Entitlements*
25 *Act 1986*, or on a question affecting the right of a dependant of a
26 deceased member (within the meaning of the MRCA) to compensation
27 under Chapter 5 of the MRCA".

1 **37 Saving provision**

2 Section 160AAAA of the *Income Tax Assessment Act 1936*, as in force
3 immediately before the day this item commences, continues to apply,
4 on and after that day, in relation to a year of income in which the
5 taxpayer is eligible for a pension, allowance or benefit under Part VII of
6 the *Veterans' Entitlements Act 1986*.

7 ***Income Tax Assessment Act 1997***

8 **38 Section 11-15 (table item headed "social security or like
9 payments")**

10 Omit:

11

clean energy payment under the scheme prepared
under Part VII of the *Veterans' Entitlements Act*
1986..... 52-65

12 **39 Paragraphs 52-65(1)(ba) and (e)**

13 Repeal the paragraphs.

14 **40 Subsections 52-65(1F) and (1G)**

15 Repeal the subsections, substitute:

16 (1G) Clean energy payments under the *Veterans' Entitlements Act 1986*
17 are exempt from income tax.

18 **41 Section 52-65 (table items 5.1, 15.1, 16.1, 20.1 and 22.1)**

19 Repeal the items.

20 **42 Section 52-75 (table items 3B, 5, 12A, 15, 16, 20 and 22)**

21 Repeal the items.

22 **43 Section 52-114 (table item 2)**

23 After "291", insert ", 291A".

24 **44 Section 52-114 (after table item 9)**

25 Insert:

9A	Additional Disablement Amount (section 220A)	Exempt	Not applicable
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1 **45 Section 52-114 (after table item 11)**

2 Insert:

11A	Victoria Cross allowance (section 230A)	Exempt	Not applicable
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11B	Decoration allowance (section 230C)	Exempt	Not applicable
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3 **46 Section 52-114 (table items 13 and 15)**

4 Omit “and (iii)”, substitute “, (iii) and (iv)”.

5 **47 Section 52-114 (table item 18)**

6 Omit “section 266”, substitute “sections 266, 268AA, 268AB and
7 268AC”.

8 **48 Section 52-114 (after table item 18)**

9 Insert:

18A	Compensation relating to prisoners of war (sections 268AJ and 268AM)	Exempt	Not applicable
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10 **49 Section 52-114 (table item 22)**

11 After “209A”, insert “, 220D”.

12 **50 Subparagraph 52-145(1)(b)(iii)**

13 Repeal the subparagraph.

14 **51 Application of amendments**

15 The amendments of section 52-114 of the *Income Tax Assessment Act*
16 *1997* made by this Schedule apply in relation to the 2026-27 income
17 year and later income years.

18 **52 Saving provisions**

19 (1) Paragraph 52-65(1)(ba) of the *Income Tax Assessment Act 1997* and
20 subsection 52-65(1G) of that Act, as in force immediately before the

Schedule 8 Consequential amendments
Part 1 Main amendments

- 1 day this item commences, continue to apply on and after that day in
2 relation to a clean energy payment that is made before, on or after that
3 day under the scheme prepared under Part VII of the *Veterans’*
4 *Entitlements Act 1986*.
- 5 (2) Paragraph 52-65(1)(e) of the *Income Tax Assessment Act 1997* and
6 subsection 52-65(1F) of that Act, as in force immediately before the day
7 this item commences, continue to apply on and after that day in relation
8 to a payment of a prisoner of war recognition supplement under
9 Part VIB of the *Veterans’ Entitlements Act 1986* made before, on or
10 after that day.
- 11 (3) Item 5.1 of the table in section 52-65 of the *Income Tax Assessment Act*
12 *1997*, as in force immediately before the day this item commences,
13 continues to apply on and after that day in relation to a payment of
14 decoration allowance made before, on or after that day.
- 15 (4) Item 15.1 of the table in section 52-65 of the *Income Tax Assessment*
16 *Act 1997*, as in force immediately before the day this item commences,
17 continues to apply on and after that day in relation to a payment of a
18 section 99 funeral benefit made before, on or after that day.
- 19 (5) Item 16.1 of the table in section 52-65 of the *Income Tax Assessment*
20 *Act 1997*, as in force immediately before the day this item commences,
21 continues to apply on and after that day in relation to a payment of a
22 section 100 funeral benefit made before, on or after that day.
- 23 (6) Item 20.1 of the table in section 52-65 of the *Income Tax Assessment*
24 *Act 1997*, as in force immediately before the day this item commences,
25 continues to apply on and after that day in relation to a payment of
26 travelling expenses made before, on or after that day.
- 27 (7) Item 22.1 of the table in section 52-65 of the *Income Tax Assessment*
28 *Act 1997*, as in force immediately before the day this item commences,
29 continues to apply on and after that day in relation to a payment of
30 Victoria Cross allowance made before, on or after that day.
- 31 (8) Subparagraph 52-145(1)(b)(iii) of the *Income Tax Assessment Act 1997*,
32 as in force immediately before the day this item commences, continues
33 to apply on and after that day in relation to a payment of an allowance
34 or reimbursement under the scheme known as the Veterans’ Children
35 Education Scheme.
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1 ***My Health Records Act 2012***

2 **53 Subsection 5(1) (definition of *Veterans' Affairs***
3 ***Department*)**

4 Repeal the definition, substitute:

5 *Veterans' Affairs Department* means the Department administered
6 by the Minister administering section 1 of the *Military*
7 *Rehabilitation and Compensation Act 2004*.

8 ***National Cancer Screening Register Act 2016***

9 **54 Section 4 (definition of *Veterans' Affairs Department*)**

10 Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the
11 *Military Rehabilitation and Compensation Act 2004*”.

12 ***National Health Act 1953***

13 **55 Subsection 4(1) (definition of *Veterans' Affairs Minister*)**

14 Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the
15 *Military Rehabilitation and Compensation Act 2004*”.

16 ***Safety, Rehabilitation and Compensation Act 1988***

17 **56 Paragraph 43(1)(a)**

18 Omit “for the purposes of Part IV of the *Veterans' Entitlements Act*
19 *1986*”, substitute “within the meaning of the *Military Rehabilitation*
20 *and Compensation Act 2004*”.

21 ***Social Security Act 1991***

22 **57 Subparagraphs 8(8)(y)(v), (vi), (via), (viaaaa) and (viiaa)**

23 Repeal the subparagraphs.

24 **58 Subparagraph 8(8)(y)(viii)**

25 Omit “Act; or”, substitute “Act;”.

1 **59 Subparagraph 8(8)(y)(ix)**

2 Repeal the subparagraph.

3 **60 Paragraph 8(8)(zo)**

4 Omit “or 266”, substitute “, 266, 268AA, 268AB or 268AC”.

5 **61 After paragraph 8(8)(zq)**

6 Insert:

7 (zqa) 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;

10 (zqb) if subsection 220C(5) of the Military Rehabilitation and
11 Compensation Act applies to a person—an amount per
12 fortnight, worked out under subsection (13) of this section,
13 that would, apart from this paragraph, be income of the
14 person;

15 Note: Subsection 220C(5) of the Military Rehabilitation and
16 Compensation Act reduces an Additional Disablement Amount
17 by reference to amounts of Commonwealth superannuation that
18 the person has received or is receiving.

19 **62 After paragraph 8(8)(zsa)**

20 Insert:

21 (zsb) a payment under section 230A of the Military Rehabilitation
22 and Compensation Act (Victoria Cross allowance);

23 (zsc) a payment under an instrument made under section 230C of
24 the Military Rehabilitation and Compensation Act
25 (decoration allowance);

26 (zsd) a payment, by a foreign country, of an allowance or annuity
27 that is of a similar kind to a payment covered by
28 paragraph (zsb) or (zsc);

29 (zse) a payment under Part 3 of Chapter 5AA of the Military
30 Rehabilitation and Compensation Act (prisoner of war
31 recognition supplement);

32 (zsf) a payment under section 268AJ of the Military Rehabilitation
33 and Compensation Act (compensation in respect of former
34 members and civilians interned by certain military forces);

1 **63 Paragraph 8(8AA)(d)**

2 Repeal the paragraph.

3 **64 At the end of section 8**

4 Add:

5 (13) For the purposes of paragraph 8(8)(zqb), the amount per fortnight
6 that is not income for the purposes of this Act is:

$$\frac{\text{Additional Disablement Amount}}{\text{reduction amount}} \times \frac{10}{6}$$

7

8

where:

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Additional Disablement Amount reduction amount means the amount by which the Additional Disablement Amount (as reduced under subsection 220C(3) of the Military Rehabilitation and Compensation Act) is reduced under subsection 220C(6) of the Military Rehabilitation and Compensation Act (but not below zero).

15

65 Paragraph 592K(2)(c)

16

Repeal the paragraph.

17

66 Subparagraph 592K(5)(b)(iii)

18

Repeal the subparagraph.

19

67 Subsection 592L(7) (paragraph (c) of the definition of *student relocation payment*)

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21

Repeal the paragraph.

22

68 Subparagraph 1061ZVBC(b)(i)

23

Repeal the subparagraph.

24

69 Application provision

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28

The *Social Security Act 1991*, as in force immediately before the day this item commences, continues to apply, on and after that day, in relation to payments of any of the following that are made before, on or after that day:

- 1 (a) decoration allowance under section 102 of the *Veterans’*
2 *Entitlements Act 1986*;
- 3 (b) Victoria Cross allowance under section 103 of that Act;
- 4 (c) a payment, by a foreign country, of an allowance or annuity
5 that is of a similar kind to decoration allowance payable
6 under section 102 of that Act or to Victoria Cross allowance
7 payable under section 103 of that Act;
- 8 (d) prisoner of war recognition supplement under Part VIB of
9 that Act;
- 10 (e) a payment known as a student start-up scholarship payment,
11 or a relocation scholarship payment, under the scheme
12 referred to in section 117 of that Act;
- 13 (f) a funeral benefit under Part VI of that Act.

14 ***Student Assistance Act 1973***

15 **70 Subparagraph 7D(b)(i)**

16 Repeal the subparagraph.

17 **71 Application provision**

18 Section 7D of the *Student Assistance Act 1973*, as in force immediately
19 before the day this item commences, continues to apply, on and after
20 that day, in relation to a payment that is:

- 21 (a) known as a student start-up scholarship payment, or a
22 relocation scholarship payment, under the scheme referred to
23 in section 117 of the *Veterans’ Entitlements Act 1986*; and
24 (b) made before, on or after that day.

25 ***Superannuation Act 1976***

26 **72 Subsections 54G(2), 54H(1) and 54JA(6A)**

27 Omit “Military Rehabilitation and Compensation Commission”,
28 substitute “Repatriation Commission”.

1 ***Treatment Benefits (Special Access) Act 2019***

2 **73 Subsection 5(1) (definition of *Commission*)**

3 Omit “means the Repatriation Commission continued in existence by
4 section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “has the
5 same meaning as in the *Military Rehabilitation and Compensation Act*
6 *2004*”.

7 **74 Subsection 40(1) (note)**

8 Omit “section 180 of the *Veterans’ Entitlements Act 1986*”, substitute
9 “section 360BB of the *Military Rehabilitation and Compensation Act*
10 *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*”.

1 **Schedule 9—Defence and Veterans' Services**
2 **Commission**

3 **Part 1—Main amendments**

4 *Defence Act 1903*

5 **1 After Part VIID**

6 Insert:

7 **Part VIIE—Defence and Veterans' Services**
8 **Commission**

9 **Division 1—Preliminary**

10 **110ZEA Objects of this Part**

11 The object of this Part is to improve suicide prevention and
12 wellbeing outcomes for serving and ex-serving Australian Defence
13 Force members through the provision of independent,
14 evidence-based advice on system reform to the Australian
15 Government.

16 **110ZEB Simplified outline of this Part**

17 The Defence and Veterans' Services Commissioner conducts
18 inquiries and reports (including with evidence-based findings and
19 recommendations) on matters relating to systemic reform to:

- 20 (a) improve suicide prevention for serving and ex-serving
21 Australian Defence Force members; or
22 (b) improve wellbeing outcomes for serving and ex-serving
23 Australian Defence Force members.

24 The Commissioner may determine that an inquiry is a special
25 inquiry if certain requirements are met, including that to do so is in
26 the public interest. A range of additional powers are available to

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the Commissioner for the purposes of conducting special inquiries (see Division 3).

The Defence and Veterans' Services Commission assists the Commissioner in the performance of the Commissioner's functions under this Part. The Commission consists of the Commissioner and the staff of the Commission.

7

110ZEC This Part binds the Crown

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- (1) This Part binds the Crown in each of its capacities.
- (2) However, this Part does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

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110ZED This Part extends to things outside Australia

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This Part extends to acts, omissions, matters and things outside Australia.

14

110ZEE Definitions

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In this Part:

accountable authority, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

19

Australian intelligence entity means:

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- (a) the Australian Security Intelligence Organisation; or
- (b) the Australian Secret Intelligence Service; or
- (c) the Australian Signals Directorate; or
- (d) the Office of National Intelligence; or
- (e) the part of the Department known as the Australian Geospatial-Intelligence Organisation; or
- (f) the part of the Department known as the Defence Intelligence Organisation.

28

authorised member: see subsection 110ZGJ(2).

1 **Commonwealth body** means a Commonwealth entity or a
2 Commonwealth company.

3 **Commonwealth company** has the same meaning as in the *Public*
4 *Governance, Performance and Accountability Act 2013*.

5 **Commonwealth entity** has the same meaning as in the *Public*
6 *Governance, Performance and Accountability Act 2013*.

7 **Defence and Veteran Suicide Royal Commission** means the Royal
8 Commission into Defence and Veteran Suicide, issued by the
9 Governor-General by Letters Patent on 8 July 2021 (and including
10 any later variations of those Letters Patent).

11 **defence member** means a member of the Defence Force.

12 **eligible Judge**: see subsection 110ZLB(1).

13 **engage in conduct** means:

- 14 (a) do an act; or
15 (b) omit to perform an act.

16 **entrusted person** means:

- 17 (a) the Defence and Veterans' Services Commissioner; or
18 (b) a member of staff assisting the Commissioner as mentioned
19 in section 110ZKD; or
20 (c) persons assisting referred to in section 110ZKE; or
21 (d) consultants engaged under section 110ZKF.

22 **head**, of an Australian intelligence entity, means:

- 23 (a) in relation to the Australian Security Intelligence
24 Organisation—the Director-General of Security; or
25 (b) in relation to the Australian Secret Intelligence Service—the
26 Director-General of the Australian Secret Intelligence
27 Service; or
28 (c) in relation to the Australian Signals Directorate—the
29 Director-General of the Australian Signals Directorate; or
30 (d) in relation to the part of the Department known as the
31 Australian Geospatial-Intelligence Organisation—the
32 Director of that part of the Department; or

1 (e) in relation to the part of the Department known as the
2 Defence Intelligence Organisation—the Director of that part
3 of the Department; or

4 (f) in relation to the Office of National Intelligence—the
5 Director-General of National Intelligence.

6 **Home Affairs Department** means the Department administered by
7 the Minister administering the *Australian Border Force Act 2015*.

8 **IGIS official** means:

9 (a) the Inspector-General of Intelligence and Security; or

10 (b) any other person covered by subsection 32(1) of the
11 *Inspector-General of Intelligence and Security Act 1986*.

12 **intelligence information** means information:

13 (a) that was acquired or prepared by or on behalf of an
14 Australian intelligence entity in connection with its
15 functions; or

16 (b) that relates to the performance by an Australian intelligence
17 entity of its functions; or

18 (c) that identifies a person as being, or having been, a staff
19 member (within the meaning of the *Intelligence Services Act*
20 *2001*) or agent of the Australian Secret Intelligence Service
21 or the Australian Security Intelligence Organisation.

22 Example: For paragraph (a)—information provided to an Australian intelligence
23 entity by a foreign government or an agency of a foreign government.

24 **Judge**: see subsection 110ZLB(1).

25 **law enforcement or security agency** means any of the following
26 agencies:

27 (a) the Australian Defence Force;

28 (b) the Australian Federal Police;

29 (c) the Australian Crime Commission;

30 (d) the Home Affairs Department;

31 (e) the police force of a State or Territory;

32 (f) any other agency prescribed by the rules for the purposes of
33 this definition.

1 **official**, of a Commonwealth entity, has the same meaning as in the
2 *Public Governance, Performance and Accountability Act 2013*.

3 **operationally sensitive information** means:

- 4 (a) information about information sources or operational
5 activities or methods available to a law enforcement or
6 security agency; or
7 (b) information about particular operations that have been, are
8 being or are proposed to be undertaken by a law enforcement
9 or security agency, or about proceedings relating to those
10 operations; or
11 (c) information provided by a foreign government, or by an
12 agency of a foreign government, where that government does
13 not consent to the public disclosure of the information.

14 **paid work** means work for financial gain or reward (whether as an
15 employee, a self-employed person or otherwise).

16 **personal information** has the same meaning as in the *Privacy Act*
17 *1988*.

18 **protected information** means information (including personal
19 information) made or obtained by an entrusted person for the
20 purposes of this Part.

21 **reasonable excuse** means:

- 22 (a) in relation to any act or omission by a witness before the
23 Defence and Veterans' Services Commissioner—an excuse
24 which would excuse an act or omission of a similar nature by
25 a witness before a court of law; or
26 (b) in relation to any act or omission by a person summoned as a
27 witness before the Commissioner—an excuse which would
28 excuse an act or omission of a similar nature by a person
29 summoned as a witness before a court of law; or
30 (c) in relation to any act or omission by a person given a notice
31 under section 110ZGE or subsection 110ZHD(3)—an excuse
32 which would excuse an act or omission of a similar nature by
33 a person served with a subpoena in connection with a
34 proceeding before a court of law.

35 **rules** means rules made under section 110ZLD.

- 1 **secrecy provision** means:
- 2 (a) a provision of a law of the Commonwealth that purports to
- 3 prohibit; or
- 4 (b) anything done, under a provision of a law of the
- 5 Commonwealth, to prohibit;
- 6 the communication, divulging or publication of information, the
- 7 production of, or the publication of the contents of, a document, or
- 8 the production of a thing.
- 9 **State body** means a department or authority of a State.
- 10 **Territory body** means a department or authority of a Territory.
- 11 **use**, in relation to information, includes make a record of.
- 12 **veteran** has the same meaning as in the *Australian Veterans'*
- 13 *Recognition (Putting Veterans and Their Families First) Act 2019*.

14 **Division 2—Investigations by the Defence and Veterans'**

15 **Services Commissioner**

16 **110ZFA Investigation on own initiative**

- 17 (1) The Defence and Veterans' Services Commissioner may conduct
- 18 research and inquire into matters relating to systemic reform to:
- 19 (a) improve suicide prevention for serving and ex-serving ADF
- 20 members; or
- 21 (b) improve wellbeing outcomes for serving and ex-serving ADF
- 22 members.
- 23 (2) The Commissioner may, after conducting research and inquiry
- 24 under this section, report to the Minister on the outcomes of the
- 25 research and inquiry (including any recommendations).
- 26 (3) A report given under subsection (2) must be given to the Minister,
- 27 published and tabled in each House of the Parliament in
- 28 accordance with any requirements of the rules.

1 **110ZFB Inquiry into or advice on specific matter on request by**
2 **Minister**

- 3 (1) The Minister may request the Defence and Veterans' Services
4 Commissioner:
5 (a) to conduct research and inquire into, and report on, a specific
6 matter relating to systemic reform to:
7 (i) improve suicide prevention for serving and ex-serving
8 ADF members; or
9 (ii) improve wellbeing outcomes for serving and ex-serving
10 ADF members; or
11 (b) to advise on a specific matter relating to systemic reform to:
12 (i) improve suicide prevention for serving and ex-serving
13 ADF members; or
14 (ii) improve wellbeing outcomes for serving and ex-serving
15 ADF members.
- 16 (2) The Minister may include in such a request terms of reference
17 (including time frames) for the report or advice.
- 18 (3) The Commissioner must comply with such a request.
- 19 (4) If such a request is made in writing, the request is not a legislative
20 instrument.
- 21 (5) The Minister may withdraw or amend such a request at any time
22 before the Commissioner gives the report or advice to the Minister.

23 **110ZFC Inquiries into implementation of Defence and Veteran**
24 **Suicide Royal Commission recommendations**

- 25 (1) The Defence and Veterans' Services Commissioner must conduct
26 at least 2 inquiries into the Commonwealth's implementation of the
27 Government's response to the recommendations of the Defence
28 and Veteran Suicide Royal Commission.
- 29 (2) An inquiry under subsection (1) must evaluate the implementation
30 of the Government's response including:
31 (a) the measures and actions taken by the Commonwealth to
32 implement the response; and

- 1 (b) the effectiveness of those measures and actions in
2 implementing the Government's response.
- 3 (3) Reports on an inquiry under subsection (1) must:
4 (a) be completed no later than the period prescribed by the rules
5 for the inquiry; and
6 (b) be given to the Minister, published and tabled in each House
7 of the Parliament in accordance with any requirements of the
8 rules.

9 **110ZFD Hearings**

- 10 (1) The Defence and Veterans' Services Commissioner may hold a
11 hearing for the purposes of performing the Commissioner's
12 functions.
- 13 (2) A hearing is to be held in public and the procedure for a hearing
14 may be such as the Commissioner thinks fit.
- 15 Note: For circumstances where hearings may not be held in public, see
16 subsections 110ZFE(1) and (2), and 110ZGQ(6).
- 17 (3) The Commissioner may issue written guidelines relating to the
18 procedure for hearings.
- 19 Note: The rules may make provision in relation to the procedure for
20 hearings: see section 110ZFG.
- 21 (4) Guidelines issued under subsection (3) are not a legislative
22 instrument.
- 23 (5) The Commissioner is not bound by the rules of evidence.
- 24 (6) The Commissioner must ensure that a record of a hearing is made.

25 **110ZFE Private hearings**

- 26 *Disclosure of information that is personal*
- 27 (1) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may
28 be held in private if the Defence and Veterans' Services
29 Commissioner is satisfied that:
30 (a) information relating to:

- 1 (i) a deceased person or the family, friends or associates of
2 a deceased person; or
3 (ii) a defence member or veteran's lived experience with a
4 suicide risk;
5 may be disclosed at a hearing; and
6 (b) the information is personal and private.

7 *Disclosure of operationally sensitive information*

- 8 (2) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may
9 be held in private if the Commissioner is satisfied that a person
10 appearing at the hearing may give evidence that discloses
11 operationally sensitive information.

12 Note: See also section 110ZGG, which requires a person to give notice of
13 likely disclosure of operationally sensitive information to the
14 Commissioner.

15 *Commissioner must have regard to certain matters when*
16 *considering whether to hold private hearings*

- 17 (3) When considering whether to hold a hearing, or part of a hearing,
18 in private because of subsections (1) and (2), the Commissioner
19 must have regard to:
20 (a) the potential risk of prejudice to national security (within the
21 meaning of the *National Security Information (Criminal and*
22 *Civil Proceedings) Act 2004), or to the operations of a law*
23 *enforcement or security agency; and*
24 (b) whether holding the hearing in private would have a
25 substantial adverse effect on the exercise or performance of
26 the Commissioner's functions or powers; and
27 (c) if the Commissioner invites submissions—any submissions
28 received in response; and
29 (d) the safety and security of any person; and
30 (e) whether legal professional privilege, or any other immunity,
31 privilege or restriction may apply to the disclosure of the
32 information; and
33 (f) any other matters the Commissioner thinks relevant.

1 **110ZFG Other powers relating to inquiries**

2 Subject this Part and any requirements prescribed by the rules, the
3 Defence and Veterans' Services Commissioner may conduct
4 research and inquire into matters under this Part as the
5 Commissioner sees fit, including in relation to the following:

- 6 (a) giving notice of an inquiry;
- 7 (b) inviting submissions;
- 8 (c) making submissions publicly available;
- 9 (d) procedures for hearings (public or private);
- 10 (e) providing draft reports for comment.

11 **Division 3—Special inquiries**

12 **Subdivision A—Determining inquiry is a special inquiry**

13 **110ZGA Special inquiry**

- 14 (1) The Defence and Veterans' Services Commissioner may make a
15 determination, in writing, that an inquiry being conducted under
16 Division 2 is a special inquiry if:
 - 17 (a) public notice has been given of the inquiry; and
 - 18 (b) the Commissioner is satisfied that it is in the public interest
19 that the powers in this Division may be exercised in relation
20 to the inquiry; and
 - 21 (c) any other requirements prescribed by the rules are satisfied.
- 22 (2) The Commissioner may, at any time, revoke such a determination.
- 23 (3) A determination under subsection (1) is in force during the period:
 - 24 (a) beginning immediately after the determination is made; and
 - 25 (b) ending at the earliest of the following:
 - 26 (i) the end of the period of 2 years beginning immediately
27 after the determination is made;
 - 28 (ii) the end of the day on which the determination is
29 revoked under subsection (2).

1 (4) Paragraph (3)(b) does not prevent the making of another
2 determination under subsection (1) in the same terms as the expired
3 or revoked determination.

4 (5) A determination made under subsection (1) is not a legislative
5 instrument.

6 **Subdivision B—Powers that can be used in relation to a special**
7 **inquiry**

8 **110ZGB Application of this Subdivision**

9 This Subdivision applies in relation to an inquiry if there is a
10 determination in force under section 110ZGA that the inquiry is a
11 special inquiry.

12 **110ZGC Summons**

13 (1) The Defence and Veterans' Services Commissioner may, by notice
14 in writing, summon a person to attend a hearing at a time and place
15 specified in the notice:

- 16 (a) to give evidence relevant to the special inquiry; or
17 (b) to produce documents or things specified in the notice that
18 are relevant to the special inquiry.

19 Note: Failure to comply with a notice is an offence: see section 110ZHA.

20 (2) The notice must:

- 21 (a) be in writing and be signed by the Commissioner; and
22 (b) be served on the person required to attend the hearing.

23 (3) A time specified in a notice must be at least 14 days after the day
24 on which the notice is given.

25 (4) However, subsection (3) does not apply if the Commissioner
26 reasonably believes that the circumstances to which the notice
27 relates are urgent or serious.

28 (5) For the purposes of sections 110ZHA (failure to produce),
29 110ZHD and 110ZHE (legal professional privilege), the power of
30 the Commissioner under this section to require a person to give
31 evidence, or produce a document or thing, includes the power to

1 require the person to give evidence, or produce a document or
2 thing, that is subject to legal professional privilege.

3 Note: Under section 110ZHD, legal professional privilege might still be a
4 reasonable excuse for failing to produce the document etc.

5 (6) Before giving a notice under subsection (1) to a person, in the
6 person's capacity as someone who is or has been a coroner or an
7 officer or employee of a coroners' court, the Commissioner must
8 consider requesting the coroner or the coroners' court to disclose
9 information in accordance with section 110ZGP.

10 (7) If the Commissioner gives a notice under subsection (1) to an
11 official of a Commonwealth entity, the Commissioner must give a
12 copy of the notice to:

13 (a) if the official performs duties in, or services for, an
14 Australian intelligence entity—the head of the Australian
15 intelligence entity; or

16 (b) in any other case—the accountable authority of the
17 Commonwealth entity.

18 (8) If the Commissioner gives a notice under subsection (1) to an
19 officer or employee of a State body or a Territory body, the
20 Commissioner must give a copy of the notice to the head (however
21 described) of the body.

22 **110ZGD Evidence on oath or by affirmation**

23 (1) At a hearing for the inquiry, the Defence and Veterans' Services
24 Commissioner may:

25 (a) require a witness to either take an oath or make an
26 affirmation; and

27 (b) administer an oath or affirmation to the witness.

28 Note 1: Refusal to take an oath or make an affirmation is an offence: see
29 section 110ZHB.

30 Note 2: This means that a hearing is a *judicial proceeding* for the purposes of
31 Part III of the *Crimes Act 1914*, which creates various offences in
32 relation to judicial proceedings.

33 (2) The oath or affirmation is an oath or affirmation that the evidence
34 the person will give will be true.

- 1 (3) The Commissioner may allow a person attending a hearing who
2 has been sworn, or who has made an affirmation, to give evidence
3 by tendering a written statement and verifying it by oath or
4 affirmation.

5 **110ZGE Defence and Veterans' Services Commissioner may require**
6 **information etc.**

- 7 (1) For the purposes of performing the Defence and Veterans' Services
8 Commissioner's functions, the Commissioner may, by written
9 notice, require a person:
10 (a) to give the Commissioner information relevant to the special
11 inquiry, or a statement setting out information relevant to the
12 special inquiry, in writing referred to in the notice; or
13 (b) to produce to the Commissioner the documents or things
14 relevant to the special inquiry that are referred to in the
15 notice.

16 Note: Failure to give the information or statement, or to produce the
17 documents or things, is an offence: see section 110ZHA.

- 18 (2) The notice must:
19 (a) be in writing; and
20 (b) specify the period within which the person must comply with
21 the notice.

22 (3) A time specified in a notice must be at least 14 days after the day
23 on which the notice is given.

24 (4) However, subsection (3) does not apply if the Commissioner
25 reasonably believes that the circumstances to which the notice
26 relates are urgent or serious.

27 (5) For the purposes of sections 110ZHA (failure to produce),
28 110ZHD and 110ZHE (legal professional privilege), the power of
29 the Commissioner under this section to require a person to give
30 information or a statement, or produce a document or thing
31 includes the power to require the person to give information or a
32 statement, or produce a document or thing, that is subject to legal
33 professional privilege.

34 Note: Under section 110ZHD, legal professional privilege might still be a
35 reasonable excuse for failing to produce the document etc.

- 1 (6) Before giving a notice under subsection (1) to a person, in the
2 person's capacity as someone who is or has been a coroner or an
3 officer or employee of a coroners' court, the Commissioner must
4 consider requesting the coroner or the coroners' court to disclose
5 information in accordance with section 110ZGP.
- 6 (7) If the Commissioner gives a notice under subsection (1) to an
7 official of a Commonwealth entity, the Commissioner must give a
8 copy of the notice to:
- 9 (a) if the official performs duties in, or services for, an
10 Australian intelligence entity—the head of the Australian
11 intelligence entity; or
12 (b) in any other case—the accountable authority of the
13 Commonwealth entity.
- 14 (8) If the Commissioner gives a notice under subsection (1) to an
15 officer or employee of a State body or Territory body, the
16 Commissioner must give a copy of the notice to the head (however
17 described) of the body.

18 **110ZGF Notice of likely disclosure of operationally sensitive**
19 **information**

20 *Notice requirement*

- 21 (1) If:
- 22 (a) a person either:
- 23 (i) intends to give evidence, or give or produce to the
24 Defence and Veterans' Services Commissioner
25 information or a statement, document or thing in
26 relation to the special inquiry (including as authorised
27 under section 110ZGN or 110ZGP); or
28 (ii) is required under section 110ZGC or 110ZGE to give
29 evidence at a hearing, to give or produce to the
30 Commissioner information or a statement, document or
31 thing, in relation to the special inquiry; and
- 32 (b) the person considers that giving the evidence, or giving or
33 producing the information or statement, document or thing,
34 may involve the person disclosing operationally sensitive
35 information;

1 the person must give written notice to the Commissioner before
2 giving or producing the evidence, information or statement,
3 document or thing.

4 Note: Failure to give written notice is an offence if the person holds or has
5 held an Australian Government security clearance: see
6 subsection 110ZHC(1).

7 (2) The notice must describe the evidence, information or statement,
8 document or thing that the person considers to be operationally
9 sensitive information.

10 *Call for submissions*

11 (3) If the Commissioner is given a notice under subsection (1), the
12 Commissioner may invite submissions from persons or bodies
13 (including law enforcement or security agencies) whose interests
14 may be affected by disclosure of the information.

15 (4) If the Commissioner invites submissions, the Commissioner must
16 ensure that the information is not disclosed inappropriately in the
17 course of inviting submissions.

18 **110ZGG Notice of likely disclosure of intelligence information**

19 If:

20 (a) a person either:

21 (i) intends to give evidence, or give or produce to the
22 Defence and Veterans' Services Commissioner
23 information or a statement, document or thing in
24 relation to the special inquiry (including as authorised
25 under section 110ZGN or 110ZGP); or

26 (ii) is required under section 110ZGC or 110ZGE to give
27 evidence at a hearing, to give or produce to the
28 Commissioner information or a statement, document or
29 thing, in relation to the special inquiry; and

30 (b) the person considers that giving the evidence, or giving or
31 producing the information or statement, document or thing,
32 may involve the person disclosing intelligence information;

33 the person must give written notice to the Commissioner before
34 giving or producing the evidence, information, statement,
35 document or thing.

1 Note: Failure to give written notice is an offence if the person holds or has
2 held an Australian Government security clearance: see
3 subsection 110ZHC(2).

4 **110ZGH Powers of Commissioner in relation to documents or other**
5 **thing**

6 The Defence and Veterans' Services Commissioner may for the
7 purposes of the special inquiry:

- 8 (a) inspect any document or other thing:
9 (i) produced or given to the Commissioner; or
10 (ii) produced or given under a notice under section 110ZGC
11 or 110ZGE; and
12 (b) retain the documents or other thing for so long as is
13 reasonably necessary for the purposes of performing the
14 Commissioner's functions; and
15 (c) in the case of documents:
16 (i) produced or given to the Commissioner; or
17 (ii) produced or given under a notice under section 110ZGC
18 or 110ZGE;
19 make copies of any documents that contain matter that is
20 relevant to the Commissioner's functions or powers.

21 **110ZGJ Search warrants**

- 22 (1) The Defence and Veterans' Services Commissioner or an
23 authorised member may apply for a search warrant under
24 subsection (4) in relation to the special inquiry.
- 25 (2) The Commissioner may, in writing, authorise a person, or each
26 person in a class of persons, to be an *authorised member* for the
27 purposes of this Part, if the person, or each person in the class of
28 persons, is a member of the Australian Federal Police, or of the
29 police force of a State or Territory, or is a police member (within
30 the meaning of the *Defence Force Discipline Act 1982*).
- 31 (3) If:
32 (a) the Commissioner, or an authorised member, has reasonable
33 grounds for suspecting that there may be, at that time or
34 within the next following 24 hours, on any land or on or in

- 1 any premises, vessel, aircraft or vehicle, a thing or things of a
2 particular kind connected with a matter into which the
3 Commissioner is inquiring (*things of the relevant kind*); and
4 (b) the Commissioner, or the authorised member, believes on
5 reasonable grounds that, if a summons were issued for the
6 production of the thing or things, the thing or things might be
7 concealed, lost, mutilated or destroyed;
8 the Commissioner, or the authorised member, may apply to an
9 eligible Judge for the issue of a search warrant under
10 subsection (4).
- 11 (4) If an application is made under subsection (1) to an eligible Judge,
12 the eligible Judge may, if satisfied that there are reasonable
13 grounds for issuing the warrant, issue a search warrant authorising
14 a member of the Australian Federal Police or of the police force of
15 a State or Territory, or any other person named in the warrant (the
16 *authorised person*), with such assistance as the authorised person
17 thinks necessary, and if necessary by reasonable force:
- 18 (a) to enter onto the land or on or into the premises, vessel,
19 aircraft or vehicle; and
20 (b) to search the land, premises vessel aircraft or vehicle for
21 things of the relevant kind; and
22 (c) to seize any things of the relevant kind found on the land or
23 in the premises, vessel, aircraft or vehicle and deliver things
24 so seized to the Commissioner.
- 25 (5) A warrant issued under this section must include the following
26 information:
- 27 (a) a statement of the purpose for which the warrant is issued,
28 which must include a reference to the matter into which the
29 Commissioner is inquiring and with which the things of the
30 relevant kind are connected;
31 (b) whether entry is authorised to be made at any time of the day
32 or night or during specified hours of the day or night;
33 (c) a description of the kind of things authorised to be seized;
34 (d) a date, not being later than 1 month after the date of issue of
35 the warrant, on which the warrant ceases to have effect.
- 36 (6) If, in the course of searching, in accordance with a warrant issued
37 under this section, for things of a particular kind connected with a

1 matter into which the Commissioner is inquiring, the person
2 executing the warrant finds:

- 3 (a) any thing of another kind that the person believes on
4 reasonable grounds to be connected with that matter; or
5 (b) any thing that the person believes on reasonable grounds to
6 be connected with another matter into which the
7 Commissioner is inquiring;

8 and the person believes on reasonable grounds that it is necessary
9 to seize that thing in order to prevent its concealment, loss,
10 mutilation or destruction, the warrant is taken to authorise the
11 person to seize that thing.

12 **110ZGK Application by telephone for search warrants**

- 13 (1) An application for a search warrant under subsection 110ZGJ(1)
14 may be made by telephone if the applicant for the warrant
15 considers it necessary to do so because of circumstances of
16 urgency.
- 17 (2) If an eligible Judge issues a search warrant on an application made
18 by telephone, the eligible Judge must:
19 (a) complete and sign that warrant; and
20 (b) inform the applicant of the terms of the warrant and the date
21 on which and the time at which it was signed; and
22 (c) forward a copy of the warrant to the applicant.
- 23 (3) If a search warrant is issued on an application made by telephone,
24 the Defence and Veterans' Services Commissioner or a member of
25 the Australian Federal Police or of the police force of a State or
26 Territory may complete a form of warrant in the terms indicated by
27 an eligible Judge under subsection (2).
- 28 (4) A form of warrant completed in accordance with subsection (3) is
29 taken to be a warrant issued under section 110ZGJ.

30 **110ZGL Witnesses subject to questioning**

- 31 (1) Any of the following may, so far as the Defence and Veterans'
32 Services Commissioner thinks proper, examine or cross-examine a
33 witness on a matter relevant to a hearing for the purposes of the
34 special inquiry:

- 1 (a) a legal practitioner assisting the Commissioner;
2 (b) any legal practitioner authorised by the Commissioner to
3 appear before it for the purpose of representing any person;
4 (c) any person authorised by the Commissioner to appear before
5 the Commissioner.

- 6 (2) Subject to this Part, a witness who is examined or cross-examined
7 has the same protection and is subject to the same liabilities as if
8 examined by the Commissioner.

9 Note: For other witness protections, see section 110ZLC.

10 **110ZGM Witness expenses and allowances**

- 11 (1) A person may, on behalf of the Commonwealth, be paid the
12 following in respect of the giving of evidence as a witness at a
13 hearing for the purposes of the special inquiry, in accordance with
14 a scale prescribed by the rules:
15 (a) a reasonable amount for the person's expenses of attending at
16 a place to give evidence;
17 (b) an allowance for the person's travelling expense and
18 maintenance while absent from the person's usual place of
19 residence.
- 20 (2) In the absence of a prescribed scale, the amount or allowance the
21 person may be paid is the amount or allowance the Commissioner
22 considers reasonable.

23 **110ZGN Disclosure of information to the Commissioner—** 24 **Commonwealth**

25 *Authorisation to disclose*

- 26 (1) A Commonwealth body, or an individual who holds any office or
27 appointment under a law of the Commonwealth, may, on their own
28 initiative or at the request of the Commissioner, disclose
29 information (including personal information) for the purpose of
30 assisting in the performance or exercise of the Commissioner's
31 functions or powers in for the purposes of the special inquiry.
- 32 (2) A disclosure of information is taken not to have been made by a
33 Commonwealth body for the purposes of subsection (1) if the

1 individual making the disclosure is acting beyond the individual's
2 authority in relation to the body.

3 *Authorisation for Commissioner to use*

4 (3) The Commissioner is authorised to use information disclosed under
5 this section for the purposes of performing or exercising any of the
6 Commissioner's functions or powers for the purposes of the special
7 inquiry.

8 *Authorisation not affected by State or Territory law or the general
9 law*

10 (4) The authorisation in subsection (1) has effect despite anything in a
11 law of a State or Territory, or the general law, that restricts or
12 prohibits disclosure of information.

13 Note: Penalties also do not apply under secrecy provisions: see
14 section 110ZHQ.

15 **110ZGP Disclosure of information to the Commissioner—States and**
16 **Territories**

17 *Authorisation to disclose*

18 (1) Any of the following may, on their own initiative or at the request
19 of the Commissioner, disclose information (including personal
20 information) for the purpose of assisting in the performance or
21 exercise of the Commissioner's functions or powers for the
22 purposes of the special inquiry:

- 23 (a) a State body or Territory body;
24 (b) an individual who holds any office or appointment under a
25 law of a State or Territory;
26 (c) a coroner or a coroners' court.

27 (2) A disclosure of information is taken not to have been made by a
28 State body or Territory body for the purposes of subsection (1) if
29 the individual making the disclosure is acting beyond the
30 individual's authority in relation to the body.

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Authorisation for Commissioner to use

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- (3) The Commissioner is authorised to use information disclosed under this section for the purposes of performing or exercising any of the Commissioner's functions or powers.

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Authorisation not affected by State or Territory law or the general law

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- (4) The authorisation in subsection (1) has effect despite anything in a law of a State or Territory, or the general law, that restricts or prohibits disclosure of information.

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Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

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110ZGQ Arrangements for obtaining and protecting intelligence information

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Arrangements

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- (1) The Commissioner must take all reasonable steps to ensure that entrusted persons obtain, store, access, use and disclose intelligence information relating to an Australian intelligence entity for the purposes of a special inquiry only in accordance with an arrangement, between the Commissioner and the head of the entity, that deals with:

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- (a) the manner in which entrusted persons obtain intelligence information relating to the entity; and

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- (b) the protection of intelligence information relating to the entity while in the possession of entrusted persons; and

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- (c) the disclosure by entrusted persons of intelligence information relating to the entity.

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- (2) The Commissioner must take all reasonable steps to ensure that an arrangement is in force for the purposes of subsection (1) with the head of an Australian intelligence entity before obtaining intelligence information relating to the entity for the purposes of a special inquiry.

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- (3) Subsections (1) and (2) apply despite any other provision of this Part.

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- 1 (4) Without limiting subsection (1), an arrangement may:
2 (a) limit the circumstances in which intelligence information
3 may be disclosed in a report under this Division; and
4 (b) set out matters to which the Commissioner must have regard
5 in disclosing intelligence information under section 110ZHP.
- 6 (5) However, except as mentioned in paragraph (4)(a), an arrangement
7 cannot prevent the exercise of the Commissioner's powers or the
8 performance of the Commissioner's functions under any provision
9 of this Part (including section 110ZHP).

10 *Conduct of hearings*

- 11 (6) Despite subsection 110ZFD(2), if the Commissioner is satisfied
12 that a person appearing at a hearing might disclose intelligence
13 information:
14 (a) the Commissioner may, subject to paragraph (b) of this
15 subsection, conduct the hearing in public or private; and
16 (b) the conduct of the hearing must be consistent with an
17 arrangement entered into for the purposes of subsection (1)
18 of this section with the Australian intelligence entity to which
19 the information relates.

20 *Arrangement is not a legislative instrument*

- 21 (7) If an arrangement is entered into for the purposes of subsection (1)
22 in writing, the arrangement is not a legislative instrument.

23 **110ZGR Application of this Part in relation to current and former**
24 **IGIS officials**

- 25 Despite anything else in this Part:
26 (a) an entrusted person may obtain information from another
27 person that the other person acquired as an IGIS official; and
28 (b) a person may disclose information, that the person acquired
29 as an IGIS official, to an entrusted person;
30 only in accordance with sections 34 and 34A of the
31 *Inspector-General of Intelligence and Security Act 1986*.

1 **Division 4—Offences**

2 **Subdivision A—Failure to attend hearing, give information or**
3 **produce documents etc.**

4 **110ZHA Failure to attend hearing, give information or produce**
5 **documents etc.**

6 *Failure to attend hearing*

- 7 (1) A person commits an offence if:
8 (a) the person is served with a notice under section 110ZGC to
9 attend a hearing; and
10 (b) the person fails to comply with the notice.

11 Penalty: Imprisonment for 2 years.

12 *Failure to give information, or produce a document or thing*

- 13 (2) A person commits an offence if:
14 (a) the person is given a notice under section 110ZGC or
15 110ZGE to give information or a statement, or produce a
16 document or thing, specified in the notice; and
17 (b) the person fails to comply with the notice.

18 Penalty: Imprisonment for 2 years.

19 *Reasonable excuse*

- 20 (3) Subsections (1) and (2) do not apply if the person has a reasonable
21 excuse.

22 Note: A defendant bears an evidential burden in relation to the matters in
23 subsection (3); see subsection 13.3(3) of the *Criminal Code*.

24 *Defence of relevance*

- 25 (4) Subsection (2) does not apply if the information, statement,
26 document or thing is not relevant to the matters into which the
27 Commissioner was inquiring.

28 Note: A defendant bears an evidential burden in relation to the matters in
29 subsection (4); see subsection 13.3(3) of the *Criminal Code*.

1 *Intelligence information*

- 2 (2) A person commits an offence if:
- 3 (a) the person is required to give a written notice to the Defence
4 and Veterans' Services Commissioner under
5 section 110ZGG; and
- 6 (b) the person holds or has held an Australian Government
7 security clearance (within the meaning of the *Criminal Code*)
8 that allows, or had allowed, access to intelligence
9 information; and
- 10 (c) the person fails to give the notice in accordance with
11 section 110ZGG.

12 Penalty: Imprisonment for 3 years.

13 **110ZHD Legal professional privilege**

- 14 (1) It is not a reasonable excuse for the purposes of
15 subsection 110ZHA(3) for a person to fail to give information or a
16 statement, or produce a document or thing, that the information,
17 statement, document or thing is subject to legal professional
18 privilege, unless:
- 19 (a) a court has found the information, statement, document or
20 thing (or the relevant part of it) to be subject to legal
21 professional privilege; or
- 22 (b) a claim that the information, statement, document or thing (or
23 the relevant part of it) is subject to legal professional
24 privilege has been made to the Defence and Veterans'
25 Services Commissioner:
- 26 (i) within the time that the Commissioner, in requiring the
27 information or statement to be given, or the document or
28 thing to be produced, allowed for the giving of the
29 information or statement, or the production of the
30 document or thing; or
- 31 (ii) within such further time as the Commissioner allows for
32 the giving of the information or statement, or the
33 production of the document or thing.
- 34 (2) If such a claim is made, the Commissioner may decide whether to
35 accept or reject the claim.

- 1 (3) The Commissioner may, by written notice served on a person,
2 require the person to produce the information, statement, document
3 or thing for inspection for the purpose of deciding whether to
4 accept or reject the claim.
- 5 (4) If the information, statement, document or thing has been produced
6 for inspection and the Commissioner decides to accept the claim,
7 the Commissioner must:
- 8 (a) return the information, statement, document or thing to the
9 person; and
- 10 (b) disregard, for the purposes of any report, recommendation or
11 finding that the Commissioner makes:
- 12 (i) if the claim is accepted in relation to the whole of the
13 information, statement, document or thing—the whole
14 of the information, statement, document or thing; or
- 15 (ii) if the claim is accepted in relation to a part of the
16 information, statement, document or thing—that part of
17 the information, statement, document or thing.
- 18 (5) If the information, statement, document or thing has been produced
19 for inspection and the Commissioner decides to reject the claim,
20 the Commissioner may use the information, statement, document
21 or thing for the purposes of performing the Commissioner's
22 function in relation to a special inquiry.

23 **110ZHE Offences relating to claims for legal professional privilege**

24 *Offences*

- 25 (1) A person commits an offence if:
- 26 (a) the person has failed to give information or a statement, or
27 produce a document or thing as required by the
28 Commissioner under section 110ZGC; and
- 29 (b) the Commissioner has decided under subsection 110ZHD(2)
30 to reject a claim that the information or statement, document
31 or thing (or the relevant part of the information, statement,
32 document or thing) is subject to legal professional privilege;
33 and

1 (c) the person fails to give the information or statement, or
2 produce the document or thing as the Commissioner requires,
3 after that decision, under section 110ZGC.

4 Penalty: Imprisonment for 2 years.

5 (2) A person commits an offence if:

6 (a) the person is required under subsection 110ZHD(3) to give
7 information or a statement, or produce a document or thing
8 for inspection; and

9 (b) the person fails to comply with the notice.

10 Penalty: Imprisonment for 2 years.

11 *Reasonable excuse*

12 (3) Subsections (1) and (2) do not apply if the person has a reasonable
13 excuse.

14 *Legal professional privilege*

15 (4) It is not a reasonable excuse for the purposes of subsection (3) for a
16 person to fail to give information or a statement, or produce a
17 document or thing, that the information, statement, document or
18 thing is subject to legal professional privilege, unless a court has
19 found the information, statement, document or thing to be subject
20 to legal professional privilege.

21 Note: A defendant bears an evidential burden in relation to the matters in
22 this subsection: see subsection 13.3(3) of the *Criminal Code*.

23 *Defence of relevance*

24 (5) It is a defence to a prosecution for an offence against this section
25 constituted by a failure to give information or a statement, or
26 produce a document or thing, if the information, statement,
27 document or thing is not relevant to the matters into which the
28 Commissioner is inquiring.

29 Note: A defendant bears an evidential burden in relation to the matters in
30 subsection (5), see subsection 13.3(3) of the *Criminal Code*.

1 **110ZHF Self-incrimination**

- 2 (1) An individual is not excused from giving information, evidence or
3 a statement, or producing a document or thing, under
4 section 110ZGC on the ground that giving the information,
5 evidence or statement, or producing the document or thing, might
6 tend to incriminate the individual in relation to an offence.

7 Note: A body corporate is not entitled to claim the privilege against
8 self-incrimination.

- 9 (2) Subsection (1) does not apply if:

- 10 (a) giving the information, evidence or statement, or producing
11 the document or thing, might tend to incriminate the
12 individual in relation to an offence; and
13 (b) the individual has been charged with that offence; and
14 (c) the charge has not been finally dealt with by a court or
15 otherwise disposed of.

- 16 (3) However:

- 17 (a) the information, evidence or statement given or document or
18 thing produced; and
19 (b) the giving of the information, evidence or a statement, or the
20 production of the document or thing;

21 are not admissible in evidence against the individual in any
22 criminal proceedings, other than:

- 23 (c) proceedings for an offence against section 137.1 or 137.2 of
24 the *Criminal Code* that relates to this Part; or
25 (d) proceedings for an offence against Part III of the *Crimes Act*
26 *1914* that relates to this Part; or
27 (e) proceedings for an offence against this Part.

- 28 (4) If, at general law, an individual would otherwise be able to claim
29 the privilege against self-exposure to a penalty (other than a
30 penalty for an offence) in relation to giving information, evidence
31 or a statement, or producing a document or thing under section
32 110ZGC or 110ZGE, the individual is not excused from giving the
33 information, evidence or statement or producing the document or
34 thing under those provisions on that ground.

35 Note: A body corporate is not entitled to claim the privilege against
36 self-exposure to a penalty.

1 **Subdivision B—Witness protections etc.**

2 **110ZHG Dismissal etc. of witness**

- 3 (1) A person commits an offence if the person:
4 (a) dismisses an employee from employment or a defence
5 member from the Defence Force; or
6 (b) prejudices an employee in the employee's employment by
7 the person or disciplines a defence member in their capacity
8 as a defence member;
9 for or on account of the employee or the defence member having:
10 (c) appeared as a witness before the Commissioner; or
11 (d) given evidence before the Commissioner; or
12 (e) given information or a statement, or produced a document or
13 thing, in accordance with section 110ZGC.

14 Penalty: 10 penalty units or imprisonment for 1 year.

- 15 (2) Subsection (1) does not apply if the employee or defence member
16 was dismissed, prejudiced or disciplined for some reason other
17 than the reasons mentioned in subsection (1).

18 Note: A defendant bears an evidential burden in relation to the matters in
19 subsection (2): see subsection 13.3(3) of the *Criminal Code*.

20 **110ZHJ Contempt of Commissioner**

- 21 (1) A person commits an offence if:
22 (a) the person engages in conduct; and
23 (b) the conduct obstructs or hinders the Defence and Veterans'
24 Services Commissioner in the performance or exercise of the
25 Commissioner's functions or powers.

26 Penalty: 2 penalty units or imprisonment for 3 months.

- 27 (2) A person commits an offence if:
28 (a) the person engages in conduct; and
29 (b) the conduct would, if the Defence and Veterans' Services
30 Commissioner were a court of record, constitute a contempt
31 of that court.

1 Penalty: 2 penalty units or imprisonment for 3 months.

2 **Subdivision C—Unauthorised publication, use or disclosure of**
3 **information etc.**

4 **110ZHK Non-publication direction**

5 (1) The Defence and Veterans' Services Commissioner may, in
6 writing, direct that any of the following material must not be
7 published, produced or disclosed or must not be published,
8 produced or disclosed except in the manner or to the persons that
9 the Commissioner specifies:

- 10 (a) evidence given before the Commissioner;
11 (b) the contents of a document, or a description of a thing,
12 produced or given to the Commissioner;
13 (c) information that might enable a person who has given
14 evidence before the Commissioner to be identified.

15 Note: Publication in contravention of a direction under this subsection is an
16 offence: see section 110ZHL.

17 (2) The Commissioner may, in writing, vary or revoke a direction
18 under subsection (1).

19 (3) Without limiting subsection (1), the Commissioner may direct that
20 the material must not be published, produced, or disclosed to:

- 21 (a) a court; or
22 (b) a tribunal, authority or person having power to require the
23 production of documents or the answering of questions.

24 **110ZHL Publication in contravention of non-publication direction**

25 A person commits an offence if:

- 26 (a) the person publishes information; and
27 (b) the publication contravenes a direction under
28 subsection 110ZHK(1).

29 Penalty: Imprisonment for 3 years.

1 **110ZHM Unauthorised use or disclosure of protected information**

2 A person commits an offence if:

- 3 (a) the person is, or has been an entrusted person; and
4 (b) the person uses or discloses information; and
5 (c) the information is protected information; and
6 (d) neither of the following apply:
7 (i) the use or disclosure is for the purposes of performing
8 or exercising the Commissioner's functions or powers;
9 (ii) the information is disclosed by the Commissioner in
10 accordance with section 110ZHN.

11 Note: See Part 5.6 of the *Criminal Code* for offences relating to secrecy of
12 information.

13 Penalty: Imprisonment for 2 years.

14 **110ZHN Authorisation to disclose information (other than**
15 **intelligence information)**

16 *Authorisation to disclose*

- 17 (1) The Defence and Veterans' Services Commissioner may disclose
18 information (including personal information) to an entity specified
19 in subsection (2) if:
20 (a) the information was given to the Commissioner in
21 accordance with a notice under section 110ZGC or 110ZGE,
22 or in accordance with section 110ZGN or 110ZGP; and
23 (b) the Commissioner is satisfied that the information will assist
24 the entity to perform any of its functions or exercise any of
25 its powers; and
26 (c) in the case of an entity specified in any of paragraphs (2)(k)
27 to (m) of this subsection—the Commissioner is satisfied that
28 the function or power mentioned in paragraph (b) of this
29 subsection is connected with defence member or veteran
30 deaths by suicide; and
31 (d) in any case—the information is not intelligence information.
32 (2) The entities are the following:

- 1 (a) the Attorney-General of the Commonwealth, a State or a
2 Territory;
- 3 (b) the Australian Federal Police;
- 4 (c) the police force of a State or Territory;
- 5 (d) the Director of Public Prosecutions;
- 6 (e) a Special Prosecutor appointed under the *Special Prosecutors*
7 *Act 1982*;
- 8 (f) a Royal Commission or a body with functions equivalent to a
9 Royal Commission;
- 10 (g) if the information relates, or may relate, to the contravention,
11 or evidence of a contravention, of a law of the
12 Commonwealth, a State or a Territory—an entity responsible
13 for the administration or enforcement of the law;
- 14 (h) the Australian Crime Commission;
- 15 (i) the National Anti-Corruption Commissioner (within the
16 meaning of the *National Anti-Corruption Commission Act*
17 *2022*);
- 18 (j) a coroner or a coroners' court;
- 19 (k) any other Commonwealth body;
- 20 (l) any other State body or Territory body;
- 21 (m) any other individual who holds any office or appointment
22 under a law of the Commonwealth, a State or a Territory.

23 *Coronial inquiries*

- 24 (3) If the Commissioner believes that the disclosure of information
25 under subsection (1) to an entity specified in any of
26 paragraphs (2)(k) to (m) may prejudice a current or future coronial
27 inquiry, the Commissioner must consider consulting:
- 28 (a) for a current coronial inquiry—the coroner conducting the
29 inquiry; or
- 30 (b) for a future coronial inquiry—the head of the relevant
31 coronial jurisdiction before disclosing the information.

32 *State or Territory police investigations*

- 33 (4) If the Commissioner believes that the disclosure of information
34 under subsection (1) to an entity specified in any of
35 paragraphs (2)(k) to (m) may prejudice current or future

1 investigations by a police force of a State or Territory, the
2 Commissioner must consider consulting the head (however
3 described) of the police force of the State or Territory before
4 disclosing the information.

5 *Authorisation for agencies and bodies to use and disclose*
6 *information*

7 (5) An entity to which information is disclosed under subsection (1)
8 may use and disclose the information for the purposes for which
9 the information was disclosed under that subsection.

10 *Contravention of a law*

11 (6) A reference in paragraph (2)(g) to a contravention of a law is a
12 reference to a contravention for which a person may be liable to:
13 (a) a criminal penalty; or
14 (b) a civil or administrative penalty.

15 **110ZHP Authorisation to disclose intelligence information**

16 *Authorisation to disclose*

17 (1) The Defence and Veterans' Services Commissioner may disclose
18 intelligence information (including personal information) to an
19 entity specified in subsection (2) if:
20 (a) the information was given to the Commissioner in
21 accordance with a notice under section 110ZGC or 110ZGE,
22 or in accordance with section 110ZGN or 110ZGP; and
23 (b) except in the case of a disclosure to the Inspector-General of
24 Intelligence and Security—the information relates, or may
25 relate, to the commission, or evidence of the commission, of
26 an offence against a law of the Commonwealth, a State or a
27 Territory; and
28 (c) in any case—the Commissioner is satisfied that the
29 information will assist the entity to perform any of its
30 functions or exercise any of its powers.

31 (2) The entities are the following:
32 (a) the Australian Federal Police;

- 1 (b) the police force of a State or Territory;
2 (c) the Australian Crime Commission;
3 (d) the National Anti-Corruption Commissioner (within the
4 meaning of the *National Anti-Corruption Commission Act*
5 *2022*);
6 (e) the Inspector-General of Intelligence and Security;
7 (f) an agency or body, or the holder of an office that is
8 prescribed by the rules for the purposes of this paragraph.

9 *Consultation requirement*

- 10 (3) Before disclosing intelligence information under subsection (1) to
11 an entity other than the Inspector-General of Intelligence and
12 Security, the Commissioner must consult the following:
13 (a) the person mentioned in subsection (4) for the entity;
14 (b) the head of the Australian intelligence entity to which the
15 information relates.
- 16 (4) For the purposes of paragraph (3)(a), the person for the entity is as
17 follows:
18 (a) for the Australian Federal Police—the Commissioner of
19 Police;
20 (b) for the police force of a State or Territory—the head
21 (however described) of the police force of the State or
22 Territory;
23 (c) for the Australian Crime Commission—the Chief Executive
24 Officer of the Australian Crime Commission;
25 (d) for the National Anti-Corruption Commissioner (within the
26 meaning of the *National Anti-Corruption Commission Act*
27 *2022*)—the National Anti-Corruption Commissioner;
28 (e) for an agency or body, or the holder of an office, that is
29 prescribed by the rules for the purposes of paragraph (2)(f)—
30 the person holding, or performing the duties of, the principal
31 office in respect of the body or agency that is prescribed by
32 the rules for the purposes of this paragraph.
- 33 (5) For the purposes of paragraph (3)(a), the consultation must cover
34 the protection of the intelligence information while it remains in
35 the entity's possession.

1 **Division 5—Defence and Veterans' Services Commissioner**

2 **110ZJA The Defence and Veterans' Services Commissioner**

3 There is to be a Defence and Veterans' Services Commissioner.

4 **110ZJB Functions of the Defence and Veterans' Services**
5 **Commissioner**

6 (1) The Defence and Veterans' Services Commissioner has the
7 following functions:

8 (a) to monitor, inquire and report on (including with
9 evidence-based findings and recommendations) on the
10 following:

11 (i) data and trends regarding suicide and suicidality among
12 serving and ex-serving ADF members;

13 (ii) systemic factors relating to the Commonwealth's
14 administration of policies, programs, systems and
15 practices that contribute to suicide and suicidality
16 among serving and ex-serving ADF members;

17 (iii) the state of the defence and veteran ecosystem, as it
18 relates to the prevention of suicide and suicidality;

19 (iv) the Commonwealth's implementation of the
20 recommendations of the Defence and Veteran Suicide
21 Royal Commission, including progress, impact and
22 outcomes;

23 (b) to conduct research and inquire into, and report and advise
24 on, specific matters as requested by the Minister under
25 section 110ZFB;

26 (c) to conduct inquiries into the Commonwealth's
27 implementation of the Government's response to the
28 recommendations of the Defence and Veteran Suicide Royal
29 Commission under section 110ZFC;

30 (d) to improve supports for serving and ex-serving Australian
31 Defence Force members;

32 (e) to collaborate with coroners to understand issues contributing
33 to defence and veteran deaths by suicide;

34 (f) to promote understanding of suicide risks for defence
35 members and veterans and factors that can improve the

1 (b) is not subject to direction by any person in relation to the
2 performance of those functions or the exercise of those
3 powers.

4 Note: The Commissioner must comply with a request by the Minister under
5 section 110ZFB to inquire into or advise on specific matters.

6 **110ZJE Appointment of Defence and Veterans' Services**
7 **Commissioner**

8 (1) The Defence and Veterans' Services Commissioner is to be
9 appointed by the Minister by written instrument.

10 Note: The Commissioner may be reappointed: see section 33AA of the *Acts*
11 *Interpretation Act 1901*.

12 (2) The Commissioner is to be appointed on a full-time basis.

13 (3) The Commissioner holds office for the period specified in the
14 instrument of appointment. The period must not exceed 5 years.

15 (4) Before appointing a person as the Commissioner, the Minister must
16 be satisfied that the person has suitable qualifications, training or
17 experience.

18 **110ZJF Remuneration of Defence and Veterans' Services**
19 **Commissioner**

20 (1) The Defence and Veterans' Services Commissioner is to be paid
21 the remuneration that is determined by the Remuneration Tribunal.
22 If no determination of that remuneration by the Tribunal is in
23 operation, the Commissioner is to be paid the remuneration that is
24 prescribed by the rules.

25 (2) The Commissioner is to be paid the allowances that are prescribed
26 by the rules.

27 (3) This section has effect subject to the *Remuneration Tribunal Act*
28 *1973*.

29 **110ZJK Rules in relation to the Defence and Veterans' Services**
30 **Commissioner**

31 The rules may make provision for, or in relation to the following:

- 1 (a) acting appointments;
- 2 (b) leave of absence;
- 3 (c) engaging in paid work outside the duties of the
- 4 Commissioner's office without the Minister's approval;
- 5 (d) disclosure of interests;
- 6 (e) resignation;
- 7 (f) termination of appointment.

8 **110ZJL Other terms and conditions**

9 The Defence and Veterans' Services Commissioner holds office on
10 the terms and conditions (if any) that are determined by the
11 Minister in relation to matters not covered by this Act or the rules.

12 **Division 6—Defence and Veterans' Services Commission**

13 **110ZKA Defence and Veterans' Services Commission**

- 14 (1) The Defence and Veterans' Services Commission is established by
15 this section.
- 16 (2) The Commission consists of:
 - 17 (a) the Defence and Veterans' Services Commissioner;
 - 18 (b) the staff of the Commission referred to in section 110ZKD.

19 *Application of the Finance Law*

- 20 (3) For the purposes of the finance law (within the meaning of the
21 *Public Governance, Performance and Accountability Act 2013*):
 - 22 (a) the Defence and Veterans' Services Commission is a listed
23 entity; and
 - 24 (b) the Defence and Veterans' Services Commissioner is the
25 accountable authority of the Commission; and
 - 26 (c) the following persons are officials of the Commission:
 - 27 (i) the Defence and Veterans' Services Commissioner;
 - 28 (ii) the staff of the Commission referred to in
29 section 110ZKD;
 - 30 (iii) the persons assisting referred to in section 110ZKE; and
 - 31 (iv) consultants engaged under section 110ZKF; and

- 1 (d) the purposes of the Defence and Veterans' Services
2 Commission include:
3 (i) the functions of the Commission referred to in
4 section 110ZKB; and
5 (ii) the functions of the Defence and Veterans' Services
6 Commissioner referred to in section 110ZJB.

7 **110ZKB Functions of the Defence and Veterans' Services**
8 **Commission**

9 The Defence and Veterans' Services Commission's function is to
10 assist the Defence and Veterans' Services Commissioner in the
11 performance of the Commissioner's functions under this Act or
12 any other law of the Commonwealth.

13 **110ZKC Powers of the Defence and Veterans' Services Commission**

14 The Defence and Veterans' Services Commissioner has power to
15 do all things necessary or convenient to be done for or in
16 connection with the performance of the Defence and Veterans'
17 Services Commissioner's functions under this Act or any other law
18 of the Commonwealth.

19 **110ZKD Staff**

- 20 (1) The staff of the Defence and Veterans' Services Commission are to
21 be persons engaged under the *Public Service Act 1999*.
22 (2) For the purposes of the *Public Service Act 1999*:
23 (a) the Defence and Veterans' Services Commissioner and the
24 staff of the Defence and Veterans' Services Commission
25 together constitute a Statutory Agency; and
26 (b) the Defence and Veterans' Services Commissioner is the
27 Head of that Statutory Agency.

28 **110ZKE Persons assisting**

- 29 (1) The Commissioner may be assisted by:
30 (a) officers and employees of Agencies (within the meaning of
31 the *Public Service Act 1999*), and of authorities of the

- 1 Commonwealth, whose services are made available to the
2 Commissioner in connection with the performance of any of
3 the Commissioner's functions; and
4 (b) persons whose services are made available under
5 arrangements made under subsection (2).
- 6 (2) The Commissioner may, on behalf of the Commonwealth, make an
7 arrangement with the appropriate authority or officer of:
8 (a) a State or Territory government; or
9 (b) a State or Territory government authority;
10 under which the government or authority makes officers or
11 employees available to the Commissioner to perform services in
12 connection with the performance of any of the Commissioner's
13 functions.
- 14 (3) An arrangement under subsection (2) may provide for the
15 Commonwealth to reimburse a State or Territory with respect to
16 the services of a person to whom the arrangement relates.
- 17 (4) When performing services for the Commissioner under this
18 section, a person is subject to the directions of the Commissioner.

19 **110ZKF Consultants**

- 20 (1) The Defence and Veterans' Services Commissioner may, on behalf
21 of the Commonwealth, engage consultants to assist in the
22 performance of the Defence and Veterans' Services Commission's
23 functions.
- 24 (2) The consultants are to be engaged on the terms and conditions that
25 the Commissioner determines in writing.

26 **Division 7—Other provisions**

27 **110ZLA Other matters**

- 28 The rules may make provision for, or in relation, to the following:
29 (a) delegation by the Defence and Veterans' Services
30 Commissioner of powers and functions under this Part;
31 (b) reporting by the Defence and Veterans' Services
32 Commissioner or the Defence and Veterans' Services

1 Commission in relation to performance of functions and
2 exercise of powers under this Part.

3 **110ZLB Eligible judges**

4 (1) In this Part:

5 *eligible Judge* means a Judge in relation to whom a consent under
6 subsection (2) and a declaration under subsection (3) are in force.

7 *Judge* means a person who is a Judge of a court created by the
8 Parliament.

9 (2) A Judge may by writing consent to be nominated by the
10 Attorney-General under subsection (3).

11 (3) The Attorney-General may by writing declare Judges in relation to
12 whom consents are in force under subsection (2) to be eligible
13 Judges for the purposes of this Part.

14 **110ZLC Protection of Commissioner, legal practitioners, eligible**
15 **Judges and witnesses**

16 (1) The Commissioner has, in the performance or exercise of functions
17 or powers under this Part, the same protection and immunity as a
18 Justice of the High Court.

19 (2) A legal practitioner assisting the Commissioner or appearing on
20 behalf of a person at a hearing before the Commissioner has the
21 same protection and immunity as a barrister has in appearing for a
22 party in proceedings in the High Court.

23 (3) An eligible Judge has, in relation to the performance or exercise of
24 a function or power conferred on an eligible Judge by this Part, the
25 same protection and immunity as a Justice of the High Court has in
26 relation to proceedings in the High Court.

27 (4) Subject to this Part, a person appearing as a witness at a hearing, or
28 giving or producing information, evidence, a statement, a
29 document or thing under section 110ZGC or 110ZGE, has the
30 same protection as a witness in proceedings in the High Court.

1 **110ZLD Rules**

- 2 (1) The Minister may, by legislative instrument, make rules
3 prescribing matters:
4 (a) required or permitted by this Part to be prescribed by the
5 rules; or
6 (b) necessary or convenient to be prescribed for carrying out or
7 giving effect to this Part.
- 8 (2) To avoid doubt, the rules may not do the following:
9 (a) create an offence or civil penalty;
10 (b) provide powers of:
11 (i) arrest or detention; or
12 (ii) entry, search or seizure;
13 (c) impose a tax;
14 (d) set an amount to be appropriated from the Consolidated
15 Revenue Fund under an appropriation in this Part;
16 (e) directly amend the text of this Part.

17 **110ZLE Review of the operation of this Part**

- 18 (1) The Minister must cause an independent review of the operation of
19 this Part to be undertaken as soon as practicable after the end of the
20 period of 36 months after the commencement of this Part.
- 21 (2) Without limiting subsection (1), the review must consider:
22 (a) the effectiveness of the functions and powers of the Defence
23 and Veterans' Services Commissioner and the Defence and
24 Veterans' Services Commission to achieve the objects of this
25 Part; and
26 (b) whether it would be appropriate to provide for the future
27 operation of the Defence and Veterans' Services
28 Commissioner and the Defence and Veterans' Services
29 Commission in standalone legislation.
- 30 (3) The persons who undertake the review must give the Minister a
31 written report of the review within 6 months of the commencement
32 of the review.

- 1 (4) The Minister must cause a copy of the report of the review to be
2 tabled in each House of the Parliament within 15 sitting days of
3 that House after the report is given to the Minister.
4

(82/24)
