



Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Act 2013

No. 99, 2013

**An Act to amend the *Military Rehabilitation and
Compensation Act 2004* and other legislation, and
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to amend the *Military Rehabilitation and Compensation Act 2004* and other legislation, and for related purposes

[Assented to 28 June 2013]

The Parliament of Australia enacts:

Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures)

Act 2013 No. 99, 2013 1

1 Short title

This Act may be cited as the *Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Act 2013*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2013
2. Schedules 1 to 8	1 July 2013.	1 July 2013
3. Schedule 9	The day this Act receives the Royal Assent.	28 June 2013
4. Schedule 10	1 July 2013.	1 July 2013
5. Schedule 11	10 December 2013.	10 December 2013
6. Schedule 12	1 July 2013.	1 July 2013
7. Schedule 13	The 28th day after this Act receives the Royal Assent.	26 July 2013
8. Schedules 14 to 16	The day this Act receives the Royal Assent.	28 June 2013

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Rehabilitation and transition management

Military Rehabilitation and Compensation Act 2004

1 Subsection 5(1) (definition of service chief)

Repeal the definition.

2 Subsection 10(1)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

3 Section 37

Omit:

A case manager is appointed under Part 5 to assist a full-time member move to civilian life if the member is likely to be discharged from the Defence Force.

substitute:

A case manager is appointed under Part 5 to assist a Permanent Forces member, a continuous full-time Reservist or a part-time Reservist move to civilian life if the person is likely to be discharged from the Defence Force.

4 Subsection 39(1)

Omit “service chief of each arm of the Defence Force”, substitute “Chief of the Defence Force”.

5 Paragraph 39(3)(a)

Omit “the person’s service chief for”, substitute “subject to paragraph (aa), the Chief of the Defence Force for”.

6 Subparagraph 39(3)(a)(i)

Omit “or a continuous full-time Reservist”, substitute “, a continuous full-time Reservist or a part-time Reservist”.

7 Subparagraph 39(3)(a)(ii)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

8 After paragraph 39(3)(a)

Insert:

- (aa) if the Commission, after considering advice from the Chief of the Defence Force, determines, in writing, that the Commission is to be the rehabilitation authority for a specified person at a specified time—the Commission for that time; or

9 At the end of section 39

Add:

- (4) A determination made under paragraph (3)(aa) is not a legislative instrument.

10 Section 42

Omit:

Most decisions under this Part are made by the person’s rehabilitation authority. The rehabilitation authority is either the person’s service chief or the Commission.
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substitute:

Most decisions under this Part are made by the person’s rehabilitation authority. The rehabilitation authority is either the Chief of the Defence Force or the Commission.
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11 Paragraphs 61(3)(a), (b) and (c)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

12 Section 63

Repeal the section, substitute:

63 Simplified outline of this Part

Under this Part, a case manager is appointed to assist a Permanent Forces member, a continuous full-time Reservist or a part-time Reservist move from the Defence Force to civilian life if the member or Reservist is likely to be discharged from the Defence Force for medical reasons (whether or not as a result of a service injury or disease).

13 Paragraph 64(1)(a)

Omit “or a continuous full-time Reservist”, substitute “, a continuous full-time Reservist or a part-time Reservist”.

14 Paragraph 64(1)(b)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

15 Subsection 64(2)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

16 Paragraph 86(1)(d)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

17 Subsection 86(1) (note 2)

Repeal the note, substitute:

Note 2: If the Chief of the Defence Force has advised the Commission under section 10 that a person is unlikely to be able to perform the duties of a part-time Reservist in the future, the person might be entitled to compensation under Part 4.

18 Subsection 91(4)

Omit “member’s service chief”, substitute “Chief of the Defence Force”.

19 Subsection 96(2)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

20 Subsection 96(3) (definition of *pay-related allowance days*)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

21 Subsection 96(3) (definition of *reserve days*)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

22 Subsection 104(4)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

23 Subsection 109(4)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

24 Subsection 114(2)

Omit “Reservist’s service chief”, substitute “Chief of the Defence Force”.

25 Subsection 141(4)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

26 Subsection 144(4)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

27 Subsection 149(2)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

28 Subsection 154(2)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

29 Subsection 161(2)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

30 Subsection 164(4)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

31 Subsection 168(4)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

32 Subsection 173(2)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

33 Subsection 188(6) (definition of *cessation date*)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

34 Subsection 189(3)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

35 Paragraphs 189(3)(a), (b), (c) and (d)

Omit “service chief”, substitute “Chief of the Defence Force”.

36 Paragraph 272(e)

Omit “member’s service chief”, substitute “Chief of the Defence Force”.

37 Paragraph 279(d)

Omit “member’s service chief”, substitute “Chief of the Defence Force”.

38 Section 318

Omit:

<p>The Commission can require information or documents that are relevant to a claim to be provided. A service chief or a person who has made a claim can require the Commission to provide information or documents that are relevant to a claim.</p>

substitute:

The Commission can require information or documents that are relevant to a claim to be provided. The Chief of the Defence Force or a person who has made a claim can require the Commission to provide information or documents that are relevant to a claim.

39 Subsections 319(3) and (4)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

40 Paragraph 331(1)(a)

Omit “member or former member’s service chief”, substitute “Chief of the Defence Force”.

41 Paragraph 331(1)(b)

Omit “deceased member’s service chief”, substitute “Chief of the Defence Force”.

42 Section 335 (heading)

Repeal the heading, substitute:

335 Standard of proof for Commission and Chief of the Defence Force

43 Subsection 335(3)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

44 Section 344

Omit:

Most determinations made by the Commission (the *original determinations*) can be reconsidered and reviewed. This also applies to decisions of service chiefs about rehabilitation.

substitute:

Most determinations made by the Commission (the *original determinations*) can be reconsidered and reviewed. This also applies to decisions of the Chief of the Defence Force about rehabilitation.

45 Section 344

Omit:

The Commission or a service chief must give notice of an original determination to the claimant. The notice must set out the terms of and the reasons for the determination and the claimant's rights to apply for reconsideration or review.

substitute:

The Commission or the Chief of the Defence Force must give notice of an original determination to the claimant. The notice must set out the terms of and the reasons for the determination and the claimant's rights to apply for reconsideration or review.

46 Section 344

Omit:

The Commission or a service chief can also initiate reconsideration of original determinations made by the Commission or the service chief.

substitute:

The Commission or the Chief of the Defence Force can also initiate reconsideration of original determinations made by the Commission or the Chief of the Defence Force.

47 Subsection 345(1) (paragraph (b) of the definition of *original determination*)

Omit "a service chief", substitute "the Chief of the Defence Force".

48 Subsection 345(1) (paragraph (b) of the definition of *original determination*)

Omit "the service chief", substitute "the Chief of the Defence Force".

49 Subsection 346(2)

Omit "relevant service chief", substitute "Chief of the Defence Force".

50 Subsection 346(3)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

51 Subsection 346(3)

Omit “the service chief”, substitute “the Chief of the Defence Force”.

52 Subsection 346(4)

Omit “service chief”, substitute “Chief of the Defence Force”.

53 Section 347 (heading)

Repeal the heading, substitute:

**347 Commission or Chief of the Defence Force initiating
reconsideration of original determinations**

54 Subsection 347(2)

Omit “A service chief”, substitute “The Chief of the Defence Force”.

55 Subsection 347(2)

Omit “the service chief”, substitute “the Chief of the Defence Force”.

56 Subsection 347(3)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

57 Subsection 347(3)

Omit “the service chief”, substitute “the Chief of the Defence Force”.

58 Subsections 347(4), (5) and (6)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

59 Subsection 348(1)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

60 Paragraphs 348(1)(a) and (b)

Omit “that service chief”, substitute “the Chief of the Defence Force”.

61 Subsection 348(2)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

62 Subsection 348(2)

Omit “that service chief”, substitute “the Chief of the Defence Force”.

63 Section 349 (heading)

Repeal the heading, substitute:

**349 Claimant or Chief of the Defence Force initiating
reconsideration of determinations**

64 Subsection 349(2)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

65 Subsection 349(4)

Omit “relevant service chief”, substitute “Chief of the Defence Force”.

66 Subsection 351(3)

Omit “relevant service chief”, substitute “Chief of the Defence Force”.

67 Subsection 353(2) (table item 12)

Omit “relevant service chief”, substitute “Chief of the Defence Force”.

68 Subsection 353(2) (table item 18)

Omit “relevant service chief if the service chief”, substitute “Chief of the Defence Force if the Chief of the Defence Force”.

69 Subsection 354(1A)

Omit “service chief”, substitute “Chief of the Defence Force”.

70 Section 355 (table item 2)

Omit “relevant service chief”, substitute “Chief of the Defence Force”.

71 Subsections 357(3) and (4)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

72 Paragraph 408A(1)(c)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

73 Subparagraph 408A(1)(e)(iii)

Omit “person’s service chief”, substitute “Chief of the Defence Force”.

74 Subsection 409(2) (table item 2)

Omit “A service chief”, substitute “The Chief of the Defence Force”.

75 Section 438

Repeal the section, substitute:

438 Delegation by Chief of the Defence Force and service chiefs

Delegation by Chief of the Defence Force

- (1) The Chief of the Defence Force may, in writing, delegate any of his or her functions or powers under a provision of this Act to the service chief of an arm of the Defence Force.

Delegation by service chiefs

- (2) A service chief to whom functions or powers under a provision of this Act are delegated under subsection (1) may, in writing, delegate any of those functions or powers to:
 - (a) a person:
 - (i) who is engaged under the *Public Service Act 1999* and performing duties in the Department administered by the Defence Minister or the Veterans’ Affairs Minister; and
 - (ii) whose duties relate to matters to which the provision relates; or
 - (b) a member of the Defence Force whose duties relate to matters to which the provision relates.

Chief of the Defence Force is the final decision-maker

- (3) A function or power that is performed or exercised by a person under a delegation under subsection (2) is taken, for the purposes of this Act, to have been performed or exercised by the Chief of the Defence Force.

76 Application provisions

- (1) Part 2 of Chapter 3 of the *Military Rehabilitation and Compensation Act 2004* applies, on and after the commencement of item 6, in relation to a part-time Reservist, where the liability referred to in paragraph 43(1)(b) of that Act was accepted before, on or after the commencement of that item.
- (2) The amendment made by item 13 applies in relation to:
 - (a) a part-time Reservist identified, on or after the commencement of that item, as being likely to be discharged from the Defence Force for medical reasons; and
 - (b) a part-time Reservist identified, before the commencement of that item, as being likely to be discharged from the Defence Force for medical reasons, where he or she has not been so discharged before that commencement.

77 Saving provision

- (1) A thing done by, or in relation to, a service chief under the *Military Rehabilitation and Compensation Act 2004* before the commencement of this item has effect, after that commencement, as if it had been done by, or in relation to, the Chief of the Defence Force under that Act.
- (2) Subitem (1) does not apply in relation to an instrument of delegation under section 438 of that Act.

Safety, Rehabilitation and Compensation Act 1988

78 Section 141 (definition of service chief)

Repeal the definition, substitute:

service chief means the service chief of an arm of the Defence Force.

79 Subsection 143(1)

Omit “employee’s service chief”, substitute “Chief of the Defence Force”.

80 Subsection 148(1)

Omit “a service chief”, substitute “the Chief of the Defence Force”.

81 Paragraph 148(1)(b)

Omit “service chief” (wherever occurring), substitute “Chief of the Defence Force”.

82 Subsection 148(2)

Omit “service chief”, substitute “Chief of the Defence Force”.

83 After paragraph 151(1)(b)

Insert:

(ba) the Chief of the Defence Force; or

84 Subsection 152(2)

Repeal the subsection, substitute:

- (2) The Chief of the Defence Force may, in writing, delegate any of his or her functions or powers under a provision of this Act to a service chief.
- (3) A service chief to whom functions or powers under a provision of this Act are delegated under subsection (2) may, in writing, delegate any of those functions or powers to a person to whom the service chief can, under subsection 438(2) of the MRCA, delegate functions or powers delegated to the service chief under subsection 438(1) of the MRCA.
- (4) A function or power that is performed or exercised by a person under a delegation under subsection (3) is taken, for the purposes of this Act, to have been performed or exercised by the Chief of the Defence Force.

85 Saving provision

- (1) A thing done by, or in relation to, a service chief under Part XI of the *Safety, Rehabilitation and Compensation Act 1988* before the commencement of this item has effect, after that commencement, as if it had been done by, or in relation to, the Chief of the Defence Force under that Part.
- (2) Subitem (1) does not apply in relation to an instrument of delegation under subsection 152(2) of that Act.

Schedule 2—Compensation for permanent impairment

Military Rehabilitation and Compensation Act 2004

1 Paragraph 75(1)(c)

Omit “10 impairment points”, substitute “the number of impairment points required for the person to become entitled to compensation under section 68 or 71”.

2 Subsection 75(1) (note 1)

Omit “10”.

3 Subsection 75(2)

Omit “(but not having regard to the effect of the injuries or diseases on the person’s lifestyle)”, substitute “and after assessing the effect of the injuries or diseases on the person’s lifestyle”.

4 Subsection 75(3)

Omit “10 impairment points”, substitute “the number of impairment points required for the person to become entitled to compensation under section 68 or 71”.

5 Subsection 77(1)

After “section 68”, insert “, to the extent the compensation is in respect of a service injury or disease,”.

6 Paragraph 77(1)(a)

Repeal the paragraph, substitute:

- (a) the date on which a claim was made under section 319 for acceptance of liability for the injury or disease; and

7 Subsection 77(2)

After “subsection 71(1)”, insert “, to the extent the compensation is in respect of a service injury or disease,”.

8 Paragraph 77(2)(a)

Repeal the paragraph, substitute:

- (a) the date on which a claim was made under section 319 for acceptance of liability for the injury or disease; and

9 Subsection 77(3)

Omit “in relation to a deterioration in a person’s condition”, substitute “, to the extent the compensation is in respect of a deterioration in a service injury or disease,”.

10 Paragraph 77(3)(a)

Repeal the paragraph, substitute:

- (a) the date on which the Commission was notified of the deterioration in the service injury or disease; and

11 Subsection 77(4)

After “section 75”, insert “, to the extent the compensation is in respect of a service injury or disease,”.

12 Paragraph 77(4)(a)

Repeal the paragraph, substitute:

- (a) the date on which a claim was made under section 319 for acceptance of liability for the injury or disease; and

13 Application and transitional provisions—interim compensation and dates of effect

- (1) The amendments made by items 1, 2 and 4 apply in relation to a claim for compensation that is made on or after 1 July 2013.
- (2) The amendment made by item 3 applies in relation to a determination that is made under subsection 75(2) of the *Military Rehabilitation and Compensation Act 2004* on or after 1 July 2013, to the extent that the interim compensation is in respect of days that occur on or after 1 July 2013.
- (3) If:
 - (a) immediately before the commencement of this item, a weekly amount of interim compensation was payable to a person

under subsection 75(2) of the *Military Rehabilitation and Compensation Act 2004*; and

- (b) before the commencement of this item, the person had not made a choice under section 78 of that Act in relation to that weekly amount; and
- (c) immediately before the commencement of this item, the Commission was not satisfied that the one or more injuries or diseases concerned had all stabilised;

then:

- (d) the Commission must, as soon as practicable after the commencement of this item, determine the weekly amount of interim compensation under subsection 75(2) of that Act (as amended by this Act); and
 - (e) that amount is payable to the person under that subsection for days on or after 1 July 2013; and
 - (f) the Commission must, as soon as practicable after the commencement of this item, give the person a notice under subsection 76(1) of that Act in relation to that determination; and
 - (g) any notice given to the person under subsection 76(1) of that Act, before the commencement of this item, in relation to the weekly amount of interim compensation payable to the person under subsection 75(2) of that Act immediately before that commencement, is taken to have been withdrawn.
- (4) The amendments made by items 5 and 6 apply, in relation to a service injury or disease of a person, where the Commonwealth first becomes liable to pay compensation to the person under section 68 of the *Military Rehabilitation and Compensation Act 2004*, in relation to that injury or disease, on or after the commencement of those items.
 - (5) The amendments made by items 7 and 8 apply, in relation to a service injury or disease of a person, where the Commonwealth first becomes liable to pay additional compensation to the person under subsection 71(1) of the *Military Rehabilitation and Compensation Act 2004*, in relation to that injury or disease, on or after the commencement of those items.
 - (6) The amendments made by items 9 and 10 apply, in relation to a deterioration in a service injury or disease of a person, where the Commonwealth first becomes liable to pay additional compensation to

the person under subsection 71(2) of the *Military Rehabilitation and Compensation Act 2004*, in relation to that deterioration, on or after the commencement of those items.

- (7) The amendments made by items 11 and 12 apply, in relation to a service injury or disease of a person, where the Commonwealth first becomes liable to pay interim compensation to the person under section 75 of the *Military Rehabilitation and Compensation Act 2004*, in relation to that injury or disease, on or after the commencement of those items.

14 Transitional provision—recalculation of amounts paid before 1 July 2013

If:

- (a) before 1 July 2013, either or both of the following is paid to a person:
 - (i) a weekly amount of compensation under Part 2 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*;
 - (ii) a lump sum under section 78 of that Act; and
- (b) before, on or after 1 July 2013, the Commission, under subsection 67(3) of that Act, makes an instrument amending or substituting Chapter 25 of the guide referred to in section 67 of that Act and the instrument takes effect on 1 July 2013; and
- (c) as a result of the amendments, the Commission recalculates the amount of the weekly amount, the lump sum or both; and
- (d) as a result of the recalculation, a lump sum under that Act is paid to the person;

then section 79 of that Act does not apply in relation to the payment of the lump sum mentioned in paragraph (d).

Schedule 3—Expanded lump sum options for wholly dependent partners

Part 1—Main amendments

Military Rehabilitation and Compensation Act 2004

1 Section 232

Omit:

Division 2 provides the partner with a choice between compensation as a lump sum or as a weekly amount. The Division also provides additional lump sum compensation for a partner if the deceased member died from a service death.

substitute:

Division 2 provides that compensation is payable weekly, but that the partner may choose to convert 25%, 50%, 75% or 100% of the weekly amount to a lump sum. Division 2 also provides additional lump sum compensation for a partner if the deceased member died from a service death.

2 Paragraph 234(1)(b)

Repeal the paragraph, substitute:

- (b) in any case—subject to section 236, the weekly amount mentioned in subsection (5) of this section.

3 Subsection 234(1) (note)

Repeal the note, substitute:

Note: Section 236 allows the partner to choose to convert 25%, 50%, 75% or 100% of the weekly amount to a lump sum.

4 Subsection 234(4)

Repeal the subsection.

5 Subsection 234(5)

Omit “subparagraph (1)(b)(ii)”, substitute “paragraph (1)(b)”.

6 Subsection 234(7) (definition of *partner’s age-based number*)

Omit “or (b)”.

7 Section 235 (heading)

Repeal the heading, substitute:

235 Notifying the partner

8 Paragraph 235(1)(a)

Repeal the paragraph.

9 Paragraph 235(1)(b)

Omit “subparagraph 234(1)(b)(ii)”, substitute “paragraph 234(1)(b)”.

10 Paragraph 235(1)(c)

Repeal the paragraph, substitute:

- (c) advising the partner that he or she can choose, under section 236, to convert 25%, 50%, 75% or 100% of the weekly amount to a lump sum in accordance with that section; and
- (ca) advising the partner of the amount of the lump sum that would be payable to the partner in each of those cases; and

11 Section 236 (heading)

Repeal the heading, substitute:

236 Choice to take lump sum

12 Subsection 236(1)

Repeal the subsection, substitute:

- (1) A partner who receives a notice under section 235 may choose to convert 25%, 50%, 75% or 100% of the weekly amount to a lump sum.

13 Subsections 236(4) and (5)

Repeal the subsections, substitute:

- (4) The Commission may, either before or after the end of that period, extend the period within which the choice must be made if it considers there are special circumstances for doing so.

Amount of lump sum

- (5) The amount of the lump sum is worked out using the following formula:

$$\left(\begin{array}{c} \text{Partner's age-based} \\ \text{number in respect of} \\ \text{the lump sum} \end{array} \times \begin{array}{c} \text{Appropriate} \\ \text{percentage of the} \\ \text{weekly amount under} \\ \text{paragraph 234(1)(b)} \\ \text{at the date of the} \\ \text{member's death} \end{array} \right) - \begin{array}{c} \text{Appropriate} \\ \text{percentage of} \\ \text{the weekly} \\ \text{amounts already} \\ \text{paid to the} \\ \text{partner} \end{array}$$

where:

appropriate percentage means the percentage chosen by the partner under subsection (1).

partner's age-based number, in respect of a lump sum, means the number that is advised by the Australian Government Actuary by reference to the partner's age at the date of the member's death.

No lump sum for legal personal representative of a deceased partner

- (6) The legal personal representative of a deceased partner is not entitled to choose to convert any percentage of the weekly amount that was payable to the deceased partner to a lump sum.

Effect on weekly payment of choosing a lump sum

- (7) If a partner who receives a notice under section 235 chooses to convert 100% of the weekly amount to a lump sum, then, as soon as practicable after the choice is made, the weekly amount ceases to be payable to the partner.
- (8) If a partner who receives a notice under section 235 chooses to convert 25%, 50% or 75% of the weekly amount to a lump sum,

then, as soon as practicable after the choice is made, the weekly amount must be reduced accordingly.

14 Section 237

Repeal the section.

15 Paragraph 301(5)(b)

Repeal the paragraph, substitute:

- (b) at any time and in respect of the member's death, the person chose under section 236 to convert a percentage of the weekly amount mentioned in paragraph 234(1)(b) to a lump sum.

16 Subsection 321(2) (note 2)

Repeal the note, substitute:

- Note 2: The legal personal representative of a deceased partner cannot convert compensation for a member's death to a lump sum (see section 236).

Part 2—Consequential amendments

A New Tax System (Family Assistance) Act 1999

17 Paragraph 7(hc) of Schedule 3

Repeal the paragraph, substitute:

- (hc) a payment of the weekly amount mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004* (including a reduced weekly amount because of a choice under section 236 of that Act) or of a lump sum mentioned in subsection 236(5) of that Act;

Farm Household Support Act 1992

18 Subsection 12(4A)

Omit “a weekly amount mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004*, or has received a lump sum mentioned in that paragraph”, substitute “the weekly amount mentioned in paragraph 234(1)(b) of the *Military Rehabilitation and Compensation Act 2004* (including a reduced weekly amount because of a choice under section 236 of that Act) or has received a lump sum mentioned in subsection 236(5) of that Act”.

Social Security Act 1991

19 Paragraph 47(7)(b)

Repeal the paragraph, substitute:

- (b) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; and

20 Paragraph 103(7)(b)

Repeal the paragraph, substitute:

- (b) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced

weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; and

21 Paragraph 151(7)(b)

Repeal the paragraph, substitute:

- (b) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; and

22 Paragraph 202(7)(b)

Repeal the paragraph, substitute:

- (b) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; and

23 Paragraph 500S(5)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

24 Paragraph 552(3)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

25 Section 573A (table item 4A)

After “Paragraph 234(1)(b)”, insert “or subsection 236(5)”.

26 Paragraph 578(4)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

27 Paragraph 614(3B)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

28 Paragraph 660YCF(6)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

29 Paragraph 686(4A)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

30 Paragraph 735(5)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

31 Subsection 771HI(4)

Omit “has received a lump sum, or is receiving weekly amounts, mentioned in paragraph 234(1)(b) of the MRCA”, substitute “is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA”.

32 Paragraph 787(5)(b)

Repeal the paragraph, substitute:

- (b) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.

33 Subparagraph 1061PE(4)(e)(viii)

Omit “compensation mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act”, substitute “the weekly amount mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act (including a reduced weekly amount because of a choice under section 236 of that Act) or a lump sum mentioned in subsection 236(5) of that Act”.

34 Paragraph 1061PJ(4)(c)

Repeal the paragraph, substitute:

- (c) the weekly amount mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act (including a reduced weekly amount because of a choice under section 236 of that Act).

35 Paragraph 1064(7)(a)

Omit “has received a lump sum, or is receiving a weekly amount, mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act”, substitute “is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA”.

36 Paragraph 1065(6)(a)

Omit “has received a lump sum, or is receiving a weekly amount, mentioned in paragraph 234(1)(b) of the Military Rehabilitation and Compensation Act”, substitute “is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA”.

37 Section 1067G (table items 4A and 20A in Module L of the Youth Allowance Rate Calculator)

After “Paragraph 234(1)(b)”, insert “or subsection 236(5)”.

Veterans’ Entitlements Act 1986

38 Subsection 5E(1) (subparagraph (b)(ii) of the definition of war widow)

Repeal the subparagraph, substitute:

- (ii) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; or

39 Subsection 5E(1) (subparagraph (b)(ii) of the definition of war widower)

Repeal the subparagraph, substitute:

- (ii) is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA; or

40 Subsection 5H(1) (paragraphs (ca) and (cb) of the definition of adjusted income)

Repeal the paragraphs, substitute:

- (ca) if compensation under section 233 of the MRCA is payable to the person and the person has not made a choice under

- section 236 of the MRCA—any payment of the weekly amount mentioned in paragraph 234(1)(b) of the MRCA; and
- (cb) if compensation under section 233 of the MRCA is payable to the person and the person has made a choice under section 236 of the MRCA—any weekly amount mentioned in paragraph 234(1)(b) of the MRCA that the person would have been paid if the person had not made that choice; and

41 Paragraph 5H(8)(zu)

Omit “subparagraph 234(1)(b)(i), or of a weekly amount mentioned in subparagraph 234(1)(b)(ii), of the MRCA”, substitute “subsection 236(5) of the MRCA or of the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA)”.

42 Subsection 5Q(1) (paragraph (b) of the definition of war widow/war widower—pensioner)

Repeal the paragraph, substitute:

- (b) a person who is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or who has received a lump sum mentioned in subsection 236(5) of the MRCA.

43 Paragraph 45N(1)(d)

Omit “a lump sum mentioned in paragraph 234(1)(b) of the MRCA, or a weekly amount mentioned in that paragraph”, substitute “the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA), or a lump sum mentioned in subsection 236(5) of the MRCA”.

44 Subparagraph 45R(2)(a)(ii)

Omit “subparagraph 234(1)(b)(i)”, substitute “subsection 236(5)”.

45 Subparagraph 45R(2)(a)(iii)

Omit “a weekly amount mentioned in subparagraph 234(1)(b)(ii) of the MRCA”, substitute “the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA)”.

46 Subparagraph 45TB(3)(a)(iii)

Omit “a lump sum or a weekly amount mentioned in paragraph 234(1)(b) of the MRCA”, substitute “the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or a lump sum mentioned in subsection 236(5) of the MRCA”.

47 Subparagraph 45TB(3)(a)(iii)

Omit “lump sum or weekly amount”, substitute “weekly amount or lump sum”.

48 Paragraph 52Z(3A)(j)

Omit “subparagraph 234(1)(b)(ii) of the MRCA”, substitute “paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA)”.

Part 3—Saving and transitional provisions

49 Definition

In this Part:

old lump sum means a lump sum mentioned in subparagraph 234(1)(b)(i) of the *Military Rehabilitation and Compensation Act 2004* (as in force before the commencement of this Part), whether that lump sum is paid before, on or after that commencement.

50 Lump sum choice made before commencement—old law continues to apply

- (1) The amendment made by item 12 does not affect the validity of a choice made before the commencement of that item under section 236 of the *Military Rehabilitation and Compensation Act 2004*.
- (2) Division 2 of Part 2 of Chapter 5 of the *Military Rehabilitation and Compensation Act 2004*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a choice mentioned in subitem (1).

51 Lump sum choice not made before commencement—new notice to be given

If:

- (a) before the commencement of this item, the Commission gave a wholly dependent partner of a deceased member a notice (the **old notice**) under section 235 of the *Military Rehabilitation and Compensation Act 2004*; and
- (b) immediately before that commencement, the partner had not made a choice under section 236 of that Act; and
- (c) immediately before that commencement, the period for making that choice had not ended;

then:

- (d) the old notice is taken to have been withdrawn; and
- (e) as soon as practicable after that commencement, the Commission must give the partner a written notice under section 235 of that Act (as amended by this Act).

52 Preserving things done before commencement—*Military Rehabilitation and Compensation Act 2004*

If:

- (a) a choice was made before the commencement of this item under section 236 of the *Military Rehabilitation and Compensation Act 2004*; and
- (b) the choice was to be paid a lump sum;

then paragraph 301(5)(b) of that Act applies, on and after that commencement, as if the choice were a choice of the kind referred to in that paragraph.

53 Preserving things done before commencement—*A New Tax System (Family Assistance) Act 1999*

Paragraph 7(hc) of Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* applies on and after the commencement of this item as if a reference to a lump sum mentioned in subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004* included a reference to an old lump sum.

54 Preserving things done before commencement—*Farm Household Support Act 1992*

Subsection 12(4A) of the *Farm Household Support Act 1992* applies on and after the commencement of this item as if a reference to a lump sum mentioned in subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004* included a reference to an old lump sum.

55 Preserving things done before commencement—*Social Security Act 1991*

- (1) The following provisions of the *Social Security Act 1991* apply on and after the commencement of this item as if a reference to a lump sum mentioned in subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004* included a reference to an old lump sum:
 - (a) paragraph 47(7)(b);
 - (b) paragraph 103(7)(b);
 - (c) paragraph 151(7)(b);
 - (d) paragraph 202(7)(b);
 - (e) paragraph 500S(5)(b);
 - (f) paragraph 552(3)(b);

- (g) paragraph 578(4)(b);
 - (h) paragraph 614(3B)(b);
 - (i) paragraph 660YCF(6)(b);
 - (j) paragraph 686(4A)(b);
 - (k) paragraph 735(5)(b);
 - (l) subsection 771HI(4);
 - (m) paragraph 787(5)(b);
 - (n) subparagraph 1061PE(4)(e)(viii);
 - (o) paragraph 1064(7)(a);
 - (p) paragraph 1065(6)(a).
- (2) The following provisions of the *Social Security Act 1991* apply on and after the commencement of this item as if a reference to subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004* included a reference to subparagraph 234(1)(b)(i) of the *Military Rehabilitation and Compensation Act 2004* (as in force before the commencement of this Part):
- (a) section 573A (table item 4A);
 - (b) section 1067G (table items 4A and 20A in Module L of the Youth Allowance Rate Calculator).

56 Preserving things done before commencement—Veterans' Entitlements Act 1986

- (1) The following provisions of the *Veterans' Entitlements Act 1986* apply on and after the commencement of this item as if a reference to a lump sum mentioned in subsection 236(5) of the *Military Rehabilitation and Compensation Act 2004* included a reference to an old lump sum:
- (a) subparagraph (b)(ii) of the definition of **war widow** in subsection 5E(1);
 - (b) subparagraph (b)(ii) of the definition of **war widower** in subsection 5E(1);
 - (c) paragraph 5H(8)(zu);
 - (d) paragraph (b) of the definition of **war widow/war widower—pensioner** in subsection 5Q(1);
 - (e) paragraph 45N(1)(d);
 - (f) subparagraph 45R(2)(a)(ii);
 - (g) subparagraph 45TB(3)(a)(iii).

- (2) If a choice was made before the commencement of this item under section 236 of the *Military Rehabilitation and Compensation Act 2004* (the **MRCA**), then:
- (a) if the choice was to be paid the weekly amount—paragraph (ca) of the definition of **adjusted income** in subsection 5H(1) of the *Veterans' Entitlements Act 1986* applies, on and after that commencement, as if the person had not made a choice under section 236 of the MRCA (as amended by this Schedule); and
 - (b) if the choice was to be paid the lump sum—paragraph (cb) of that definition is taken to apply, on and after that commencement, as if the choice were a choice under section 236 of the MRCA (as amended by this Schedule).

Schedule 4—Weekly compensation for eligible young persons

Military Rehabilitation and Compensation Act 2004

1 Section 254

Omit “\$66”, substitute “\$135.34”.

2 Section 254 (note)

Omit “\$66”, substitute “\$135.34”.

3 No indexation of amount for indexation year commencing on 1 July 2013

The dollar amount mentioned in section 254 of the *Military Rehabilitation and Compensation Act 2004*, as inserted by item 1 of this Schedule, is not to be indexed for the indexation year commencing on 1 July 2013 in accordance with Part 1 of Chapter 11 of that Act.

Note: Indexation of that dollar amount will occur for the indexation year commencing on 1 July 2014 and later indexation years.

Schedule 5—Compensation for financial advice and legal advice

Part 1—Main amendments

Military Rehabilitation and Compensation Act 2004

1 Subsection 5(1)

Insert:

practising lawyer means a person who is admitted to the legal profession by a federal court or a Supreme Court of a State or Territory and who holds a practising certificate (however described) entitling the person to practise that profession.

2 Section 81 (heading)

Repeal the heading, substitute:

81 Compensation for cost of financial advice and legal advice

Financial advice

3 Section 81

Before “The”, insert “(1)”.

4 Paragraph 81(c)

Repeal the paragraph, substitute:

- (c) the financial advice was obtained from a suitably qualified financial adviser after the Commission had made the determination; and
- (ca) the financial advice was obtained in respect of the choice the person may make under subsection 78(1); and

5 At the end of section 81

Add:

Legal advice

- (2) The Commonwealth is liable to pay compensation for the cost of legal advice obtained by a person if:
- (a) the Commonwealth is liable to pay compensation to the person under section 68, 71 or 75; and
 - (b) the Commission determines that the impairment suffered by the person as a result of one or more service injuries or diseases constitutes at least 50 impairment points; and
 - (c) the legal advice was obtained from a practising lawyer after the Commission had made the determination; and
 - (d) the legal advice was obtained in respect of the choice the person may make under subsection 78(1); and
 - (e) a claim for compensation in respect of the person has been made under section 319.

6 Section 82 (heading)

Repeal the heading, substitute:

82 Amount of financial advice and legal advice compensation

7 Before subsection 82(1)

Insert:

Financial advice

8 Subsection 82(1)

Omit “section 81”, substitute “subsection 81(1)”.

9 Subsection 82(1)

Omit “However, the total amount must not exceed \$1,200.”.

10 Subsection 82(1) (note)

Repeal the note.

11 Subsection 82(2)

Repeal the subsection, substitute:

Legal advice

- (2) The Commission must determine an amount of compensation under subsection 81(2) for the cost of the legal advice that it considers reasonable.

Limit

- (3) The sum of the total amount of compensation under subsections 81(1) and (2) in respect of the person must not exceed \$2,400.

Note: The amount of \$2,400 is indexed under section 404.

- (4) The amount of \$2,400 applies both to financial advice and legal advice under this Part for the person and financial advice and legal advice under Part 6 (Special Rate Disability Pension) for the person if the date specified in the first notice given to the person under section 76, and the date on which the offer under Part 6 was made, are the same.

12 Subsection 83(1)

After “cost of financial advice”, insert “or legal advice”.

13 Subparagraphs 83(1)(b)(i) and (ii)

Omit “financial”.

14 Subsection 83(2)

Omit “financial” (wherever occurring).

15 Subsection 204(2)

After “financial advice”, insert “, legal advice”.

16 Section 205 (heading)

Repeal the heading, substitute:

205 Compensation for cost of financial advice and legal advice

Financial advice

17 Section 205

Before “The”, insert “(1)”.

18 At the end of section 205

Add:

Legal advice

- (2) The Commonwealth is liable to pay compensation for the cost of legal advice obtained by a person if:
- (a) the legal advice was obtained from a practising lawyer; and
 - (b) the legal advice was obtained in respect of the choice the person may make under this Part; and
 - (c) a claim for compensation in respect of the person has been made under section 319.

19 Section 206 (heading)

Repeal the heading, substitute:

206 Amount of financial advice and legal advice compensation

20 Before subsection 206(1)

Insert:

Financial advice

21 Subsection 206(1)

Omit “section 205”, substitute “subsection 205(1)”.

22 Subsection 206(1)

Omit “The total amount must not exceed \$1,200.”.

23 Subsection 206(1) (note)

Repeal the note.

24 Subsection 206(2)

Repeal the subsection, substitute:

Legal advice

- (2) The Commission must determine the amount of compensation under subsection 205(2) for the cost of the legal advice that it considers reasonable.

Limit

- (3) The sum of the total amount of compensation under subsections 205(1) and (2) in respect of the person must not exceed \$2,400.

Note: The amount of \$2,400 is indexed under section 404.

- (4) The amount of \$2,400 applies both to financial advice and legal advice under this Part and financial advice and legal advice under Part 2 if the day on which the offer under this Part was made, and the day specified in the first notice given to the person under section 76, are the same.

25 Subsection 207(1)

After “cost of financial advice”, insert “or legal advice”.

26 Subparagraphs 207(1)(b)(i) and (ii)

Omit “financial”.

27 Subsection 207(2)

Omit “financial” (wherever occurring).

28 Section 232

Omit:

Division 3 provides compensation for the cost of financial advice obtained for a partner who is entitled to compensation under Division 2.
--

substitute:

Division 3 provides compensation for the cost of financial advice and legal advice obtained for a partner who is entitled to compensation under Division 2.

29 Division 3 of Part 2 of Chapter 5 (heading)

Repeal the heading, substitute:

Division 3—Compensation for cost of financial advice and legal advice for wholly dependent partners

30 Section 239 (heading)

Repeal the heading, substitute:

239 Compensation for cost of financial advice and legal advice

Financial advice

31 Section 239

Before “The”, insert “(1)”.

32 After paragraph 239(b)

Insert:

- (ba) the financial advice was obtained in respect of the choice the partner may make under subsection 236(1); and

33 At the end of section 239

Add:

Legal advice

- (2) The Commonwealth is liable to pay compensation for the cost of legal advice obtained by a wholly dependent partner of a deceased member if:
- (a) the partner is entitled to compensation under section 233; and
 - (b) the legal advice was obtained from a practising lawyer after the member’s death; and
 - (c) the legal advice was obtained in respect of the choice the partner may make under subsection 236(1); and

- (d) a claim for compensation in respect of the partner has been made under section 319.

34 Section 240 (heading)

Repeal the heading, substitute:

240 Amount of financial advice and legal advice compensation

Financial advice

35 Section 240

Before “The Commission”, insert “(1)”.

36 Section 240

Omit “section 239”, substitute “subsection 239(1)”.

37 Section 240

Omit “The total amount (including all previous amounts paid in respect of the partner under this section) must not exceed \$1,200.”.

38 Section 240 (note)

Repeal the note.

39 At the end of section 240

Add:

Legal advice

- (2) The Commission must determine the amount of compensation under subsection 239(2) for the cost of the legal advice that it considers reasonable.

Limit

- (3) The sum of the total amount of compensation under subsections 239(1) and (2) in respect of the partner must not exceed \$2,400.

Note: The amount of \$2,400 is indexed under section 404.

40 Subsection 241(1)

After “for the cost of the financial advice”, insert “or legal advice”.

41 Subparagraphs 241(1)(b)(i) and (ii)

Omit “financial”.

42 Subsection 241(2)

Omit “financial” (wherever occurring).

43 Paragraph 404(1)(c)

Repeal the paragraph, substitute:

(c) subsection 82(3);

44 Paragraph 404(1)(e)

Repeal the paragraph, substitute:

(e) subsection 206(3);

45 Paragraph 404(1)(i)

Repeal the paragraph, substitute:

(i) subsection 240(3);

46 Application provision

The amendments made by items 2 to 42 apply in relation to financial advice or legal advice obtained on or after the commencement of those items.

47 No indexation of amounts for indexation year commencing on 1 July 2013

The dollar amounts mentioned in subsections 82(3), 206(3) and 240(3) of the *Military Rehabilitation and Compensation Act 2004*, as amended by this Schedule, are not to be indexed for the indexation year commencing on 1 July 2013 in accordance with Part 1 of Chapter 11 of that Act.

Note: Indexation of those dollar amounts will occur for the indexation year commencing on 1 July 2014 and later indexation years.

Part 2—Consequential amendments

Income Tax Assessment Act 1997

48 Section 52-114 (table item 4)

After “financial advice”, insert “or legal advice”.

Schedule 6—Special Rate Disability Pension

Military Rehabilitation and Compensation Act 2004

1 Paragraph 199(1)(a)

Repeal the paragraph, substitute:

(a) at least one of the following applies:

- (i) the person is receiving compensation worked out under Division 2 of Part 4 as a result of one or more service injuries or diseases;
- (ii) the amount, under section 126, of the person's compensation for a week, as a result of one or more service injuries or diseases, is nil or a negative amount;
- (iii) the person has been paid a lump sum under section 138 in respect of the person's incapacity for work as a result of one or more service injuries or diseases;

2 Before subsection 204(2)

Insert:

Permanent impairment compensation

3 Subsection 204(2)

Omit "The reduction", substitute "There is a reduction that".

4 Before subsection 204(5)

Insert:

Commonwealth superannuation

5 Subsection 204(5)

Omit "further".

6 At the end of section 204

Add:

Relationship with subsection 415(4)

- (7) This section does not limit the application of subsection 415(4) in relation to a Special Rate Disability Pension.

Note: Subsection (7) has the effect that if the maximum weekly amount of a Special Rate Disability Pension is reduced in accordance with this section, that amount may be further reduced in accordance with subsection 415(4).

7 After section 204

Insert:

204A Overpayment if payment of lump sum under section 138

- (1) This section applies if the Commission makes a determination under subsection 203(1) in relation to a person where subparagraph 199(1)(a)(iii) applies.
- (2) An amount, equal to so much of the lump sum under section 138 as is worked out in accordance with a legislative instrument made by the Commission under this subsection, is taken to be an amount of compensation that should not have been paid to the person.

Note 1: Section 415 allows the Commission to recover that amount as a debt due to the Commonwealth and allows that amount to be deducted from an amount that is payable under this Act.

Note 2: Section 1228 of the *Social Security Act 1991* provides that amount is recoverable under that Act by means of deductions from payments under that Act.

Note 3: Section 205 of the *Veterans' Entitlements Act 1986* provides that amount is recoverable under that Act by means of deductions from payments under that Act.

8 Application provisions

- (1) Subparagraph 199(1)(a)(ii) of the *Military Rehabilitation and Compensation Act 2004*, as inserted by this Schedule, applies in relation to a week ending on or after 1 July 2013.
- (2) Subparagraph 199(1)(a)(iii) of the *Military Rehabilitation and Compensation Act 2004*, as inserted by this Schedule, applies in relation to lump sums paid before, on or after 1 July 2013.

Schedule 7—Superannuation

Military Rehabilitation and Compensation Act 2004

1 Subsection 5(1) (before paragraph (a) of the definition of *Commonwealth superannuation scheme*)

Insert:

(aa) for the purposes of the following provisions:

- (i) section 89A;
 - (ii) Division 7 of Part 3 of Chapter 4;
 - (iii) sections 416 to 418 (to the extent to which they relate to compensation under Part 3 of Chapter 4);
- any superannuation scheme under which or to which, or retirement savings account to which, the Commonwealth or a Commonwealth authority makes contributions on behalf of employees (other than members of the Defence Force) and includes a superannuation scheme established or maintained by the Commonwealth or a Commonwealth authority; or

2 Subsection 5(1) (paragraph (a) of the definition of *Commonwealth superannuation scheme*)

After “which”, insert “or to which, or retirement savings account to which,”.

3 Subsection 5(1) (paragraph (a) of the definition of *Commonwealth superannuation scheme*)

Omit “, a Commonwealth authority or a licensed corporation (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*)”, substitute “or a Commonwealth authority”.

4 Subsection 5(1) (paragraph (a) of the definition of *Commonwealth superannuation scheme*)

Omit “, a Commonwealth authority or a licensed corporation” (last occurring), substitute “or a Commonwealth authority”.

5 Subsection 5(1)

Insert:

retirement savings account means a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997*.

6 Section 84

After:

Normal earnings are worked out under Divisions 2 to 6, depending on the member's current status (for example, as a Permanent Forces member or a Reservist) and their status at the time the service injury or disease occurred.

insert:

Division 7 deals with how to work out the amount of compensation a member receives for a week if the member receives or has received Commonwealth superannuation.

7 At the end of subsection 85(2)

Add "or 89A".

8 Subsection 85(2) (note)

Omit "worked out under section 89", substitute "of compensation".

9 At the end of subsection 86(2)

Add "or 89A".

10 Subsection 86(2) (note)

Omit "worked out under section 89", substitute "of compensation".

11 At the end of subsection 87(2)

Add "or 89A".

12 Subsection 87(2) (note)

Omit "worked out under section 89", substitute "of compensation".

13 At the end of subsection 89(1)

Add:

Note: See subsection (4) for an exception.

14 At the end of section 89

Add:

- (4) Subsection (1) does not apply if section 89A applies.

15 At the end of Division 1 of Part 3 of Chapter 4

Add:

89A Amount of compensation for persons receiving Commonwealth superannuation

The amount of compensation that the Commonwealth is liable, under section 85, 86 or 87, to pay for a week to a person who receives either or both a pension or lump sum under a Commonwealth superannuation scheme is worked out in accordance with the following sections:

- (a) if the person is receiving only a pension—section 116B;
- (b) if the person has received only a lump sum—section 116C;
- (c) if the person is receiving a pension and has received a lump sum—section 116D.

16 At the end of Part 3 of Chapter 4

Add:

Division 7—Amount of compensation where Commonwealth superannuation is received**116A Simplified outline of this Division**

This Division tells you how to work out the amount of compensation a member receives for a week if the member receives or has received Commonwealth superannuation.

The method of working out the amount of compensation depends on whether the member:

- (a) is receiving only a Commonwealth superannuation pension (see section 116B); or

- (b) has received only a Commonwealth superannuation lump sum (see section 116C); or
- (c) has received a lump sum and is receiving a pension (see section 116D).

Basically, the amount of compensation paid is the amount worked out under Division 1 reduced by the amount of superannuation received.

116B Amount of compensation for person receiving only Commonwealth superannuation pension

- (1) If paragraph 89A(a) applies to a person, the amount of compensation that the Commonwealth is liable, under section 85, 86 or 87, to pay to the person for a week is worked out using the following formula:

$$\text{Person's Division 1 compensation amount} - \text{Person's superannuation pension amount}$$

- (2) In this Division:

Division 1 compensation amount for a person for a week means the amount of compensation the person would have been paid for the week if subsection 89(1) had applied.

superannuation pension amount for a person who receives a pension for a week under a Commonwealth superannuation scheme means:

- (a) if the scheme identifies a part of the pension as attributable to the contributions made under or to the scheme by the Commonwealth or a Commonwealth authority—the amount of that part; or
- (b) in any other case, either:
 - (i) the amount assessed by the Commission to be the part of the pension that is attributable to the contributions made under or to the scheme by the Commonwealth or a Commonwealth authority; or
 - (ii) if such an assessment cannot be made—the amount of the pension received by the person for the week.

116C Amount of compensation for person who has received only Commonwealth superannuation lump sum

- (1) If paragraph 89A(b) applies to a person, the amount of compensation that the Commonwealth is liable, under section 85, 86 or 87, to pay to the person for a week is worked out using the following formula:

$$\text{Person's Division 1 compensation amount} - \frac{\text{Person's superannuation lump sum amount}}{\text{Person's superannuation age-based number}}$$

- (2) In this Division:

superannuation age-based number for a person who receives a lump sum under a Commonwealth superannuation scheme means the number that is advised by the Australian Government Actuary by reference to the person's age on the day on which the lump sum is paid.

superannuation lump sum amount for a person who receives a lump sum under a Commonwealth superannuation scheme means:

- (a) if the scheme identifies a part of the lump sum as attributable to the contributions made under or to the scheme by the Commonwealth or a Commonwealth authority—the amount of that part; or
- (b) in any other case, either:
 - (i) the amount assessed by the Commission to be the part of the lump sum that is attributable to the contributions made under or to the scheme by the Commonwealth or a Commonwealth authority; or
 - (ii) if such an assessment cannot be made—the amount of the lump sum.

Note: Subsection 116B(2) defines ***Division 1 compensation amount***.

116D Amount of compensation for person receiving both superannuation pension and lump sum

If paragraph 89A(c) applies to a person, the amount of compensation that the Commonwealth is liable, under section 85,

86 or 87, to pay to the person for a week is worked out using the following formula:

$$\text{Person's Division 1 compensation amount} - \left(\text{Person's superannuation pension amount for the week} + \frac{\text{Person's superannuation lump sum amount}}{\text{Person's superannuation age-based number}} \right)$$

Note: Subsection 116B(2) defines *Division 1 compensation amount* and *superannuation pension amount*. Subsection 116C(2) defines *superannuation age-based number* and *superannuation lump sum amount*.

116E No compensation if amount worked out is nil or a negative amount

If an amount of compensation worked out under this Division is nil or a negative amount, then the Commonwealth is not liable to pay the compensation for the week.

17 Subsection 134(2) (paragraph (a) of the definition of *superannuation pension amount*)

After “under”, insert “or to”.

18 Subsection 134(2) (paragraph (a) of the definition of *superannuation pension amount*)

Omit “, a Commonwealth authority or a licensed corporation”, substitute “or a Commonwealth authority”.

19 Subsection 134(2) (subparagraph (b)(i) of the definition of *superannuation pension amount*)

After “under”, insert “or to”.

20 Subsection 134(2) (subparagraph (b)(i) of the definition of *superannuation pension amount*)

Omit “, a Commonwealth authority or a licensed corporation”, substitute “or a Commonwealth authority”.

21 Subsection 135(2) (paragraph (a) of the definition of *superannuation lump sum amount*)

After “under”, insert “or to”.

22 Subsection 135(2) (paragraph (a) of the definition of *superannuation lump sum amount*)

Omit “, a Commonwealth authority or a licensed corporation”,
substitute “or a Commonwealth authority”.

23 Subsection 135(2) (subparagraph (b)(i) of the definition of *superannuation lump sum amount*)

After “under”, insert “or to”.

24 Subsection 135(2) (subparagraph (b)(i) of the definition of *superannuation lump sum amount*)

Omit “, a Commonwealth authority or a licensed corporation”,
substitute “or a Commonwealth authority”.

25 Paragraph 417(c)

Omit “Part 4 or 5”, substitute “Part 3, 4 or 5”.

26 Before subparagraph 417(c)(i)

Insert:

- (ia) Division 7 of Part 3 of Chapter 4 (compensation where
superannuation received); or

27 Paragraph 420(4)(a)

Omit “Part 4 or 5”, substitute “Part 3, 4 or 5”.

28 Before subparagraph 420(4)(b)(i)

Insert:

- (ia) Division 7 of Part 3 of Chapter 4 (compensation where
superannuation received); or

29 Application provisions

Compensation provisions

- (1) The amendments made by items 1, 5, 14, 15 and 16 apply in relation to a week starting on or after 1 July 2013, where the liability to pay compensation under section 85, 86 or 87 of the *Military Rehabilitation and Compensation Act 2004* arose because of a claim for compensation made on or after 1 July 2013.

- (2) In respect of the amendments made by items 2, 5, 17, 19, 21 and 23:
 - (a) section 126, Subdivision D of Division 2 of Part 4 of Chapter 4 and section 138 of the *Military Rehabilitation and Compensation Act 2004* apply in relation to a week starting on or after 1 July 2013, where the liability to pay compensation under section 118 of that Act arose because of a claim for compensation made on or after 1 July 2013; and
 - (b) section 204 of that Act applies in relation to a week starting on or after 1 July 2013, where the offer under subsection 199(2) of that Act is made on or after 1 July 2013.
- (3) In respect of the amendments made by items 3, 4, 18, 20, 22 and 24:
 - (a) section 126, Subdivision D of Division 2 of Part 4 of Chapter 4 and section 138 of the *Military Rehabilitation and Compensation Act 2004* apply in relation to a week starting on or after 1 July 2013, where the liability to pay compensation under section 118 of that Act arose because of a claim for compensation made before, on or after 1 July 2013; and
 - (b) section 204 of that Act applies in relation to a week starting on or after 1 July 2013, where the offer under subsection 199(2) of that Act was made before, on or after 1 July 2013.

Retirement provisions

- (4) In respect of the amendments made by items 1 to 5 and 25 to 28, Division 2 of Part 3 of Chapter 11 of the *Military Rehabilitation and Compensation Act 2004* applies in relation to retirements that occur on or after 1 July 2013.

Schedule 8—Remittal power of Veterans' Review Board

Military Rehabilitation and Compensation Act 2004

1 At the end of Part 4 of Chapter 8

Add:

353A Remittal power of Board

Joint claim

(1) If:

- (a) a person makes a joint claim under paragraphs 319(1)(a) and (d) in respect of a service injury or a service disease; and
- (b) the Commission makes a determination rejecting the claim; and
- (c) the person applies to the Board for review of the determination; and
- (d) the Board makes a determination, favourable to the person, in relation to the claim, to the extent it relates to paragraph 319(1)(a);

the Board may require the Commission to reconsider the claim, to the extent it relates to paragraph 319(1)(d).

Note: A determination of the Board under paragraph (d) is a reviewable determination and may be reviewed under Part 5.

(2) The Commission must then reconsider the claim, to the extent it relates to paragraph 319(1)(d), and must:

- (a) carry out an assessment of the person's needs under section 325; and
- (b) make a determination in relation to the claim, to the extent it relates to paragraph 319(1)(d).

Note: A determination of the Commission under paragraph (b) is an original determination and may be reconsidered under Part 3 or reviewed under this Part.

Separate claims

(3) If:

- (a) a person makes a claim under paragraph 319(1)(a) in respect of a service injury or a service disease and, before the Commission has determined that claim, the person makes another claim under paragraph 319(1)(d) in respect of the injury or disease; and
- (b) the Commission makes determinations rejecting the claims; and
- (c) the person applies to the Board for review of the determinations; and
- (d) the Board makes a determination, favourable to the person, in relation to the claim under paragraph 319(1)(a);

the Board may require the Commission to reconsider the claim under paragraph 319(1)(d).

Note: A determination of the Board under paragraph (d) is a reviewable determination and may be reviewed under Part 5.

(4) The Commission must then reconsider the claim under paragraph 319(1)(d) and must:

- (a) carry out an assessment of the person's needs under section 325; and
- (b) make a determination in relation to the claim under paragraph 319(1)(d).

Note: A determination of the Commission under paragraph (b) is an original determination and may be reconsidered under Part 3 or reviewed under this Part.

No limit on Board's powers

(5) This section does not limit the Board's powers on a review of an original determination.

2 Application provision

The amendment made by item 1 applies in relation to determinations of the Board under paragraph 353A(1)(d) or (3)(d) of the *Military Rehabilitation and Compensation Act 2004* on or after the commencement of that item (whether the application to the Board for review was made before, on or after that commencement).

Schedule 9—Membership of the Military Rehabilitation and Compensation Commission

Military Rehabilitation and Compensation Act 2004

1 Subparagraph 364(1)(b)(iii)

Omit “a person who is”, substitute “2 persons who are”.

2 Subparagraph 364(1)(b)(iii)

Omit “Minister and”, substitute “Minister, each of whom”.

3 Section 367 (heading)

Omit “**member**”, substitute “**members**”.

4 Paragraph 367(2)(b)

Omit “of the”, substitute “of a”.

Schedule 10—Aggravation of or material contribution to war-caused or defence-caused injury or disease

Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004

1 Subsection 7(2) (notes 1 and 2)

Repeal the notes, substitute:

Note: After the commencement date, benefits stop being provided under the SRCA for such aggravations and material contributions (see section 4AA of the SRCA).

2 After subsection 7(2)

Insert:

(2A) Subsection (2) is subject to section 9.

Note: Section 9 sets out when the MRCA does not apply to aggravations of, or material contributions to, VEA injuries and diseases.

3 Subsection 8(2) (notes 1 and 2)

Repeal the notes, substitute:

Note: After the commencement date, benefits stop being provided under the SRCA for such aggravations and material contributions (see subsection 6A(2A) of the SRCA).

4 After subsection 8(2)

Insert:

(2A) Subsection (2) is subject to section 9.

Note: Section 9 sets out when the MRCA does not apply to aggravations of, or material contributions to, VEA injuries and diseases.

5 Section 9

Repeal the section, substitute:

9 MRCA does not apply to aggravations of, or material contributions to, VEA injuries and diseases

Defence service

(1) If:

- (a) before the commencement date, a person was suffering from a war-caused or defence-caused injury or disease (within the meaning of the VEA); and
- (b) on or after 1 July 2013, there is an aggravation of, or a material contribution to, that injury or disease; and
- (c) the aggravation or material contribution either:
 - (i) relates to defence service rendered by the person on or after 1 July 2013; or
 - (ii) relates to defence service rendered by the person before, and on or after, 1 July 2013;

then the MRCA does not apply to that aggravation or material contribution.

Note: The person may be able to apply under section 15 of the VEA for an increase in a rate of pension on the ground that the incapacity of the person has increased because of the aggravation of, or material contribution to, that injury or disease.

- (2) To avoid doubt, defence service is rendered before, and on or after, 1 July 2013 whether the service spans that day or is rendered during separate periods before and on or after that day.

(3) If:

- (a) before the commencement date, a person was suffering from a war-caused or defence-caused injury or disease (within the meaning of the VEA); and
- (b) before 1 July 2013, there was an aggravation of, or a material contribution to, that injury or disease; and
- (c) the aggravation or material contribution either:
 - (i) related to defence service rendered by the person on or after the commencement date; or
 - (ii) related to defence service rendered by the person before, and on or after, the commencement date; and
- (d) immediately before 1 July 2013, the person had not made a choice of the kind referred to in subsection 12(2) of this Act (as in force immediately before that day);

then the MRCA does not apply to that aggravation or material contribution.

Note: The person may be able to apply under section 15 of the VEA for an increase in a rate of pension on the ground that the incapacity of the person has increased because of the aggravation of, or material contribution to, that injury or disease.

- (4) To avoid doubt, defence service is rendered before, and on or after, the commencement date whether the service spans the commencement date or is rendered during separate periods before and on or after that date.

Treatment

- (5) If:
- (a) before the commencement date, a person was suffering from a war-caused or defence-caused injury or disease (within the meaning of the VEA); and
 - (b) on or after 1 July 2013, there is an aggravation of, or a material contribution to, that injury or disease; and
 - (c) the aggravation or material contribution occurs as an unintended consequence of treatment of a kind mentioned in section 29 of the MRCA; and
 - (d) the treatment is provided either:
 - (i) on or after 1 July 2013; or
 - (ii) before, and on or after, 1 July 2013;

then the MRCA does not apply to that aggravation or material contribution.

Note: The person may be able to apply under section 15 of the VEA for an increase in a rate of pension on the ground that the incapacity of the person has increased because of the aggravation of, or material contribution to, that injury or disease.

- (6) To avoid doubt, treatment is provided before, and on or after, 1 July 2013 whether the treatment spans that day or is provided during separate periods before and on or after that day.
- (7) If:
- (a) before the commencement date, a person was suffering from a war-caused or defence-caused injury or disease (within the meaning of the VEA); and

-
- (b) before 1 July 2013, there was an aggravation of, or a material contribution to, that injury or disease; and
 - (c) the aggravation or material contribution occurred as an unintended consequence of treatment of a kind mentioned in section 29 of the MRCA; and
 - (d) the treatment was provided either:
 - (i) on or after the commencement date; or
 - (ii) before, and on or after, the commencement date; and
 - (e) immediately before 1 July 2013, the person had not made a choice of the kind referred to in subsection 12(2) of this Act (as in force immediately before that day);

then the MRCA does not apply to that aggravation or material contribution.

Note: The person may be able to apply under section 15 of the VEA for an increase in a rate of pension on the ground that the incapacity of the person has increased because of the aggravation of, or material contribution to, that injury or disease.

- (8) To avoid doubt, treatment is provided before, and on or after, the commencement date whether the treatment spans the commencement date or is provided during separate periods before and on or after that date.

6 Section 12

Repeal the section.

7 Paragraph 13(1)(b)

Repeal the paragraph, substitute:

- (b) a claim is made under section 319 of the MRCA in respect of an aggravation of, or a material contribution to:
 - (i) a sign or symptom of a war-caused or defence-caused injury or disease of a person (within the meaning of the VEA) (the *old injury or disease*); or
 - (ii) an injury or disease of a person (within the meaning of the SRCA) (the *old injury or disease*) or a sign or symptom of such an injury or disease.

8 Application provision

The amendment made by item 7 applies in relation to claims made under section 319 of the *Military Rehabilitation and Compensation Act 2004* on or after the commencement of that item.

Veterans' Entitlements Act 1986

9 Subsection 9A(2)

Repeal the subsection.

10 Subsection 15(1A)

Repeal the subsection.

11 Subsection 70A(2)

Repeal the subsection.

Schedule 11—Treatment for certain SRCA injuries

Military Rehabilitation and Compensation Act 2004

1 Section 278

Omit:

The Commission can arrange for the treatment in accordance with arrangements it has with hospitals and doctors etc. or in accordance with a determination it makes under Division 4 of this Part.

substitute:

Former members might be entitled to treatment for an injury or disease under this Part rather than receiving compensation for medical expenses under the *Safety, Rehabilitation and Compensation Act 1988*. The Commission accepts liability for such an injury or disease under that Act and not this Act.

The Commission can arrange for treatment under this Part in accordance with arrangements it has with hospitals and doctors etc. or in accordance with a determination it makes under Division 4 of this Part.

2 After section 280

Insert:

280A Treatment for certain SRCA injuries

Person not otherwise entitled to be provided with treatment under this Act

- (1) A person is entitled to be provided with treatment under this Part for an injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*) if, as a result of table item 1 of the table in subsection 144B(3) of that Act, this section applies to the person and the injury.

Note 1: Table item 1 applies to persons who are not entitled to be provided with treatment under this Act or the *Veterans' Entitlements Act 1986* for any other injury.

Note 2: The treatment is paid for with money appropriated under subsection 160(2) of the *Safety, Rehabilitation and Compensation Act 1988*.

Person entitled to be provided with treatment under this Act for another injury or disease

- (2) A person is entitled to be provided with treatment under this Part for an injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*) if, as a result of table item 2 of the table in subsection 144B(3) of that Act, this section applies to the person and the injury.

Note 1: Table item 2 applies to persons who are entitled to be provided with treatment under section 279 or 280 of this Act for another injury.

Note 2: The treatment is paid for with money appropriated under section 423 of this Act.

3 Section 289 (at the end of paragraph (b) of the definition of *compensable treatment*)

Add “(other than under section 280A (treatment for certain SRCA injuries))”.

4 Section 289 (at the end of the definition of *compensable treatment*)

Add:

Note: Compensation for travel expenses incurred in relation to treatment to which a person is entitled under section 280A may be payable under section 16 of the *Safety, Rehabilitation and Compensation Act 1988*.

5 Section 300 (note)

Omit “Note”, substitute “Note 1”.

6 At the end of section 300

Add:

Note 2: MRCA supplement that is payable in relation to treatment provided under subsection 280A(1) is paid for with money appropriated under subsection 160(2) of the *Safety, Rehabilitation and Compensation Act 1988*.

7 Paragraph 423(a)

After “or 258”, insert “, or 300 in relation to treatment provided under subsection 280A(1)”.

8 Paragraph 423(c)

After “Chapter 6”, insert “(other than under subsection 280A(1) (treatment for certain SRCA injuries))”.

9 Section 423 (note)

Omit “Note”, substitute “Note 1”.

10 At the end of section 423

Add:

Note 2: The appropriation in relation to treatment provided under subsection 280A(1) is in subsection 160(2) of the *Safety, Rehabilitation and Compensation Act 1988*.

Safety, Rehabilitation and Compensation Act 1988

11 At the end of subsection 16(1)

Add:

Note: Compensation is not payable under this subsection in relation to certain defence-related claims (see Division 2A of Part XI).

12 Section 140

Omit:

(b) of managing the provision of compensation and rehabilitation provided as a result of making claims of that kind.
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substitute:

(b) of managing the provision of compensation, rehabilitation and treatment provided as a result of making claims of that kind.

In some cases, treatment is provided under the MRCA or the <i>Veterans' Entitlements Act 1986</i> .

13 Paragraph 142(1)(b)

After “rehabilitation”, insert “or treatment (including treatment provided under the MRCA or the *Veterans' Entitlements Act 1986*)”.

14 After Division 2 of Part XI

Insert:

Division 2A—Treatment of certain defence-related injuries

144A Persons entitled to treatment for any injury under the MRCA or the *Veterans' Entitlements Act 1986* not entitled to certain compensation

- (1) The MRCC is not liable, under subsection 16(1) of this Act, to pay compensation in respect of the cost of medical treatment obtained in relation to an injury of an employee if the employee is:
 - (a) entitled to be provided with treatment under section 281 or 282 of the MRCA for any injury or disease (within the meaning of that Act); or
 - (b) eligible for treatment under section 53D or subsection 85(3), (4), (4A), (4B), (5), (7) or (7A) of the *Veterans' Entitlements Act 1986* for any injury or disease (within the meaning of that Act).

Note: In this Act, the definition of *injury* includes a disease (see section 5A of this Act).

Exceptional circumstances determination

- (2) However, if the MRCC is satisfied that there are exceptional circumstances, the MRCC may determine, in writing, that on and from a specified day subsection (1) of this section does not apply in relation to an employee and an injury.
- (3) The MRCC must notify the employee of the determination within 7 days of the determination being made.

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- (4) A determination under subsection (2) is not a legislative instrument.

144B Treatment of certain defence-related injuries to be provided under the MRCA or the *Veterans' Entitlements Act 1986*

- (1) This section applies in relation to an employee and an injury (the *SRCA injury*) if:
- (a) a defence-related claim for compensation is made in respect of the SRCA injury by or in respect of the employee; and
 - (b) the MRCC accepts liability to pay compensation for the SRCA injury; and
 - (c) any of the following applies:
 - (i) between 1 January 2012 and 9 December 2013, the MRCC is liable to pay compensation under subsection 16(1) in respect of the cost of medical treatment obtained in relation to the SRCA injury;
 - (ii) the MRCC accepts liability to pay compensation for the SRCA injury, as referred to in paragraph (b) of this subsection, on or after 10 December 2013;
 - (iii) the MRCC determines, under subsection (2), that this section applies in relation to the employee and the SRCA injury.
- Note: The MRCC may also determine that subparagraph (1)(c)(i) or (ii) does not apply (see section 144C).
- (2) The MRCC may determine, in writing, that this section applies in relation to an employee and an SRCA injury on and from a specified day if:
- (a) the MRCC accepted liability to pay compensation for the SRCA injury on or before 9 December 2013, as referred to in paragraph (1)(b); and
 - (b) between 1 January 2012 and 9 December 2013, the MRCA was not liable to pay compensation under subsection 16(1) in respect of the cost of medical treatment in relation to the SRCA injury because no treatment was obtained in relation to that injury.

Treatment of certain defence-related injuries to be provided under MRCA or Veterans' Entitlements Act 1986

- (3) The following table has effect in relation to an employee and an SRCA injury to which this section applies.

Treatment to be provided under the MRCA or the <i>Veterans' Entitlements Act 1986</i>		
Item	If this condition is met ...	then ...
1	The employee is not entitled or eligible to be provided with treatment under the MRCA or the <i>Veterans' Entitlements Act 1986</i> for any injury or disease (within the meaning of those Acts)	Section 280A of the MRCA applies to the employee and the SRCA injury
2	The employee is entitled to be provided with treatment under section 279 or 280 of the MRCA for another injury or disease (within the meaning of that Act), but not the SRCA injury	Section 280A of the MRCA applies to the employee and the SRCA injury
3	The employee is eligible to be provided with treatment under subsection 85(1) or (2) of the <i>Veterans' Entitlements Act 1986</i> (but not under section 279 or 280 of the MRCA) for another injury or disease (within the meaning of the <i>Veterans' Entitlements Act 1986</i>), but not the SRCA injury	Subsection 85(2A) of the <i>Veterans' Entitlements Act 1986</i> applies to the employee and the SRCA injury
<p>Note 1: The employee is entitled to be provided with treatment under the MRCA or the <i>Veterans' Entitlements Act 1986</i> if section 280A of the MRCA or subsection 85(2A) of the <i>Veterans' Entitlements Act 1986</i> applies to the employee and the SRCA injury.</p> <p>Note 2: This subsection is subject to section 144C.</p> <p>Note 3: In this Act, the definition of <i>injury</i> includes a disease (see section 5A of this Act).</p>		

- (4) The employee is entitled to be provided with treatment as a result of the table in subsection (3) on and after:
- (a) if subparagraph (1)(c)(i) applies—10 December 2013; or

- (b) if subparagraph (1)(c)(ii) applies—the day the MRCC accepts liability; or
- (c) if subparagraph (1)(c)(iii) applies—the day specified in the determination.

No entitlement to compensation under this Act

- (5) The employee is not entitled to compensation under subsection 16(1) in respect of the cost of medical treatment obtained in relation to the SRCA injury if, as a result of the table in subsection (3) of this section, the employee is entitled or eligible to be provided with treatment under the MRCA or the *Veterans' Entitlements Act 1986* for the injury.

Entitlement to travel expenses under this Act

- (6) Subsections 16(6) to (8) of this Act apply in relation to treatment provided, as a result of the table in subsection (3) of this section, under the MRCA or the *Veterans' Entitlements Act 1986* for an injury as if that treatment was medical treatment referred to in subsections 16(6) to (8) of this Act in relation to which compensation is payable.

Determination not legislative instrument

- (7) A determination under subsection (2) is not a legislative instrument.

144C Exceptional circumstances determination

- (1) If the MRCC is satisfied that there are exceptional circumstances, the MRCC may determine, in writing, that on and from a specified day subparagraph 144B(1)(c)(i) or (ii) does not apply in relation to an employee and an injury.
- (2) The MRCC must notify the employee of the determination within 7 days of the determination being made.

Determination not legislative instrument

- (3) A determination under subsection (1) is not a legislative instrument.

15 After section 151

Insert:

151A Giving information

- (1) The MRCC (or a staff member assisting the MRCC) may provide any information obtained in the performance of duties under this Act to any of the following persons for the purposes of the relevant Department or of Centrelink or Medicare (as the case requires):
 - (a) the Secretary of the Department administered by the Minister who administers the *National Health Act 1953*;
 - (b) the Secretary of the Department administered by the Minister who administers the *Aged Care Act 1997*;
 - (c) the Secretary of the Department administered by the Minister who administers the *Human Services (Centrelink) Act 1997*;
 - (d) the Chief Executive Centrelink (within the meaning of the *Human Services (Centrelink) Act 1997*);
 - (e) the Chief Executive Medicare (within the meaning of the *Human Services (Medicare) Act 1973*).
- (2) The Secretary or Chief Executive must not:
 - (a) use the information for a purpose other than those purposes;
or
 - (b) further disclose the information for a purpose other than those purposes.
- (3) To avoid doubt, information that is used or disclosed in accordance with this section is taken, for the purposes of the *Privacy Act 1988*, to be authorised by law.

16 Section 160

Before “The”, insert “(1)”.

17 At the end of section 160

Add:

- (2) The Consolidated Revenue Fund is appropriated for the purposes of paying for:
 - (a) treatment provided under subsection 280A(1) of the MRCA, and other services in relation to such treatment; and

- (b) MRCA supplement that is payable because a person is entitled to treatment in accordance with that subsection.

Note: That treatment is provided to an employee in relation to a defence-related claim (see section 144B of this Act).

Veterans' Entitlements Act 1986

18 After subsection 85(2)

Insert:

- (2A) A person is eligible to be provided with treatment under this Part for an injury (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*) if, as a result of table item 3 of the table in subsection 144B(3) of that Act, this subsection applies to the person and the injury.

19 After subsection 110(3)

Insert:

- (3A) Travelling expenses are not payable under this section in respect of treatment obtained under subsection 85(2A) (treatment for certain SRCA injuries).

Note: Travelling expenses incurred in respect of treatment obtained under subsection 85(2A) may be payable under section 16 of the *Safety, Rehabilitation and Compensation Act 1988*.

20 Application

Section 144A of the *Safety, Rehabilitation and Compensation Act 1988* (as inserted by this Schedule) applies in relation to any medical treatment that is obtained on or after 10 December 2013 in relation to an injury.

Schedule 12—Members

Military Rehabilitation and Compensation Act 2004

1 Subsection 5(1) (after paragraph (b) of the definition of *member*)

Insert:

(ba) a person to whom section 7A applies; or

2 Subsection 5(1)

Insert:

registered charity means an entity that is registered under the *Australian Charities and Not-for-profits Commission Act 2012* as the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act.

3 After section 7

Insert:

7A Classes of members

For the purposes of paragraph (ba) of the definition of ***member*** in subsection 5(1), this section applies to the following:

- (a) a person who holds an honorary rank or appointment in the Defence Force and who performs acts at the request or direction of the Defence Force;
- (b) a person who performs acts at the request or direction of the Defence Force as an accredited representative of a registered charity (where the accreditation is by the Defence Force);
- (c) a person who is receiving assistance under the Career Transition Assistance Scheme established under a determination under section 58B of the *Defence Act 1903* and who performs acts in connection with the scheme.

4 Saving—declared members

The amendments made by items 1 and 3 do not affect the application of a determination under subsection 8(1) of the *Military Rehabilitation and Compensation Act 2004* before 1 July 2013.

Schedule 13—Treatment costs

Aged Care Act 1997

1 Subsection 96-10(2)

Repeal the subsection, substitute:

- (2) This section does not apply to a subsidy to the extent that:
- (a) the *Repatriation Commission has accepted financial responsibility for the amount of the subsidy as mentioned in subsection 84(3A) of the *Veterans' Entitlements Act 1986*; or
 - (b) the *Military Rehabilitation and Compensation Commission has accepted financial responsibility for the amount of the subsidy as mentioned in subsection 287(2A) of the *Military Rehabilitation and Compensation Act 2004*; or
 - (c) the Repatriation Commission has accepted financial responsibility for the amount of the subsidy as mentioned in section 13A of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*.

Australian Participants in British Nuclear Tests (Treatment) Act 2006

2 After section 13

Insert:

13A Commission may accept financial responsibility for costs in relation to treatment not arranged by Commission

If:

- (a) the Commission is satisfied that an entity, other than the Commission, has arranged for the provision of treatment for an eligible person; and
- (b) the treatment is of a kind specified under paragraph 16(4A)(a);

then the Commission may, in accordance with paragraph 16(4A)(b), accept financial responsibility for particular costs in relation to that treatment (including amounts of subsidy

payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

3 After subsection 16(4)

Insert:

- (4A) Without limiting subsection (2), the modifications may also include provisions:
- (a) specifying kinds of treatment for the purposes of paragraph 13A(b); and
 - (b) specifying the circumstances in which, and the extent to which, the Commission may accept financial responsibility for particular costs relating to that treatment (including amounts of subsidy payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

4 After paragraph 49(a)

Insert:

- (aa) costs the Commission has accepted financial responsibility for as mentioned in section 13A; and

Military Rehabilitation and Compensation Act 2004

5 At the end of subsection 286(1)

Add:

- ; (h) both:
 - (i) kinds of treatment for the purposes of paragraph 287(2A)(b); and
 - (ii) the circumstances in which, and the extent to which, the Commission may accept financial responsibility for particular costs relating to that treatment (including amounts of subsidy payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

6 Section 287 (heading)

Repeal the heading, substitute:

287 Provision of treatment**7 After subsection 287(2)**

Insert:

(2A) If:

- (a) the Commission is satisfied that an entity, other than the Commission, has arranged for the provision of treatment for a person who is entitled to treatment under this Part; and
- (b) the treatment is of a kind determined under subparagraph 286(1)(h)(i);

then the Commission may, in accordance with subparagraph 286(1)(h)(ii), accept financial responsibility for particular costs in relation to that treatment (including amounts of subsidy payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

8 After paragraph 423(c)

Insert:

- (caa) costs the Commission has accepted financial responsibility for as mentioned in subsection 287(2A);

Veterans' Entitlements Act 1986**9 After subsection 84(3)**

Insert:

(3A) If:

- (a) the Commission is satisfied that an entity, other than the Commission, has arranged for the provision of treatment for a person eligible to be provided with treatment under this Part; and
- (b) the treatment is of a kind specified under paragraph 90(1B)(a);

then the Commission may, in accordance with paragraph 90(1B)(b), accept financial responsibility for particular costs in relation to that treatment (including amounts of subsidy payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

10 After subsection 90(1A)

Insert:

- (1B) The Treatment Principles may also include provisions:
- (a) specifying kinds of treatment for the purposes of paragraph 84(3A)(b); and
 - (b) specifying the circumstances in which, and the extent to which, the Commission may accept financial responsibility for particular costs relating to that treatment (including amounts of subsidy payable under Chapter 3 of the *Aged Care Act 1997* or of the *Aged Care (Transitional Provisions) Act 1997*).

11 After paragraph 199(b)

Insert:

- (ba) costs the Commission has accepted financial responsibility for as mentioned in subsection 84(3A); and

12 Application provision

The amendments made by this Schedule apply in relation to treatment provided on or after the commencement of this Schedule.

Schedule 14—Travelling expenses

Veterans' Entitlements Act 1986

1 After subsection 110(1)

Insert:

(1A) If:

- (a) a veteran travels, with the approval of the Commission under subsection (1), for the purpose of obtaining treatment; and
- (b) the treatment is of a kind prescribed in an instrument under subsection (6); and
- (c) the veteran's partner travels for the purpose of participating in that treatment;

the veteran's partner is, subject to this section and to such conditions as are prescribed by the regulations, entitled to be paid such travelling expenses, in connection with that travel, as are prescribed by the regulations.

Note: For *treatment* see section 94 and Part V.

2 At the end of section 110

Add:

- (6) The Commission may, by legislative instrument, prescribe kinds of treatment for the purposes of paragraph (1A)(b).

3 Subsection 112(3)

Omit "subsection 110(1) or (2)", substitute "subsection 110(1), (1A) or (2)".

4 Application provision

Paragraphs 110(1A)(a) and (c) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, apply in relation to travel beginning on or after the commencement of this item.

Schedule 15—Payments into accounts

Military Rehabilitation and Compensation Act 2004

1 Subsection 430(2)

Repeal the subsection.

2 At the end of subsection 430(3)

Add:

Note: For rules about nomination of accounts, see subsections (3D) to (3F).

3 Before subsection 430(3A)

Insert:

Compensation must be paid into an account

4 Subsection 430(3B)

Repeal the subsection.

5 After subsection 430(3C)

Insert:

Nomination of accounts

(3D) The account referred to in subsection (1) or (3A) must be one that is:

- (a) nominated, at any time by the person, for the purposes of this section; and
- (b) maintained by the person (including an account maintained jointly or in common with another person).

(3E) However, if:

- (a) there is no nomination of an account by the person in force for the purposes of this section; and
- (b) there is a nomination of an account (the ***existing account***) by the person in force for the purposes of subsection 122A(1) of the *Veterans' Entitlements Act 1986*;

the existing account is taken to be an account nominated by the person for the purposes of this section.

- (3F) Subsection (3E) ceases to apply in relation to the person if, in accordance with subsection (3D), the person nominates an account for the purposes of this section.

6 Before subsection 430(4)

Insert:

Definitions

7 After section 430

Insert:

430A Use and disclosure of account details

Use

- (1) The Commission, a member of the Commission or a staff member assisting the Commission may use the details of an account referred to in paragraph 430(3E)(b) for the purposes of section 430.
- (2) A person to whom the details of an account are disclosed under subsection 122AA(3) of the *Veterans' Entitlements Act 1986* may use those details for the purposes of section 430 of this Act.

Disclosure

- (3) The Commission, a member of the Commission or a staff member assisting the Commission may disclose the details of an account obtained for the purposes of section 430 to the Repatriation Commission, a commissioner of the Repatriation Commission or a staff member assisting the Repatriation Commission for the purposes of section 122A of the *Veterans' Entitlements Act 1986*.

Interaction with Privacy Act 1988

- (4) For the purposes of the *Privacy Act 1988*:
 - (a) the use of the details of an account in accordance with subsection (1) or (2) is taken to be a use that is authorised by this Act; and

- (b) the disclosure of the details of an account in accordance with subsection (3) is taken to be a disclosure that is authorised by this Act.

8 Application and transitional provision—accounts

- (1) Paragraph 430(3E)(b) of the *Military Rehabilitation and Compensation Act 2004*, as inserted by this Schedule, applies in relation to nominations made before, on or after the commencement of this item.
- (2) If a nomination of an account by a person for the purposes of subsection 430(2) or (3B) of the *Military Rehabilitation and Compensation Act 2004* is in force immediately before the commencement of this item, then, on and after that commencement, the nomination of the account by the person is taken to be in force for the purposes of section 430 of that Act (as amended by this Schedule).
- (3) Subsections 430A(1) and (3) of the *Military Rehabilitation and Compensation Act 2004*, as inserted by this Schedule, apply in relation to details of an account obtained before, on or after the commencement of this item.

Veterans' Entitlements Act 1986

9 After subsection 122A(1D)

Insert:

- (1E) If:
 - (a) there is no nomination of an account by the person in force for the purposes of subsection (1); and
 - (b) there is a nomination of an account (the *existing account*) by the person in force for the purposes of section 430 of the *Military Rehabilitation and Compensation Act 2004*;
the existing account is taken to be an account nominated by the person for the purposes of subsection (1) of this section.
- (1F) Subsection (1E) ceases to apply in relation to the person if, in accordance with subsection (1), the person nominates an account for the purposes of subsection (1).

10 Subsection 122A(2) (definition of *pension*)

Repeal the definition, substitute:

pension means a pension, allowance or other pecuniary benefit payable under this Act, and includes an instalment of such a pension, allowance or other benefit.

11 After section 122A

Insert:

122AA Use and disclosure of account details

Use

- (1) The Commission, a commissioner of the Commission or a staff member assisting the Commission may use the details of an account referred to in paragraph 122A(1E)(b) for the purposes of section 122A.
- (2) A person to whom the details of an account are disclosed under subsection 430A(3) of the *Military Rehabilitation and Compensation Act 2004* may use those details for the purposes of section 122A of this Act.

Disclosure

- (3) The Commission, a commissioner of the Commission or a staff member assisting the Commission may disclose the details of an account obtained for the purposes of section 122A to the Military Rehabilitation and Compensation Commission (the **MRCC**), a member of the MRCC or a staff member assisting the MRCC for the purposes of section 430 of the *Military Rehabilitation and Compensation Act 2004*.

Interaction with Privacy Act 1988

- (4) For the purposes of the *Privacy Act 1988*:
 - (a) the use of the details of an account in accordance with subsection (1) or (2) is taken to be a use that is authorised by this Act; and
 - (b) the disclosure of the details of an account in accordance with subsection (3) is taken to be a disclosure that is authorised by this Act.

12 Application provision—accounts

- (1) Paragraph 122A(1E)(b) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to nominations made before, on or after the commencement of this item.
- (2) Subsections 122AA(1) and (3) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, apply in relation to details of an account obtained before, on or after the commencement of this item.

Schedule 16—Other amendments

Social Security Act 1991

1 Paragraph 8(8)(zo)

Omit “section 217 or 266”, substitute “section 47, 56, 81, 205, 214, 217, 226, 239 or 266”.

Veterans’ Entitlements Act 1986

2 After paragraph 205(1)(cc)

Insert:

(cd) an amount of compensation (within the meaning of the MRCA) has been paid under the MRCA that should not have been paid; or

3 Paragraph 205(2)(a)

After “(cc)”, insert “, (cd)”.

4 Subsection 205(8) (paragraph (ba) of the definition of *excluded amount*)

Omit “or (cc)”, substitute “, (cc) or (cd)”.

5 Subsection 205(8) (paragraph (a) of the definition of *recoverable amount*)

Omit “or (cc)”, substitute “, (cc) or (cd)”.

6 Application provision

Paragraph 205(1)(cd) of the *Veterans’ Entitlements Act 1986*, as inserted by this Schedule, applies in relation to amounts of compensation paid under the *Military Rehabilitation and Compensation Act 2004* on or after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 20 March 2013
Senate on 16 May 2013]*

(64/13)

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