



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

No. 17, 2025

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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

No. 17, 2025

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

[Assented to 20 February 2025]

The Parliament of Australia enacts:

No. 17, 2025 Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 1

1 Short title

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

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
Provisions	Commencement	Date/Details
1. Sections 1 to 5 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	20 February 2025
2. Schedules 1 and 2	1 July 2026.	1 July 2026
3. Schedule 3, Part 1	The day after the end of the period of 60 days beginning on the day this Act receives the Royal Assent.	21 April 2025
4. Schedule 3, Part 2	1 July 2026.	1 July 2026
5. Schedules 4 to 7	1 July 2026.	1 July 2026
6. Schedule 8, Part 1	1 July 2026.	1 July 2026
7. Schedule 8, Part 2	The later of: (a) at the same time as the provisions covered by table item 6; and (b) immediately after the commencement of Part 1 of Schedule 1 to the <i>Defence Amendment (Parliamentary Joint Committee on Defence) Act 2025</i> .	

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

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Review of operation of amendments

- (1) The Senate Foreign Affairs, Defence and Trade Legislation Committee, or such other committee constituted under a resolution of the Senate, must:
- (a) begin a review of the operation of the amendments made by this Act as soon as practicable after the end of the period of 12 months beginning on the day Schedule 1 to this Act commences; and
 - (b) report the Committee's findings to the Senate as soon as practicable after completing the review.
- (2) Without limiting subsection (1), the review must consider the following:
- (a) the effectiveness of the amendments;

-
- (b) whether the amendments have achieved recommendation 1 of the Interim Report of the Defence and Veteran Suicide Royal Commission, and any other relevant recommendations of that report;
 - (c) the operation of legislated governance arrangements as a result of the amendments;
 - (d) whether the amendments have improved or clarified the benefits available to veterans and their families;
 - (e) whether the amendments have resulted in improvements in operational processes associated with veterans and their families accessing benefits;
 - (f) whether further legislative changes are needed;
 - (g) any related matter.
- (3) In this section:

Defence and Veteran Suicide Royal Commission means the Royal Commission into Defence and Veteran Suicide, issued by the Governor-General by Letters Patent on 8 July 2021 (and including any later variations of those Letters Patent).

5 Review of amendments in Schedule 9

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

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

Schedule 1—Single ongoing Act main amendments

Part 1—Closing eligibility to DRCA and VEA

Military Rehabilitation and Compensation Act 2004

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

Insert:

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

2 Section 3

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

3 Section 3

After:

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

insert:

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

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

Note 2: Part 1A of the DRCA and Part 1A of the VEA deal with the closure of those Acts to certain new claims on and after the date of commencement.

4 Section 3

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

5 Subsection 5(1)

Insert:

date of commencement means 1 July 2026.

de facto relationship: see section 19A.

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

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

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

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

Repeal the definition, substitute:

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

8 Subsection 5(1)

Insert:

VEA means the *Veterans’ Entitlements Act 1986*.

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

Repeal the definition.

10 Subsection 5(2)

Repeal the subsection.

11 After section 19

Insert:

19A De facto relationships

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

- (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets and any joint liabilities; and
 - (ii) any significant pooling of financial resources especially in relation to major financial commitments; and
 - (iii) any legal obligations owed by one person in respect of the other person; and
 - (iv) the basis of any sharing of day-to-day household expenses;
- (b) the nature of the household, including:
 - (i) any joint responsibility for providing care or support of children; and
 - (ii) the living arrangements of the people; and
 - (iii) the basis on which responsibility for housework is distributed;
- (c) the social aspects of the relationship, including:
 - (i) whether the people hold themselves out as being in a de facto relationship with each other; and
 - (ii) the assessment of friends and regular associates of the people about the nature of their relationship; and
 - (iii) the basis on which the people make plans for, or engage in, joint social activities;
- (d) any sexual relationship between the people;
- (e) the nature of the people's commitment to each other, including:
 - (i) the length of the relationship; and
 - (ii) the nature of any companionship and emotional support that the people provide to each other; and

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

12 Section 197

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

13 Subsection 198(2)

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

14 Subsection 204A(2) (note 3)

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

15 Sections 221 to 224

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

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

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

17 Sections 246 to 248

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

18 Subsection 258(7)

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

19 Section 278

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

20 Section 280A (heading)

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

21 Subsection 280A(1)

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

22 Subsection 280A(1) (note 1)

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

23 Subsection 280A(1) (note 2)

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

24 Subsection 280A(2)

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

25 Section 300 (note 2)

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

26 Sections 301 to 303

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

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

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

28 Section 423

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

29 Paragraph 424L(2)(b)

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

30 Paragraph 430(3E)(b)

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

31 Subparagraph 438(a)(i)

Omit “Veterans’ Affairs”.

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

32 Subsection 4(1)

Insert:

date of commencement means 1 July 2026.

33 After Part I

Insert:

Part IA—Operation of this Act on and after date of commencement

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

Despite anything else in this Act:

- (a) a claim may not be made under Part V on or after the date of commencement; and
- (b) an instrument may not be made under section 41B (acute support package) on or after that date.

Note 1: From the date of commencement:

- (a) claims that could previously be made under this Act will be able to be made under the MRCA; and
- (b) acute support packages that could previously be granted under this Act will be able to be granted under section 268B of the MRCA.

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

34 Subsection 41B(1) (note)

Omit “Note”, substitute “Note 1”.

35 At the end of subsection 41B(1)

Add:

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

36 At the end of subsection 54(1)

Add:

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

37 At the end of subsection 124(1A)

Add:

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

Veterans' Entitlements Act 1986

38 Subsection 5Q(1)

Insert:

date of commencement means 1 July 2026.

39 After Part I

Insert:

Part IA—Operation of this Act on and after date of commencement

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

Despite anything else in this Act:

- (a) a claim or application may not be made under any of the following on or after the date of commencement:
 - (i) Part II (other than Division 2A);
 - (ii) Part IV;
 - (iii) section 111 (other than in respect of bereavement payment under section 98AA);

(iv) a legislative instrument made under section 105 or 106;
and

(b) an instrument may not be made under section 115S (acute support package) on or after that date.

Note 1: From the date of commencement:

- (a) certain claims and applications that could previously be made under this Act, or under legislative instruments made under this Act, will be able to be made under the MRCA; and
- (b) acute support packages that could previously be granted under this Act will be able to be granted under section 268B of the MRCA.

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

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

Repeal the notes, substitute:

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

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

Add:

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

42 At the end of subsection 111(2)

Add:

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

43 Subsection 115S(1) (note)

Omit “Note”, substitute “Note 1”.

44 At the end of subsection 115S(1)

Add:

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

Part 2—Opening MRCA to pre-2004 conditions

Division 1—Accepted DRCA and VEA conditions

Military Rehabilitation and Compensation Act 2004

45 Section 21 (paragraph beginning “The Commission”)

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

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

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

47 After section 24

Insert:

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

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

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

- (2) For the purposes of this Act, the regulations and any other instrument made under this Act:
- (a) the Commission is taken to have accepted liability for the injury or disease under this Chapter; and
 - (b) the injury or disease is taken to be a service injury, or a service disease, as the case may be.

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

48 At the end of section 27

Add:

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

Division 2—Classifying pre-2004 operations

Military Rehabilitation and Compensation Act 2004

49 Before section 1

Insert:

Part 1—Preliminary

50 Subsection 5(1)

Insert:

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

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

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

British nuclear test defence service has the meaning given by section 6B.

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

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

52 Subsection 5(1)

Insert:

domicile has a meaning affected by section 19B.

hazardous service has the meaning given by section 6C.

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

Add:

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

54 Subsection 5(1)

Insert:

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

operational service has the meaning given by sections 444 to 450.

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

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

55 Before section 6

Insert:

Part 2—Kinds of service to which this Act applies

56 Section 6 (heading)

Repeal the heading, substitute:

6 Defence service

57 Before subsection 6(1)

Insert:

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

- (a) warlike service;
- (b) non-warlike service;
- (c) British nuclear test defence service;
- (d) hazardous service;
- (e) peacetime service.

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

58 Paragraph 6(1)(b)

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

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

Repeal the paragraphs, substitute:

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

60 After section 6

Insert:

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

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

Peacekeeping Forces

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

Schedule 1 Single ongoing Act main amendments
Part 2 Opening MRCA to pre-2004 conditions

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

18 *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025* No. 17, 2025

Peacekeeping Forces

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

6B British nuclear test defence service

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

British nuclear test defence service in an area within a period

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

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

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

British nuclear test defence service relating to work on contaminated things

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

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

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

6C Hazardous service

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

Part 3—Other interpretation provisions

61 Before section 20

Insert:

19B Domicile

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

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

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

62 Subsection 335(1) (heading)

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

63 Subsection 335(1)

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

64 Subsection 338(1)

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

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

Omit “and”, substitute “or”.

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

Add:

- (iii) British nuclear test defence service; or
- (iv) hazardous service; and

67 At the end of the Act

Add:

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

Part 1—Preliminary

441 Simplified outline of this Chapter

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

This Chapter defines what is *operational service*.

442 Definitions

(1) In this Chapter:

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

- (a) that was, at the relevant time, at war with the enemy; or
- (b) the forces of which were, at the relevant time, engaged in an operational area against forces against which the forces of the Commonwealth were engaged in that area;

and includes:

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

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

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

- (a) a master, officer or seaman employed under agreement, or an apprentice employed under indenture, in sea-going service on a ship registered in Australia that was engaged in trading between a port in a State or Territory and any other port; or
- (b) a master, officer or seaman employed under agreement, or an apprentice employed under indenture, in sea-going service on a ship registered outside Australia who was, or whose dependants were, resident in Australia for at least 12 months immediately before the person entered into the agreement or indenture; or
- (c) a master, officer, seaman or apprentice employed on a lighthouse tender, or pilot ship of the Commonwealth or of a State; or
- (d) a pilot employed or licensed by Australia or a State or by an authority constituted by or under a law of the Commonwealth or of a State; or
- (e) a master, officer, seaman or apprentice employed in sea-going service on a ship owned in Australia and operating from an Australian port, being a hospital ship, troop transport, supply ship, tug, cable ship, salvage ship, dredge, fishing vessel or fisheries investigation vessel; or
- (f) a member or employee of the Commonwealth Salvage Board engaged in sea-going service under the direction of that Board; or
- (g) a master, officer, seaman or apprentice employed in sea-going service on a ship registered in New Zealand who the Commission is satisfied was engaged in Australia and is not entitled to compensation under a law of a Commonwealth

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

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

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

continuous full-time operational service means:

- (a) in relation to a member of the Defence Force:
 - (i) service in the Naval Forces of the Commonwealth of the kind known as continuous full-time naval service; or
 - (ii) service in the Military Forces of the Commonwealth of the kind known as continuous full-time military service; or
 - (iii) service in the Air Force of the Commonwealth of the kind known as continuous full-time air force service; or
- (b) in relation to a member of the naval, military or air forces of a Commonwealth country or an allied country—service in those forces of a kind similar to the kind of service referred to in subparagraph (a)(i), (ii) or (iii); or
- (c) if the Minister determines, under paragraph (5)(a), that a person, or a person included in a class of persons, was rendering continuous full-time operational service while rendering service of a kind specified in the determination—service of that kind that was rendered by that person or a person included in that class of persons.

eligible civilian means a person:

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

- (ii) a resident, but not an indigenous inhabitant, of the Territory of Papua or the Territory of New Guinea; and
- (c) who was not, at that time:
 - (i) rendering service as a member of the Defence Force; or
 - (ii) employed by the Commonwealth on a special mission outside Australia.

enemy means:

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

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

member of a unit of the Defence Force means:

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

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

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

member of the Interim Forces means a person who:

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

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

operational area has the meaning given by section 451.

period of hostilities means:

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

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

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

World War 1 means:

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

World War 2 means:

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

Allotted for duty

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

Army Medical Corps Nursing Service

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

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

- (5) The Minister may, in writing, determine any of the following:
- (a) that a person, or a person included in a class of persons, was rendering continuous full-time operational service while rendering service of a kind specified in the determination;
 - (b) that a person, or a person included in a class of persons, was a member of a specified unit of the Defence Force while rendering service of a kind specified in the determination.
- (6) A determination under subsection (5) is not a legislative instrument.

End of World War 1 and World War 2

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

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

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

References to coordinates

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

Part 2—Application of this Act to operational service

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

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

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

Part 3—Service that is operational service

Division 1—Operational service

444 Operational service—world wars

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

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

Schedule 1 Single ongoing Act main amendments
Part 2 Opening MRCA to pre-2004 conditions

Operational service

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

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

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

Operational service

Item	Person	Relevant period or time
1	A person who was, during World War 1 or World War 2, employed by the Commonwealth on a special mission outside Australia	The period during which the person was so employed by the Commonwealth
2	An eligible civilian who was killed, during the invasion of the Territory of Papua or	The time of the event as a result of which the person was killed

Operational service

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

- (3) Any continuous full-time operational service that was rendered during World War 2 by a member of the Defence Force (other than a member of the Interim Forces) on or after the cut-off date for the member is not taken to be *operational service*.
- (4) For the purposes of subsection (3), the *cut-off date* for a member of the Defence Force is the date applicable to the member in accordance with the following table.

Cut-off date

Item	Member	Date
1	A member who was appointed or enlisted for war service in any part of the Defence Force that was raised during World War 2 for war service, or solely for service during that war or during that war and a definite period immediately following that war	1 July 1951
2	A member who was appointed or enlisted in the Citizen Forces and was called up for continuous full-time operational service for the duration of, or directly in connection with, World War 2	1 July 1951
3	A member who served in the British Commonwealth Occupation Force in Japan	1 July 1951, or the date on which the member arrived back in Australia on the completion of the

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

445 Operational service—Australian mariners

- (1) A person is taken to have been rendering *operational service* during:
 - (a) any period of employment outside Australia as an Australian mariner on a ship; or
 - (b) any period of employment within Australia as an Australian mariner on a ship if that period of employment ended immediately before, or started immediately after, the period of employment referred to in paragraph (a).
- (2) A person who, while employed within Australia as an Australian mariner on a ship, was injured, or contracted a disease, as a result of enemy action is taken to have been rendering *operational service* at the time of the event as a result of which the person was injured or contracted the disease.
- (3) A person who was employed within Australia as an Australian mariner on a ship in such circumstances that the employment should, in the opinion of the Commission, be treated as employment in actual combat against the enemy is taken to have been rendering *operational service* while the person was so employed.
- (4) Without limiting paragraph (1)(a), a person is taken to have been employed outside Australia as an Australian mariner on a ship in each of the following circumstances:
 - (a) at any time when the person was at a place outside Australia on leave from the ship while the ship was at a port outside Australia;

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

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

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

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

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

- (3) For the purposes of subsection (1), a member of the Defence Force is, subject to subsection (4), taken to have rendered continuous full-time operational service in an operational area during the period commencing on:
- (a) if the member was in Australia on the day (the **relevant day**) from which the member, or the unit of the member, was allotted for duty in that area—on the day on which the member left the last port of call in Australia for that service; or
 - (b) if the member was outside Australia on the relevant day—on that day;
- and ending at the end of:
- (c) if the member, or the unit of the member, ceased to be allotted for duty—the day from which the member, or the unit, ceased to be allotted for duty; or
 - (d) if the member, or the unit of the member, was assigned for duty from the operational area to another area outside Australia (not being an operational area)—the day from which the member, or the unit, was assigned to that other area, or the day on which the member, or the unit, arrived at that other area, whichever is the later; or
 - (e) in any other case—the day on which the member arrived at the first port of call in Australia on returning from operational service.
- (4) If, while rendering continuous full-time operational service in an operational area, a member of the Defence Force has:
- (a) returned to Australia in accordance with the Rest and Recuperation arrangements of the naval, military or air forces; or
 - (b) returned to Australia on emergency or other leave granted on compassionate grounds; or
 - (c) returned to Australia on duty; or

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

447 Operational service—other post-World War 2 service

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

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

- (2) An instrument under subsection (1) is not a legislative instrument.
- (3) A person to whom this section applies is taken to have been rendering **operational service** during any period during which the person was rendering continuous full-time operational service as:
 - (a) a member of the Defence Force; or
 - (b) a member of a unit of the Defence Force;while the person was in the area described in paragraph (1)(a) or attached to the Far East Strategic Reserve (as the case may be).
- (4) For the purposes of subsection (3), the operational service of a person to whom this section applies:
 - (a) is taken to have started:
 - (i) if the person was in Australia on the day (the **relevant day**) from which the person's unit was assigned for service as described in paragraph (1)(a) or attached to the Far East Strategic Reserve (as the case may be)—on the day on which the member left the last port of call in Australia for that service; or
 - (ii) if the person was outside Australia on the relevant day—on that day; and
 - (b) is taken to have ended:
 - (i) if the member was assigned for service in another country or area outside Australia (not being an operational area)—the day from which the member was assigned to that other country or area, or the day on which the member arrived at that other country or area, whichever is the later; or
 - (ii) in any other case—the day on which the member arrived at the first port of call in Australia on returning from operational service.

448 Operational service—minesweeping and bomb/mine clearance service

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

449 Operational service—service on submarine special operations

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

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

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

450 Operational service—Korean demilitarised zone and Vietnam

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

- (a) in the demilitarised zone between North Korea and South Korea after 18 April 1956; or

(b) on HMA Ship Vampire or Quickmatch in Vietnam during the period from and including 25 January 1962 to and including 29 January 1962;

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

Division 2—Operational areas

451 Meaning of *operational area*

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

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

Operational areas		
Item	Area	Period
		and including 11 January 1973
7	<p>All that part of the Federation of Malaya contained within the area bounded by a line:</p> <p>(a) commencing at the intersection of the western shore of the Federation of Malaya at high-water mark and the boundary between the States of Perlis and Kedah;</p> <p>(b) then proceeding generally north-easterly along that boundary to its intersection with the railway line from Arau to Penang Tungal;</p> <p>(c) then following that railway line generally southerly to its intersection with the northern boundary between the States of Penang and Kedah;</p> <p>(d) then proceeding along the boundary between those States generally easterly, southerly and westerly to the intersection of the boundaries of the States of Penang, Kedah and Perak;</p> <p>(e) then following the boundary between the States of Penang and Perak to its intersection with the railway line from Penang Tungal to Taiping;</p> <p>(f) then following that railway line generally southerly, easterly and southerly to its intersection with the parallel 04°51'N;</p> <p>(g) then proceeding due south in a straight line to the intersection of that line with the parallel 04°30'N;</p> <p>(h) then proceeding along that parallel to its intersection with the eastern bank of the Perak River;</p> <p>(i) then following that bank of that river to its intersection with the parallel 04°47'N;</p> <p>(j) then proceeding in a straight line to the intersection of the boundaries of the States of Perak, Kelantan and Pahang;</p>	<p>The period from and including 1 August 1960 to and including 16 August 1964</p>

Schedule 1 Single ongoing Act main amendments
Part 2 Opening MRCA to pre-2004 conditions

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

Operational areas		
Item	Area	Period
	to its junction with the boundary between Kalimantan and Sabah;	
	(c) then proceeding generally easterly along that boundary to its intersection with the eastern shore of Borneo at high-water mark;	
	(d) then proceeding in a straight line easterly to the intersection of the western shore of the island of Sebatik at high-water mark with the boundary between that part of that island that forms part of Sabah and that part of that island that forms part of Kalimantan;	
	(e) then proceeding generally easterly along that boundary to its intersection with the eastern shore of the island of Sebatik at high-water mark;	
	(f) then proceeding in a straight line easterly to a point 80.5 kilometres east (true) of the intersection of the eastern shore of Borneo at high-water mark with the boundary between Kalimantan and Sabah;	
	(g) then proceeding generally northerly and south-westerly parallel to and at a distance of 80.5 kilometres from the eastern and northern shores, respectively, of Borneo at high-water mark to a point 80.5 kilometres north (true) of the point of commencement;	
	(h) then proceeding in a straight line southerly to the point of commencement	
9	The territories of Malaysia, Brunei and Singapore and the waters adjacent to those countries	The period from and including 17 August 1964 to and including 14 September 1966
10	All that area of land and waters (other than land or waters forming part of the territory of Cambodia or China) bounded by a line:	The period from and including 31 July 1962 to and including 11 January 1973

Schedule 1 Single ongoing Act main amendments
Part 2 Opening MRCA to pre-2004 conditions

Operational areas		
Item	Area	Period
	(a) commencing at the intersection of the boundary between Cambodia and Vietnam (Southern Zone) with the shore of Vietnam (Southern Zone) at high-water mark; (b) then proceeding in a straight line to a point 185.2 kilometres west (true) of that intersection; (c) then proceeding along an imaginary line parallel to, and at a distance of 185.2 kilometres from, the shore of Vietnam at high-water mark to its intersection with the parallel 21°30'N; (d) then proceeding along that parallel westerly to its intersection with the shore of Vietnam at high-water mark; (e) then following the shore of Vietnam at high-water mark to the point of commencement	
11	The area comprising the United Nations Mandated Territory of Namibia and the area of land extending 400 kilometres outwards from the borders of Namibia into the adjoining countries of Angola, Zambia, Zimbabwe, Botswana and South Africa (including Walvis Bay)	The period from and including 18 February 1989 to and including 10 April 1990
12	The area comprising the following countries and sea areas: (a) Bahrain, Oman, Qatar, Saudi Arabia, the United Arab Emirates and the Island of Cyprus; (b) the sea areas contained within the Gulf of Suez, the Gulf of Aqaba, the Red Sea, the Gulf of Aden, the Persian Gulf and the Gulf of Oman; (c) the sea area contained within the Arabian Sea north of the boundary formed by joining each of the following points to the next: (i) 20°30'N 070°40'E;	The period from and including 2 August 1990 to and including 9 June 1991

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

Division 3—Retesting claims

Military Rehabilitation and Compensation Act 2004

68 Subsection 319(1) (note)

Omit “Note”, substitute “Note 1”.

69 At the end of subsection 319(1)

Add:

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

70 After subsection 322(5)

Insert:

Claims under other Acts

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

- (a) before the date of commencement, a claim was made under the DRCA or the VEA in respect of the same injury or disease; and
- (b) that claim has not yet been finally determined.

(5B) If:

- (a) before the date of commencement, a claim was made under the DRCA or the VEA in respect of an injury or disease; and
- (b) that claim has been refused (whether before or after that date);

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

Division 4—Needs assessment

Military Rehabilitation and Compensation Act 2004

71 At the end of subsection 325(2)

Add:

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

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

Military Rehabilitation and Compensation Act 2004

72 Subsection 29(1)

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

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

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

74 Subsection 29(2)

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

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

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

76 Subsection 29(3)

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

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

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

Part 3—Other amendments

Division 1—Permanent impairment

Military Rehabilitation and Compensation Act 2004

78 Paragraph 68(2)(b)

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

79 At the end of section 68

Add:

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

80 Subsection 71(3)

Repeal the subsection, substitute:

Determination of date

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

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

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

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

81 Subsection 77(1)

Omit "the later of".

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

Repeal the paragraphs, substitute:

- (a) if the date on which the person became entitled to compensation under that section in respect of the injury or disease is the date mentioned in paragraph 68(3)(a)—that date; or

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

83 Subsection 77(2)

Omit “the later of”.

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

Repeal the paragraphs, substitute:

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

85 Subsection 77(3)

Omit “the later of”.

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

Repeal the paragraphs, substitute:

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

Division 2—Incapacity payments

Military Rehabilitation and Compensation Act 2004

87 Subsection 85(1) (note)

Omit “Note”, substitute “Note 1”.

88 At the end of subsection 85(1)

Add:

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

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

Insert:

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

90 Subsection 118(1) (note)

Omit “Note”, substitute “Note 1”.

91 At the end of subsection 118(1)

Add:

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

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

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

Repeal the definition.

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

Repeal the definition.

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

Omit “19(7), (8) or (9),”.

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

Omit “, 30(1)”.

96 Divisions 3 and 6 of Part II

Repeal the Divisions.

97 Subsection 41B(2)

Omit “(3), (4),”.

98 Subsections 41B(3) and (4)

Repeal the subsections.

99 Section 60 (definition of *determination*)

Omit “19, 20, 21, 21A, 22,”.

100 Section 60 (definition of *determination*)

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

101 Sections 112A, 112B, 116 and 120

Repeal the sections.

102 Subsections 124(6) and (7)

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

103 Paragraph 132A(2)(b)

After “20”, insert “(as in force immediately before the commencement of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*)”.

104 Paragraph 132A(3)(b)

After “19”, insert “(as in force immediately before the commencement of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*)”.

105 Subsection 132A(4)

After “(g)”, insert “(as in force immediately before the commencement of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*)”.

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

Add “(as in force immediately before the commencement of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*)”.

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

Add “(as in force immediately before the commencement of Schedule 1 to the *Veterans’ Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*)”.

Veterans’ Entitlements Act 1986

108 After subsection 30D(2)

Insert:

(2A) However, if:

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

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

Division 3—Liability restrictions on tobacco use

Military Rehabilitation and Compensation Act 2004

109 Section 36

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

defence service:

- (d) in the case of a person who had not used tobacco products before 1 January 1998—only because the person used tobacco products after 31 December 1997; or
- (e) in the case of a person who had used tobacco products before 1 January 1998—only because the person increased their use of tobacco products after 31 December 1997.

Division 4—Medical event on duty

Military Rehabilitation and Compensation Act 2004

110 After paragraph 27(d)

Insert:

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

111 At the end of section 27

Add:

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

112 After paragraph 28(1)(e)

Insert:

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

113 At the end of subsection 28(1)

Add:

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

114 Subsection 338(1)

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

115 Subsection 339(1)

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

Division 5—Posthumous permanent impairment payments

Military Rehabilitation and Compensation Act 2004

116 Subsection 78(7)

Repeal the subsection, substitute:

Choice may be made by legal personal representative

- (7) The legal personal representative of a deceased person may choose to convert 100% of the weekly amount of compensation that would have been payable to the deceased person but for the person’s death to a lump sum if:
- (a) the deceased person made the claim for compensation before the person’s death; and
 - (b) the deceased person did not make a choice under subsection (1) in respect of the weekly amount before the person’s death.

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

- (8) The choice under subsection (7) must be made in writing and must be given to the Commission within 6 months after the date on which the legal personal representative is given the notice under section 76.

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

117 Subsection 79(1)

Omit "section 78", substitute "subsection 78(1)".

118 At the end of section 79

Add:

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

119 Subsection 321(2) (note 1)

Repeal the note, substitute:

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

Division 6—Overpayments and debts

Military Rehabilitation and Compensation Act 2004

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

After "this Act" (wherever occurring), insert "or the DRCA".

121 At the end of subsection 415(4)

Add "or the DRCA".

122 Paragraph 416(1)(a)

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

123 Subsections 428(1) and 429(1)

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

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

124 Section 60 (definition of *determination*)

Omit “, under paragraph 114B(5)(a)”.

125 Sections 114 to 114D

Repeal the sections.

Division 7—Payment to solicitor’s trust account

Military Rehabilitation and Compensation Act 2004

126 Subsection 430(3D)

Repeal the subsection, substitute:

Nomination of accounts

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

Division 8—Common law damages

Military Rehabilitation and Compensation Act 2004

127 Subsection 389(5)

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

Division 9—Information sharing

Military Rehabilitation and Compensation Act 2004

128 Subsection 5(1)

Insert:

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

129 Section 405 (heading)

Repeal the heading, substitute:

405 Power of Commission to obtain information from claimant

130 Subsection 406(1)

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

131 After section 407

Insert:

407A Defence Department and Defence Force may disclose information to Commission

- (1) Either of the following entities:
 - (a) the Defence Department;
 - (b) the Australian Defence Force;may disclose information obtained or generated by the entity to the Commission if the disclosure is for the purposes of assisting the Commission to perform its functions or duties or exercise its powers.
- (2) To avoid doubt, if information is disclosed in accordance with this section, the disclosure is taken, for the purposes of the Australian Privacy Principles, to be authorised by this Act.
- (3) This section applies despite any other law of the Commonwealth, any rule of common law or any equitable obligation of confidence.

407B Use of information by Commission

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

132 Subsection 409(2)

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

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

Repeal the items substitute:

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

134 Paragraph 409(2A)(a)

Repeal the paragraph, substitute:

- (a) any of the following apply:
- (i) a person is entitled to treatment under Chapter 6 of this Act;
 - (ii) a person is entitled to compensation for medical treatment under the DRCA;
 - (iii) a person is entitled to treatment under Part V of the VEA; and

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

Omit “Scheme Launch Transition”.

136 After section 409

Insert:

409A Commission must give certain documents on request

- (1) Any of the persons mentioned in subsection (2) may request the Commission to give the person any document held by the Commission that relates to a claim or application made under the VEA.
- (2) For the purposes of subsection (1), the persons are the following:
 - (a) the Chief of the Defence Force;
 - (b) the person who made the claim or application (as the case requires).
- (3) The Commission must comply with the request.

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

137 Sections 151, 151AA and 151A

Repeal the sections.

Division 10—Offsetting

Military Rehabilitation and Compensation Act 2004

138 Section 386 (paragraph beginning “This Chapter”)

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

139 Section 386 (paragraph beginning “This Chapter”)

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

140 Subsection 388(5)

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

141 Paragraph 388(5)(a)

Repeal the paragraph, substitute:

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

142 Subsection 388(6)

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

143 Paragraph 389(1)(a)

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

144 Paragraph 389(4)(b)

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

145 Paragraph 390(1)(a)

Repeal the paragraph, substitute:

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

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

Repeal the paragraphs, substitute:

- (a) any of the following apply:

- (i) compensation is payable under this Act in respect of a service injury, disease or death of a person (the *cause of action*);
- (ii) compensation is payable under this Act in respect of the loss of, or damage to, a medical aid used by a person (the *cause of action*);
- (iii) compensation is, or has been, payable under the DRCA in respect of an injury, disease or death of a person (the *cause of action*);
- (iv) compensation is, or has been, payable under the DRCA in respect of the loss of, or damage to, property used by a person (the *cause of action*);
- (v) a pension is, or has been, payable under Part II or IV of the VEA in respect of an injury, disease or death of a person (the *cause of action*); and

147 Paragraph 397(1)(b)

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

148 Paragraph 397(1)(b)

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

149 Paragraph 397(1)(b)

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

150 Subsection 397(5)

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

151 Subsection 397(5)

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

152 Paragraph 398(2)(a)

Repeal the paragraph, substitute:

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

the payment of the damages (except MRCA supplement under section 221 or 245 and compensation for dependants under section 242, 253 or 255) in respect of the cause of action; or

- (ii) if the claim relates to a cause of action mentioned in subparagraph 392(1)(a)(iii) or (iv)—all amounts of compensation paid to, or for the benefit of, the plaintiff under the DRCA before the payment of the damages in respect of the cause of action; or
- (iii) if the claim relates to a cause of action mentioned in subparagraph 392(1)(a)(v)—all amounts of pension paid to the plaintiff under Part II or IV of the VEA before the payment of the damages in respect of the cause of action; and

153 Paragraph 398(3)(b)

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

154 Paragraph 398(3)(b)

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

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

Omit “under this Act”.

156 Paragraph 399(a)

Repeal the paragraph, substitute:

- (a) any of the following apply:
 - (i) compensation is payable under this Act in respect of a service injury, disease or death of a person (the *cause of action*);
 - (ii) compensation is payable under this Act in respect of the loss of, or damage to, a medical aid used by a person (the *cause of action*);
 - (iii) compensation is, or has been, payable under the DRCA in respect of an injury, disease or death of a person (the *cause of action*);

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

157 Section 401 (heading)

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

158 Paragraph 401(1)(a)

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

159 Paragraph 401(2)(a)

Repeal the paragraph, substitute:

- (a) an amount equal to the total of:
 - (i) if the claim relates to a cause of action mentioned in subparagraph 399(a)(i) or (ii)—all amounts of compensation paid to the person under this Act before the payment of the damages (except MRCA supplement under section 221 or 245 and compensation for dependants under section 242, 253 or 255) in respect of the cause of action; or
 - (ii) if the claim relates to a cause of action mentioned in subparagraph 399(a)(iii) or (iv)—all amounts of compensation paid to, or for the benefit of, the person under the DRCA before the payment of the damages in respect of the cause of action; or
 - (iii) if the claim relates to a cause of action mentioned in subparagraph 399(a)(v)—all amounts of pension paid to the person under Part II or IV of the VEA before the payment of the damages in respect of the cause of action; and

160 Subsection 401(3)

Repeal the subsection, substitute:

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

161 Section 402 (heading)

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

162 Subsection 402(1)

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

163 Subsection 402(1)

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

164 Subsection 402(2)

Repeal the subsection, substitute:

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

165 After paragraph 403(1)(a)

Insert:

- (aa) appears to the Commission to be liable to pay damages:
 - (i) to a person (the *plaintiff*) in respect of an injury (within the meaning of the DRCA) of the plaintiff; or

- (ii) to a person (the *plaintiff*) in respect of the loss of, or damage to, property used by the plaintiff; or
- (iii) to a dependant (within the meaning of the DRCA) (the *plaintiff*) of a person in respect of the death of the person that resulted from an injury (within the meaning of the DRCA);
in respect of which compensation has been paid under the DRCA; or
- (ab) appears to the Commission to be liable to pay damages:
 - (i) to a person (the *plaintiff*) in respect of an injury or disease of the plaintiff; or
 - (ii) to a dependant (within the meaning of the VEA) (the *plaintiff*) of a person in respect of the death of the person;
in respect of which a pension has been paid under Part II or IV of the VEA; or

166 Paragraph 403(3)(b)

Repeal the paragraph, substitute:

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

Division 11—Rehabilitation

Military Rehabilitation and Compensation Act 2004

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

Add:

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

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

168 Subsection 4(1)

Repeal the following definitions:

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

169 Subsection 4(1)

Insert:

transferred DRCA rehabilitation program means a rehabilitation program under this Act that:

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

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

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

171 Part III

Repeal the Part.

172 Section 60 (definition of *determination*)

Omit “36, 37 or 39”.

173 Section 60 (definition of *reviewable decision*)

Repeal the definition.

174 Sections 146 and 148

Repeal the sections.

175 Subsection 160(1A)

Repeal the subsection.

Veterans' Entitlements Act 1986

176 Subsection 5Q(1)

Insert:

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

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

Repeal the definition.

178 Subsection 24(5A)

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

179 Subsection 24A(2)

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

180 Paragraph 37AAA(b)

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

181 Subsection 115A(1)

Insert:

transferred VEA rehabilitation program means a rehabilitation program under this Act that:

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

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

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

183 Section 115B

Repeal the section.

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

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

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

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

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

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

187 Subsection 115G(1)

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

188 Subsections 115H(1) and (2)

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

189 Paragraph 115H(4)(a)

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

190 Paragraph 115H(4)(b)

Before “rehabilitation”, insert “VEA”.

191 Paragraph 115H(5)(a)

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

192 Paragraph 115H(5)(b)

Before “rehabilitation”, insert “VEA”.

193 Subsection 115H(6)

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

194 At the end of section 115H

Add:

(8) In this section:

VEA rehabilitation program means:

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

195 Subsection 115L(1)

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

196 Paragraph 115L(3)(c)

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

197 Paragraph 199(da)

Repeal the paragraph.

Division 12—Motor Vehicle Compensation Scheme

Military Rehabilitation and Compensation Act 2004

198 After paragraph 212(1)(b)

Insert:

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

199 At the end of subsection 212(1)

Add:

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

Division 13—Financial and legal advice

Military Rehabilitation and Compensation Act 2004

200 After paragraph 423(d)

Insert:

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

201 After Part 5A of Chapter 11

Insert:

Part 5B—Financial and legal advice

424M Financial and legal advice

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

- (2) Without limiting subsection (1), the instrument may:
 - (a) specify the circumstances in which persons must obtain financial or legal advice (which must be circumstances that relate to an entitlement to compensation or other benefits under this Act); and
 - (b) require the advice to be obtained from:
 - (i) in the case of financial advice—a suitably qualified financial adviser; and
 - (ii) in the case of legal advice—a practising lawyer; and
 - (c) provide for consequences to apply if the advice is not obtained.
- (3) Without limiting paragraph (2)(a), and despite any other provision of this Act, the instrument may require financial or legal advice to be obtained in respect of the choice that a person may make under the following:
 - (a) Part 2 of Chapter 4 (permanent impairment);
 - (b) Part 6 of Chapter 4 (choice to receive a Special Rate Disability Pension);
 - (c) Part 2 of Chapter 5 (compensation for member's death for wholly dependent partners);but must not modify the requirement to obtain financial advice in subsection 202(3).
- (4) If the instrument requires a person to obtain financial or legal advice, the instrument:
 - (a) must also make provision for and in relation to the payment of compensation, by the Commonwealth, for costs incurred by the person in obtaining the advice; and
 - (b) may specify the maximum amount of compensation payable for such costs; and
 - (c) may provide for the indexation of that maximum amount.
- (5) Subsection (4) applies subject to the following provisions (which deal with compensation for the cost of financial and legal advice in certain circumstances):
 - (a) sections 81 to 83;
 - (b) sections 205 to 207;
 - (c) Division 3 of Part 2 of Chapter 5.

Schedule 2—Single ongoing Act enhancements

Part 1—Amendments relating to allowances etc.

Division 1—Compensation for funeral expenses

Military Rehabilitation and Compensation Act 2004

1 Section 231

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

2 Before section 265

Insert:

Division 1—Simplified outline of this Part

3 Section 265

Repeal the section, substitute:

265 Simplified outline of this Part

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

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

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

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

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

4 Before section 266

Insert:

Division 2—Deceased members to whom section 12 applies

5 After section 266

Insert:

266A No compensation under section 266 in certain cases

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

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

6 After section 267

Insert:

267A Offsets

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

7 At the end of Part 5 of Chapter 5

Add:

Division 3—Other deceased members and dependants of deceased members

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

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

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

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

268AB Funeral compensation for certain other deceased members

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

- (a) in respect of a dependant of the deceased member if the dependant incurred the cost of the funeral; or
 - (b) by the deceased member's legal personal representative.
- (3) This subsection applies in respect of a deceased member if:
 - (a) the member's death was war-caused (within the meaning of the VEA); or
 - (b) the member died in indigent circumstances.
- (4) This subsection applies in respect of a deceased member if:
 - (a) the member died:
 - (i) in a hospital or other institution; or
 - (ii) while travelling to or from a hospital or other institution; or
 - (iii) after having been discharged from a hospital or other institution in which the member was being treated for a terminal illness; or
 - (iv) while being treated for a terminal illness at the member's home instead of at a hospital or other institution; and
 - (b) if subparagraph (a)(i) or (ii) applies—treatment is or was provided in the hospital or other institution; and
 - (c) in any case—the treatment is or was arranged by the Commission under Chapter 6 of this Act or Part V of the VEA.
- (5) This subsection applies in respect of a deceased member if, after the death of the member:
 - (a) a pension is granted to the member that is determined to be payable, from a date before the member's death:
 - (i) at a rate that is worked out under subsection 22(4) of the VEA; or
 - (ii) at a rate that is worked out under section 24 of the VEA; or
 - (iii) at a rate that is worked out under section 27 of the VEA because the member was suffering from incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the table in subsection 27(1) of that Act; or

- (b) the rate of a pension that was payable to the member under Part II of the VEA is increased, as from a date before the member's death because:
 - (i) subsection 22(4) or section 24 of the VEA applied to the member as from that date; or
 - (ii) section 27 of the VEA applied to the member as from that date because of incapacity from a war-caused injury or a war-caused disease of a kind described in any of items 1 to 8 of the table in subsection 27(1) of that Act; or
- (c) information is received which satisfies the Commission that the member was, before 1 July 2004, made a prisoner of war at a time when the member was rendering operational service.

268AC Funeral compensation for certain dependants of deceased members

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

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

268AD Amount of funeral compensation

Amount for section 268AA

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

Amount for section 268AB

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

- (i) \$3,000;
 - (ii) an amount equal to the amount paid or payable in respect of the funeral of the deceased member; and
 - (b) if the body of the deceased member was transported in the circumstances mentioned in subsection (3)—an amount equal to a reasonable charge for transporting the body of the deceased member.
- (3) For the purposes of paragraph (2)(b), the circumstances are as follows:
- (a) the deceased member died at a place other than the member's ordinary place of residence;
 - (b) the deceased member was absent from the member's ordinary place of residence for the purpose of obtaining medical treatment;
 - (c) the Commission arranged for the provision of the treatment;
 - (d) a charge was made by the funeral director expressly for transporting the body of the deceased member from the place where the member died to the place where the member ordinarily resided immediately before the member died;
 - (e) the charge made by the funeral director did not relate to transporting the body of the deceased member:
 - (i) outside Australia; or
 - (ii) from one place in the metropolitan area of a capital city to another place in the metropolitan area of that city.
- (4) For the purposes of paragraph (3)(b), a deceased member is taken to be absent from the member's ordinary place of residence for the purpose of obtaining medical treatment:
- (a) if the member is travelling from the member's ordinary place of residence for the purpose of obtaining medical treatment; or
 - (b) if the member is returning to the member's ordinary place of residence after having obtained medical treatment; or
 - (c) if the member is being provided with medical treatment at a place other than the member's ordinary place of residence; or
 - (d) if the member is away from the member's ordinary place of residence on the recommendation of the member's doctor by way of treatment for an injury or disease.
-

Amount for section 268AC

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

Amount paid or payable in respect of a funeral

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

268AE Whom funeral compensation is payable to

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

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

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

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

8 Subsection 320(1) (note)

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

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

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

Omit “paragraph 18(4)(a) or”.

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

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

11 Section 18

Repeal the section.

12 Section 60 (definition of *determination*)

Omit “18,”.

13 Subsections 124(8) and (9)

Omit “or section 18”.

Veterans’ Entitlements Act 1986

14 Sections 98B, 99 and 100

Repeal the sections.

15 Paragraph 111(1)(c)

Repeal the paragraph.

16 Section 113

Repeal the section.

17 Paragraph 115(1)(b)

Repeal the paragraph.

18 Subsection 115(6)

Repeal the subsection.

Division 2—Acute support package

Military Rehabilitation and Compensation Act 2004

19 Subsection 268B(2)

After “(5),”, insert “(5AA), (5AB),”.

20 Paragraph 268B(3)(b)

Repeal the paragraph, substitute:

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

21 Paragraph 268B(4)(b)

Repeal the paragraph, substitute:

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

22 Subsection 268B(5)

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

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

Add:

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

24 After subsection 268B(5)

Insert:

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

(5AB) If the person was:

- (a) the partner of a deceased member immediately before the deceased member's death; and
- (b) partly dependent on the deceased member at the date of the deceased member's death;

the criteria are as follows:

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

Division 3—Household and attendant care

Military Rehabilitation and Compensation Act 2004

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

Add:

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

Division 4—Victoria Cross allowance and decoration allowance

Military Rehabilitation and Compensation Act 2004

26 Section 3

Omit “, a Victoria Cross allowance”.

27 Subsection 5(1)

Insert:

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

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

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

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

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

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

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

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

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

32 At the end of section 211

Add:

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

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

33 At the end of Part 7 of Chapter 4

Add:

Division 6—Victoria Cross allowance

230A Eligibility for Victoria Cross allowance

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

allowance period means the following:

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

230B Amount of Victoria Cross allowance

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

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

Division 7—Decoration allowance

230C Decoration allowance

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

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

34 At the end of Part 1 of Chapter 11

Add:

404A Indexation of Victoria Cross allowance

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

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

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

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

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

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

(6) In this section:

allowance indexation year means the following:

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

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

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

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

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

Veterans' Entitlements Act 1986

35 Paragraph 5H(8)(faa)

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

36 Paragraph 5H(8)(faa)

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

37 Paragraph 52Z(3A)(f)

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

38 Paragraph 52Z(3A)(f)

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

39 Paragraph 96(2)(f)

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

40 Sections 102 and 103

Repeal the sections.

41 Paragraph 111(1)(d)

Repeal the paragraph.

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

Repeal the paragraphs.

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

Omit “Victoria Cross allowance under section 103 or”.

44 Subsection 177(6)

Omit “, 102, 103”.

45 Section 198FA

Repeal the section.

Division 5—Prisoner of war ex gratia payments

Military Rehabilitation and Compensation Act 2004

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

Insert:

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

47 After Chapter 5

Insert:

Chapter 5AA—Compensation relating to prisoners of war

Part 1—Preliminary

268AF Simplified outline of this Chapter

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

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

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

268AG Definitions

(1) In this Chapter:

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

compensation eligibility date: see section 268AH.

designated war period: see section 268AH.

enemy State means:

- (a) a European State that was at war with the Crown at any time during the period starting on 3 September 1939 and ending at the end of 11 May 1945; or
- (b) a European ally (whether or not a State) of a State covered by paragraph (a).

interned means:

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

(b) restricted to residing within specified limits.

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

relevant military forces: see section 268AH.

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

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

The following table sets out:

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

Relevant military forces, designated war period and compensation eligibility date

Item	Column 1 Relevant military forces	Column 2 Designated war period	Column 3 Compensation eligibility date
1	Military forces of an enemy State	the period starting on 3 September 1939 and ending at the end of 11 May 1945	1 January 2007
2	Military forces of North Korea	the period starting on 27 June 1950 and ending at the end of 19 April 1956	1 January 2003
3	Military forces of Japan	the period starting on 7 December 1941 and ending at the end of 29 October 1945	1 January 2001

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

268AI Simplified outline of this Part

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

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

Former members

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

Partners of deceased members

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

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

Civilians

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

Partners of deceased civilians

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

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

Dependants (other than partners and children) of deceased members

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

One payment only

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

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

268AK Amount of compensation

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

Part 3—Prisoner of war recognition supplement

268AL Simplified outline of this Part

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

268AM Eligibility for prisoner of war recognition supplement

Former members

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

Civilians

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

One supplement only

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

268AN Rate of prisoner of war recognition supplement

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

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

268AO Payment of prisoner of war recognition supplement

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

48 Section 343

After “5”, insert “, 5AA”.

49 At the end of Part 1 of Chapter 11

Add:

404B Indexation of prisoner of war recognition supplement

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

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

- (2) The amount worked out under subsection (1) is to be rounded to the nearest multiple of 10 cents (rounding 5 cents or more upwards).
- (3) The indexation factor for a supplement indexation year is the number worked out using the following formula:

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

- (4) The indexation factor is to be worked out to 3 decimal places (rounding up if the fourth decimal place is 5 or more).
- (5) Amounts are to be worked out under this section:
- (a) using only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
 - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).
- (6) In this section:

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

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

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

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

supplement indexation year means the following:

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

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

50 Schedule 5

Repeal the Schedule.

Veterans' Entitlements Act 1986

51 Paragraph 5H(8)(faaa)

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

52 After paragraph 5H(8)(zy)

Insert:

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

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

Omit "VIB,".

54 Paragraph 52Z(3A)(fa)

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

55 Part VIB

Repeal the Part.

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

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

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

Repeal the paragraph.

58 Subsection 121(4)

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

59 Subsection 121(4A)

Repeal the subsection.

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

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

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

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

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

Repeal the paragraph.

Veterans’ Entitlements (Clarke Review) Act 2004

63 Part 2

Repeal the Part.

Division 6—Education schemes

Military Rehabilitation and Compensation Act 2004

64 Subsection 5(1)

Insert:

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

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

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

Repeal the heading, substitute:

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

66 Before section 258

Insert:

Subdivision A—Preliminary

257A Definitions

(1) In this Division:

VEA eligible child means:

- (a) a child of a deceased member of the Forces, or of a deceased member of a Peacekeeping Force, being a member:
 - (i) whose death was defence-caused (within the meaning of the VEA); or
 - (ii) who was, immediately before the member's death, a member to whom subsection 22(4) or section 24 of the VEA applied; or
 - (iii) who was, immediately before the member's death, in receipt of a pension under Part IV of the VEA in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1) of that Act; or
- (b) a child of a member of the Forces, or of a member of a Peacekeeping Force, being a member:
 - (i) to whom subsection 22(4) or section 24 of the VEA applies; or
 - (ii) who is in receipt of a pension under Part IV of the VEA in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1) of that Act; or
- (c) a child of a deceased veteran, being a veteran:
 - (i) whose death was war-caused (within the meaning of the VEA); or
 - (ii) who was, immediately before the veteran's death, a veteran to whom subsection 22(4) or section 24 of the VEA applied; or

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

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

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

- (d) if paragraph (b) of this subsection applies—in receipt of that pension or of pension at that increased rate, as the case may be, immediately before the member’s death.
- (3) If, after the death of a veteran, a pension is granted in respect of the veteran under Part II of the VEA, or the rate of the pension granted to the veteran under Part II of that Act is increased, as from a date before the death of the veteran in circumstances where:
- (a) subsection 22(4) or section 24 of the VEA applied to the veteran; or
 - (b) the veteran was suffering from an incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1) of the VEA;
- then, the veteran is taken, for the purposes of paragraphs (c) and (d) of the definition of *VEA eligible child* in subsection (1) of this section, to have been:
- (c) if paragraph (a) of this subsection applies—a veteran to whom subsection 22(4) or section 24 of the VEA applied immediately before the veteran’s death; or
 - (d) if paragraph (b) of this subsection applies—in receipt of that pension or of pension at that increased rate, as the case may be, immediately before the veteran’s death.

Extended meaning of child

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

Certain expressions have same meaning as in VEA

- (6) The following expressions have the same meaning when used in this section as they have in the VEA:
 - (a) member of the Forces;
 - (b) member of a Peacekeeping Force;

(c) veteran.

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

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

Variation or revocation

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

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

Application for determination

- (1) A person may make an application to the Commission for a determination that the person is included in one of the following classes of persons (a *determined class*):
 - (a) a class of persons determined by the Commission under subsection 257B(1);
 - (b) a class of persons determined by the Commission under subsection 257B(2).
- (2) The application may be made on behalf of the person:
 - (a) with the person's approval; or
 - (b) by the person's legal personal representative; or
 - (c) if the person is unable, because of physical or mental incapacity, to approve someone to make the application on

the person's behalf—by another person approved by the Commission; or

- (d) if the person is under the age of 18 years:
 - (i) by a parent or guardian of the person; or
 - (ii) by someone approved by a parent or guardian of the person; or
 - (iii) if there is not a parent or guardian of the person alive, or willing and able to make, or approve someone to make such an application on behalf of the person—by another person approved by the Commission.
- (3) The application is to be lodged at a place approved by the Commission under subsection 323(2) and is taken to have been made on a day determined under that subsection.

Determination that person is included in a class

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

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

67 Section 258 (at the end of the heading)

Add “and other children”.

68 After paragraph 258(1)(b)

Insert:

- ; and (c) a VEA eligible child; and
- (d) a VEA eligible grandchild.

69 After subsection 258(1)

Insert:

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

70 Subsection 258(2)

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

71 Subsection 258(3)

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

72 After paragraph 345(2)(da)

Insert:

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

73 Paragraph 345(2)(e)

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

74 Paragraph 354(2)(a)

After “52(1),”, insert “257C(4),”.

75 Paragraph 354(2)(b)

After “52(3),”, insert “257C(4),”.

Veterans’ Entitlements Act 1986

76 Paragraph 5H(8)(fa)

Repeal the paragraph.

77 Paragraph 5H(8)(zx)

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

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

Repeal the definition.

79 Paragraph 13(7)(h)

Repeal the paragraph, substitute:

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

80 Sections 67W and 67ZV

Repeal the sections.

81 Paragraph 70(10A)(e)

Repeal the paragraph, substitute:

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

82 Part VII

Repeal the Part.

83 Subsection 128A(2)

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

84 Subsection 175(5)

Repeal the subsection.

85 Paragraph 197(2)(c)

Omit “or Part VII”.

Division 7—Additional compensation for children of severely impaired veterans

Military Rehabilitation and Compensation Act 2004

86 Subsection 80(1)

Repeal the subsection, substitute:

- (1) This section applies to a person (the *impaired person*) if:
 - (a) either or both of the following apply:
 - (i) the Commission has accepted liability for one or more injuries or diseases of the person (other than because of the operation of section 24A of this Act);
 - (ii) the person is covered by subsection (1A) of this section; and
 - (b) the Commission has determined that the degree of impairment suffered by the person as a result of one or more service injuries or diseases constitutes at least 80 impairment points.
- (1A) A person is covered by this subsection if:
 - (a) the Commission is taken to have accepted liability for an injury sustained, or a disease contracted, by the person (the *original condition*) because of the operation of section 24A; and
 - (b) the Commission is satisfied that:
 - (i) the person has suffered additional impairment as result of another injury or disease or as a result of a deterioration in the original condition; and
 - (ii) the increase in the person’s overall impairment constitutes at least 5 impairment points.

87 Subsection 80(2)

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

88 Paragraph 80(2)(b)

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

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

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

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

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

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

Add:

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

92 At the end of section 80

Add:

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

93 After section 80

Insert:

80A Whom the additional amount is payable to

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

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

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

- (3) The Commission may, by legislative instrument, specify criteria or other requirements for determining:
- (a) the person or persons to whom an additional amount in respect of an eligible young person or child is payable; and
 - (b) if the additional amount is payable to more than one person—the proportion of the additional amount that is payable to each of the persons.
- (4) Without limiting subsection (3), the criteria or other requirements specified may relate to the circumstances surrounding legal responsibility or other arrangements for the care of the eligible young person or child.

Division 8—Special assistance

Military Rehabilitation and Compensation Act 2004

94 Paragraph 423(d)

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

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

95 Subsection 424(1)

Omit “(1)”.

96 Subsection 424(2)

Repeal the subsection.

Division 9—Repeals

Compensation (Japanese Internment) Act 2001

97 The whole of the Act

Repeal the Act.

Part 2—Amendments relating to treatment

Division 1—Travel for treatment arrangements

Military Rehabilitation and Compensation Act 2004

98 Section 289 (definition of *compensable treatment*)

Repeal the definition, substitute:

compensable treatment means:

- (a) treatment to which a person is entitled under Part 3; or
- (b) treatment in respect of which compensation is payable under Division 1A of this Part; or
- (c) treatment in respect of which compensation is payable under section 16 of the DRCA; or
- (d) treatment to which a person is entitled under Part V of the VEA.

99 Subparagraph 290(1)(b)(iii)

Omit “unavailable; or”, substitute “unavailable; and”.

100 Subparagraph 290(1)(b)(iv)

Repeal the subparagraph.

101 Subparagraph 290(2)(c)(iii)

Omit “unavailable; or”, substitute “unavailable; and”.

102 Subparagraph 290(2)(c)(iv)

Repeal the subparagraph.

103 After section 291

Insert:

291A Scheme may provide for advance payments

- (1) The Commission may, in writing, determine a scheme for and in relation to the making of advance payments to persons in respect of compensation a person is expected to become entitled to be paid

under section 290 or 291 in respect of a journey or accommodation.

- (2) Without limiting subsection (1), the scheme may provide for the following:
- (a) how applications for advance payments are made under the scheme;
 - (b) investigating and determining those applications.

Scheme must be approved by the Minister

- (3) The scheme has no effect unless the Minister has approved it in writing.

Variation or revocation of scheme

- (4) The Commission may, by written determination, vary or revoke the scheme that is in force under this section.
- (5) A determination under subsection (4) has no effect unless the Minister has approved it in writing.

Legislative instruments

- (6) A determination under subsection (1) or (4) made by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination is approved.

104 At the end of section 297

Add:

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

105 After paragraph 415(1)(b)

Insert:

- (ba) any amount by which an advance payment (under the scheme referred to in section 291A) in respect of compensation a person is expected to become entitled to under section 290 or 291 exceeds the amount of compensation that the person becomes entitled to under section 290 or 291; or

106 After paragraph 423(caa)

Insert:

(cab) advance payments under the scheme referred to in
section 291A;

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

107 Subsections 16(6) to (9)

Repeal the subsections.

108 Subsection 144B(6)

Repeal the subsection.

Veterans' Entitlements Act 1986

109 Section 110

Repeal the section.

110 Paragraph 111(1)(g)

Omit "allowance;"; substitute "allowance.".

111 Paragraph 111(1)(h)

Repeal the paragraph.

112 Subsection 112(3)

Repeal the subsection.

113 Paragraph 112(4)(b)

Omit "or".

114 Paragraph 112(4)(c)

Repeal the paragraph.

115 Subsection 112(4)

Omit ", (2) or (3)", substitute "or (2)".

Division 2—Treatment arrangements

Military Rehabilitation and Compensation Act 2004

116 Section 278

Omit:

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.

substitute:

The Commission can determine that specified classes of persons are eligible to be provided with specified kinds of treatment under this Part.

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 3A or 4 of this Part.

117 Paragraphs 279(a) and 280(b)

After “disease”, insert “(other than because of the operation of section 24A)”.

118 Subsection 281(1)

Omit “A person is”, substitute “Subject to subsections (2) and (3), a person is”.

119 Subsection 281(2)

Omit “However, if”, substitute “If”.

120 At the end of section 281

Add:

- (3) If an injury sustained, or a disease contracted, by the person (the **original condition**) is covered by subsection (4), then the person is only entitled to treatment under subsection (1) if:
- (a) the Commission has accepted liability for another injury or disease of the person (other than because of the operation of section 24A); or
 - (b) the Commission is satisfied that:
 - (i) the person has suffered additional impairment as a result of another injury or disease or as a result of a deterioration in the original condition; and
 - (ii) the increase in the person's overall impairment constitutes at least 5 impairment points.
- (4) The original condition is covered by this subsection if:
- (a) before the date of commencement, the person made a claim for compensation under the DRCA in respect of the original condition; and
 - (b) as a result of the determination of that claim (including any reconsideration or review of a decision made in relation to that claim), liability to pay compensation in respect of the original condition was accepted.

121 After Division 3 of Part 3 of Chapter 6

Insert:

Division 3A—Entitlement to treatment in other circumstances

284A Specified treatment for specified members and others

- (1) The Commission may, by legislative instrument, determine the following:
- (a) that a member or former member included in a specified class is eligible to be provided with treatment of a specified kind under this Part;
 - (b) that a person who is the dependant of a member or former member and who is in a specified class is eligible to be provided with treatment of a specified kind under this Part;

- (c) that a person who was the dependant of a member or former member and who is in a specified class is eligible to be provided with treatment of a specified kind under this Part;
 - (d) that a person who is not covered by paragraph (a), (b) or (c) and who is in a specified class is eligible to be provided with treatment of a specified kind under this Part.
- (2) An instrument under subsection (1) has effect according to its terms, despite any other provision of this Act.

122 Subsection 287(1)

Repeal the subsection, substitute:

- (1) The Commission may arrange for treatment to be provided to a person who is entitled to treatment under this Part in accordance with one or more of the following:
- (a) a determination under section 284A;
 - (b) the arrangements made under section 285;
 - (c) a treatment determination under section 286.

123 Subsection 287(2)

Omit “the determination”, substitute “a determination mentioned in subsection (1)”.

124 At the end of Division 4 of Part 3 of Chapter 6

Add:

287B Provision of services under the Veteran Suicide Prevention pilot

- (1) A person is eligible to be provided with treatment under this Part, being treatment that is the provision of services under the program established by the Commonwealth and known as the Veteran Suicide Prevention pilot, if the person is included in a class of persons determined in an instrument under subsection (2).
- (2) The Commission may, by legislative instrument, determine a class of persons for the purposes of subsection (1).

- (3) Despite subsection 14(2) of the *Legislation Act 2003*, an instrument under subsection (2) of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

287C Provision of counselling services and psychiatric assessment

- (1) The Commission may, with the approval of the Minister, arrange for the provision of:
- (a) counselling services for:
 - (i) members, former members and dependants of members and former members; and
 - (ii) a person in a class in respect of which a determination under paragraph 284A(1)(c) has been made; and
 - (iii) a person included in a class of persons specified in an instrument under subsection (2) of this section; and
 - (b) psychiatric assessment of a person in a class in respect of which a determination under paragraph 284A(1)(b) or (c) has been made.
- (2) The Commission may, by legislative instrument, specify a class of persons for the purposes of subparagraph (1)(a)(iii).

Veterans' Entitlements Act 1986

125 Subsection 85(1) (note)

Omit “sections 85A and 85B”, substitute “section 85A”.

126 Subsection 85(2) (note 2)

Omit “sections 85A and 85B”, substitute “section 85A”.

127 Section 85B

Repeal the section.

Part 3—Presumptive liability

Military Rehabilitation and Compensation Act 2004

128 Section 22 (at the end of the paragraph beginning “There are 2 standards”)

Add “, unless the presumption in subsection 27A(1) or (2) (that certain injuries and diseases are attributable to defence service) is relied on to make the decision.”.

129 Section 22 (paragraph beginning “The more beneficial”)

Omit “all other decisions”, substitute “most other decisions”.

130 At the end of subsection 23(1)

Add:

Note 3: Section 335 does not apply when determining whether a person’s injury or disease is a service injury or a service disease if the presumption in subsection 27A(1) or (2) (that certain injuries and diseases are attributable to defence service) is relied on (see subsection 335(4)).

131 After paragraph 27(b)

Insert:

Note: Certain injuries and diseases are taken to be attributable to defence service (see subsections 27A(1) and (2)).

132 After section 27

Insert:

27A Presumption that certain injuries and diseases are attributable to defence service

Injuries taken to be attributable to defence service

(1) If:

(a) a person has sustained an injury; and

- (b) the injury is of a kind specified in a determination under subsection (3) to be an injury attributable to defence service of a kind specified in the determination; and
 - (c) the person was, at the time the injury was sustained, a member rendering defence service of that kind;
- the injury is, for the purposes of paragraph 27(b), taken to be attributable to defence service rendered by the person while a member, unless the contrary is established.

Diseases taken to be attributable to defence service

- (2) If:
- (a) a person has contracted a disease; and
 - (b) the disease is of a kind specified in a determination under subsection (3) to be a disease attributable to defence service of a kind specified in the determination; and
 - (c) the person was, at any time before the disease was contracted, a member rendering defence service of that kind;
- the disease is, for the purposes of paragraph 27(b), taken to be attributable to defence service rendered by the person while a member, unless the contrary is established.

Determination by the Commission

- (3) The Commission may, by written determination, specify the following:
- (a) one or more kinds of injury that are attributable to one or more kinds of defence service;
 - (b) one or more kinds of disease that are attributable to one or more kinds of defence service.
- (4) Without limiting subsection (3), kinds of defence service may be specified by reference to the period during which the service was rendered.
- (5) To avoid doubt, a determination under subsection (3) may specify a kind of injury, or a kind of disease, irrespective of whether a Statement of Principles is, or has been, determined in respect of that kind of injury or that kind of disease.

Variation or revocation of determination

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

Determination etc. must be approved by the Minister

- (7) A determination, and any variation or revocation of a determination, under subsection (3) has no effect unless the Minister had approved the determination, variation or revocation in writing.

Legislative instruments

- (8) A determination, and any variation or revocation of a determination, under subsection (3) prepared by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination, variation or revocation is approved.

133 Section 324

Before “If a claim”, insert “(1)”.

134 At the end of section 324

Add:

- (2) Subsection (1) does not require the Commission to investigate matters relating to whether an injury or disease is attributable to defence service if the presumption in subsection 27A(1) or (2) is relied on for the purposes of determining that the injury or disease is a service injury or a service disease, as the case may be.

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

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

Add “, unless the presumption in subsection 27A(1) or (2) (that certain injuries and diseases are attributable to defence service) is relied on to make the decision.”.

136 Section 332 (paragraph beginning “The more beneficial”)

Omit “all other decisions”, substitute “most other decisions”.

137 Section 333

Before “After the Commission”, insert “(1)”.

138 At the end of section 333

Add:

- (2) Subsection (1) does not require the Commission to consider matters relating to whether an injury or disease is attributable to defence service if the presumption in subsection 27A(1) or (2) is relied on for the purposes of determining that the injury or disease is a service injury or a service disease, as the case may be.

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

139 Subsection 335(1) (before the note)

Insert:

Note 1: See subsection (4) about the application of this section.

140 Subsection 335(1) (note)

Omit “Note:”, substitute “Note 2:”.

141 Subsection 335(3) (before the note)

Insert:

Note 1: See subsection (4) about the application of this section.

142 Subsection 335(3) (note)

Omit “Note:”, substitute “Note 2:”.

143 At the end of section 335

Add:

Section not apply to certain determinations

- (4) This section does not apply in relation to the determination that a person's injury or disease is a service injury or a service disease, as the case may be, if the presumption in subsection 27A(1) or (2) is relied on for the purposes of making the determination.

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

144 Section 336

Omit "Nothing in section 335, or in any other provision of this Act," substitute "Except as provided by subsections 27A(1) and (2), nothing in this Act".

145 After subsection 338(2)

Insert:

- (2A) Subsection (2) does not apply if the presumption in subsection 27A(1) or (2) is relied on for the purposes of determining the claim or making a decision on the reconsideration or review of a determination relating to the claim.

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

146 After subsection 339(2)

Insert:

- (2A) Subsection (2) does not apply if the presumption in subsection 27A(1) or (2) is relied on for the purposes of determining the claim or making a decision on the reconsideration or review of a determination relating to the claim.

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

147 Section 341

Repeal the section, substitute:

340A Subsection 27A(3) determination to be applied on review of a decision

- (1) This section applies if:
 - (a) the Commission, the Board or the Tribunal is reconsidering or reviewing a determination (the *original claim determination*) in relation to a claim under section 319; and
 - (b) at the time the original claim determination was made, a determination under subsection 27A(3) (the *earlier presumption determination*) was in force in respect of:
 - (i) the kind of injury sustained by the person in respect of whom the claim was made; or
 - (ii) the kind of disease contracted by the person in respect of whom the claim was made; and
 - (c) at the time the decision on the reconsideration or review is made, a different determination under subsection 27A(3) (the *current presumption determination*) is in force in respect of that kind of injury or disease; and
 - (d) the presumption in subsection 27A(1) or (2) is relied on for the purposes of making the decision on the reconsideration or review.
- (2) When making its decision on the reconsideration or review, the Commission, the Board or the Tribunal is to apply whichever of the earlier presumption determination or the current presumption determination will result in a more favourable outcome for the claimant.
- (3) To avoid doubt, the earlier presumption determination may be applied even if it is no longer in force.

341 Statement of Principles to be applied on review of a decision

- (1) This section applies if:
 - (a) the Commission, the Board or the Tribunal is reconsidering or reviewing a determination (the *original claim determination*) in relation to a claim to which section 338 or 339 applies; and

- (b) at the time the original claim determination was made, a Statement of Principles (the *earlier Statement of Principles*) was in force in respect of:
 - (i) the kind of injury sustained by the person in respect of whom the claim was made; or
 - (ii) the kind of disease contracted by the person in respect of whom the claim was made; or
 - (iii) the kind of death suffered by the person in respect of whom the claim was made; and
 - (c) at the time the decision on the reconsideration or review is made, a different Statement of Principles (the *current Statement of Principles*) is in force in respect of that kind of injury, disease or death.
- (2) Subject to sections 340 and 340A, when making its decision on the reconsideration or review, the Commission, the Board or the Tribunal is to apply whichever of the earlier Statement of Principles or the current Statement of Principles will result in a more favourable outcome for the claimant.
- (3) To avoid doubt, the earlier Statement of Principles may be applied even if it is no longer in force.

148 Before paragraph 345(2)(a)

Insert:

- (aa) a determination under subsection 27A(3) (presumption that certain injuries and diseases are attributable to defence service);

Part 4—Additional disablement amount

Military Rehabilitation and Compensation Act 2004

149 Subsection 5(1) (after paragraph (b) of the definition of *clean energy underlying payment*)

Insert:

- (ba) Additional Disablement Amount under Division 3A of Part 7 of Chapter 4; or

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

Insert:

- (ba) Additional Disablement Amount under Division 3A of Part 7 of Chapter 4;

151 Subsection 5(1) (definition of *energy supplement*)

After “209A”, insert “, 220D”.

152 After subsection 12(2)

Insert:

Deceased members eligible for Additional Disablement Amount

- (2A) This section applies in respect of a deceased member if the member satisfied the eligibility criteria in section 220A (Additional Disablement Amount) during some period of the member’s life.

153 Section 65 (paragraph beginning “Part 7”)

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

154 After paragraph 199(1)(b)

Insert:

- (ba) either:
 - (i) the person is not pension age or older; or
 - (ii) the person is pension age or older but section 121 applies to the person;

155 Section 211

Before:

MRCA supplement is provided under Division 4.

Insert:

An Additional Disablement Amount is provided under Division 3A for certain persons who are pension age or older and have suffered a serious impairment as a result of a service injury or disease.

156 After Division 3 of Part 7 of Chapter 4

Insert:

Division 3A—Additional Disablement Amount

220A Eligibility for Additional Disablement Amount

The Commonwealth is liable to pay an Additional Disablement Amount to a person if:

- (a) the Commission has accepted liability for one or more service injuries or diseases of the person; and
- (b) the person is not receiving any of the following:
 - (i) compensation for incapacity under Part 3 or 4 of this Chapter;
 - (ii) a Special Rate Disability Pension;
 - (iii) a pension under Part II of the VEA as a veteran to whom subsection 22(4), or section 23, 24, 25 or 27, of that Act applies; and
- (c) the person is pension age or older; and
- (d) the Commission has determined under Part 2 of this Chapter that an impairment suffered by the person as a result of one or more service injuries or diseases constitutes 70 or more impairment points and the effect of the injuries or diseases on the person's lifestyle constitutes 6 or more impairment points.

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

220B Amount of Additional Disablement Amount

The maximum weekly amount of Additional Disablement Amount that is payable under section 220A is one half of the fortnightly rate at which a pension is payable from time to time under subsection 22(4) of the VEA.

220C Offsets

- (1) The maximum weekly amount of Additional Disablement Amount that could be payable to a person is reduced in accordance with this section.

Permanent impairment compensation

- (2) There is a reduction that is made by reference to amounts payable or paid to the person under Part 2 of this Chapter (permanent impairment). However, a payment received for eligible young persons, financial advice, legal advice or energy supplement under that Part does not reduce the maximum weekly amount of Additional Disablement Amount that could be payable to the person.
- (3) The maximum weekly amount of an Additional Disablement Amount that could be payable to a person is reduced by the sum of:
- (a) any weekly amounts that are being paid to the person under Part 2 of this Chapter; and
 - (b) if the person has chosen to convert all or part of one or more weekly amounts that were payable to the person under that Part to lump sums—those weekly amounts or those parts of those weekly amounts.
- (4) Subsection (3) applies to a person to whom section 389 or 402 applies as if the person were being paid the weekly amounts under Part 2 of this Chapter that the person would be paid if that section did not apply to the person.

Note: Section 389 provides that compensation under Part 2 of Chapter 4 is not payable to a person who chooses to institute proceedings for damages against the Commonwealth. Under section 402,

compensation under this Act is not payable to a person who recovers damages from a third party.

Commonwealth superannuation

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

Relationship with subsection 415(4)

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

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

220D Energy supplement for Additional Disablement Amount

- (1) The Commonwealth is liable to pay an energy supplement to a person for a day if:
- (a) an Additional Disablement Amount:
 - (i) is payable to the person for the day; or
 - (ii) would be payable to the person for the day apart from section 220C and paragraph 398(3)(b); and
 - (b) the person resides in Australia on the day; and
 - (c) on the day the person either:
 - (i) is in Australia; or
 - (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks.

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

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

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

Omit “and”.

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

Add:

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

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

Omit “and”.

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

Add:

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

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

Insert:

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

Veterans’ Entitlements Act 1986

162 After paragraph 5H(8)(zs)

Insert:

- (zsa) a payment of an Additional Disablement Amount under Division 3A of Part 7 of Chapter 4 of the MRCA;
- (zsb) if subsection 220C(5) of the MRCA applies to a person—an amount per fortnight, worked out under section 51A of this Act, that would, apart from this paragraph, be income of the person;

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

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

After “(zr)”, insert “, (zsb)”.

164 After section 5I

Insert:

5IA Additional Disablement Amount reduction amount

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

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

where:

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

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

Insert:

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

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

Insert:

Note 1A: Subsection 220C(5) of the MRCA reduces an Additional Disablement Amount by reference to amounts of Commonwealth superannuation that the person has received or is receiving.

Schedule 3—Review pathway

Part 1—Amendments commencing 60 days after Royal Assent

Division 1—Main amendments

Military Rehabilitation and Compensation Act 2004

1 Section 3

After “Chapters 7 and 8.”, insert “The Veterans’ Review Board is dealt with in Chapter 8A.”.

2 Subsection 5(1)

Insert:

alternative dispute resolution processes means procedures and services for the resolution of disputes, and includes the following:

- (a) conferencing;
- (b) mediation;
- (c) neutral evaluation;
- (d) case appraisal;
- (e) conciliation;
- (f) procedures or services prescribed in an instrument under subsection (1A);

but does not include the following:

- (g) arbitration;
- (h) court procedures or services.

Paragraphs (b) to (f) of this definition do not limit paragraph (a) of this definition.

3 Subsection 5(1) (definition of *Board*)

Omit “constituted under the *Veterans’ Entitlements Act 1986*”, substitute “continued in existence by section 359B”.

4 Subsection 5(1)

Insert:

Board member means the Principal Member, a Senior Member or another member of the Board.

Conference Registrar means a Conference Registrar of the Board.

Deputy Registrar means a Deputy Registrar of the Board.

National Registrar means the National Registrar of the Board.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

Principal Member means the Principal Member of the Board.

Registrar means a Registrar of the Board.

Senior Member means a Senior Member of the Board.

Services member means a Board member who, when appointed or re-appointed as a Board member, was a person selected from lists submitted in accordance with a request made under subsection 359C(3).

5 After subsection 5(1)

Insert:

- (1A) The Minister may, by legislative instrument, prescribe procedures or services for the purposes of paragraph (f) of the definition of **alternative dispute resolution processes** in subsection (1).

6 Subsection 345(1)

Insert:

acute support package instrument means an instrument made under:

- (a) section 268B of this Act; or
- (b) section 41B of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or
- (c) section 115S of the *Veterans' Entitlements Act 1986*.

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

Add:

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

8 Section 345B

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

9 Before paragraph 345B(a)

Insert:

- (aa) a reference to an original determination were a reference to the decision; and

10 Part 4 of Chapter 8

Repeal the Part, substitute:

Part 4—Review by the Board

Division 1—Preliminary

352 Definitions

In this Part:

applicant means a person who makes an application for review.

application for review means an application under section 352A.

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

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

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

review means a review by the Board under this Part.

Division 2—Applications for review

352A Applications for review

The claimant may make an application to the Board for review of an original determination.

- Note: Applications may also be made to the Board for review of:
- (a) certain determinations under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (see section 62 of that Act); and
 - (b) certain decisions under the *Veterans' Entitlements Act 1986* (see section 134 of that Act).

352B Application requirements

- (1) An application for review must:
 - (a) be in writing; and
 - (b) be given to the Board within 12 months after the day on which notice of the original determination was given to the person making the application.
- (2) An application for review may set out the reasons for the application.

352C Notifying Commission of application

If an application for review is made to the Board, the Board must, as soon as practicable after receiving the application, give the Commission written notice of the application.

352D Commission to prepare report

- (1) Within 28 days after the Board notifies the Commission under section 352C of an application for review of an original determination, the Commission must:
 - (a) cause a report to be prepared that refers to the evidence on which the original determination was based; and
 - (b) subject to subsection (2), cause a copy of the report to be served on the applicant.

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

352E Ongoing requirement for lodging material documents with Board

If:

- (a) an application for review is made to the Board; and
- (b) before the Board determines the review:
 - (i) a party to the review obtains possession of a document; and
 - (ii) the document is relevant to the review; and
 - (iii) a copy of the document has not already been lodged with the Board;

the party must, subject to any directions given under subsection 359CL(2), lodge a copy of the document with the Board as soon as practicable after obtaining possession.

Division 3—Proceedings before the Board

352F Principal Member or Senior Member to preside at hearing

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

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

352G Parties to review before Board

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

- (3) A person is not entitled to ask for or receive any fee or other reward, or any payment for expenses, for representing a party to a review.
- (4) In this section, ***legal practitioner*** includes a person who:
 - (a) holds a degree of Bachelor of Laws, Master of Laws or Doctor of Laws or Bachelor of Legal Studies; or
 - (b) is otherwise qualified for admission as a barrister, solicitor, or barrister and solicitor, of the High Court or of the Supreme Court of a State or Territory.

352H Notice of hearing etc.

- (1) As soon as practicable after receiving the relevant documents relating to a review of an original determination, the Principal Member must cause to be served on each party to the review a notice:
 - (a) informing the party that the Board is to review the original determination; and
 - (b) requesting the party to inform the Principal Member, in writing, within a reasonable time specified in the notice, whether:
 - (i) the party wishes to appear on the hearing of the review; and
 - (ii) if the party wishes to appear, whether the party intends to appear on the hearing in person, or be represented as mentioned in section 352G.
- (2) If either party to a review informs the Principal Member that the party wishes to appear on the hearing of the review, the Principal Member must:
 - (a) cause a date, time and place to be fixed for the hearing of the review; and
 - (b) cause notice of the date, time and place so fixed to be served on each party to the review.
- (3) The Principal Member may defer fixing a date, time and place for the hearing of a review until the parties to the review have informed the Principal Member that they are ready to proceed at a hearing.

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

352J Procedure of Board

Directions hearings

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

Directions before hearing commences

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

Directions by Principal Member

- (4) The Principal Member:

- (a) may give general directions as to the procedure of the Board with respect to reviews before it, including reviews the hearings of which have not been commenced; and
 - (b) may give directions as to the procedure of the Board with respect to a particular review before the Board, either before or after the hearing of the review has commenced.
- (5) The power of the Principal Member under subsection (4) includes the power to give directions:
 - (a) as to the manner of communication of documents, including electronic documents, that are required or permitted to be communicated to the Board; and
 - (b) as to the time at which such documents are to be taken to have been so communicated.
- (6) Without limiting the documents to which subsection (5) applies, those documents include:
 - (a) documents, comments and supplementary reports forwarded to the Principal Member under subsection 352D(4); and
 - (b) notices given to the Principal Member by a party to a review for the purposes of section 352H; and
 - (c) documents produced to the Board under section 352Q for the purposes of the hearing of a review; and
 - (d) further documents and reports of investigations or examinations forwarded to the Board as a consequence of a request made under subsection (8) of this section; and
 - (e) documents withdrawing or discontinuing applications for review communicated to the Board under subsection 353C(2).

Direction by presiding member

- (7) The presiding member in respect of a review may, in respect of a matter not dealt with by directions under subsection (4), give directions as to the procedure to be followed on a hearing of the review, either before or after the hearing of the review has commenced.

Requests by Principal Member

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

Limits on powers

- (10) A direction under subsection (2), (4) or (7) must not be inconsistent with:
- (a) section 352H (notice of hearing etc.); or
 - (b) directions under subsection 359CL(2).
- (11) In giving a direction or making a request under this section, the Principal Member or a presiding member must have regard to the Board's objective in section 359BA.

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

352K Participation by telephone etc.

A Board member holding a directions hearing, or the Board in the hearing of a review, may allow a person to participate by:

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

352L Obligations of parties etc.

A party to a review, and any person representing such a party, must use their best endeavours to assist the Board to fulfil the Board's objective in section 359BA.

352M Questions to be decided by majority of Board

- (1) A question before the Board on a review is to be decided according to the opinion of a majority of the Board members constituting the Board for the purposes of the review.
- (2) If:
 - (a) the Board is constituted for the purposes of a review by 2 Board members only; and
 - (b) the 2 Board members cannot agree on a question arising in the review;the Board must adjourn the review and refer the matter to the Principal Member for the giving of any necessary directions, or the taking of any other action, under section 359CM or 359CN.

352N Hearing to be in private except in special circumstances

- (1) Subject to this section, the hearing of a review must be in private.
- (2) The presiding member for a review may give directions (whether in writing or otherwise) as to the persons who may be present at any hearing of the review.
- (3) If requested to do so by the applicant for a review, the presiding member for the review may permit a hearing, or a part of a hearing, of the review to take place in public.

Note: A direction under subsection (2) that is given in writing is not a legislative instrument (see section 353U).

352P Powers of Board

- (1) The Board may:
 - (a) take evidence on oath or affirmation for the purposes of a review; or
 - (b) adjourn a hearing of a review from time to time.
 - (2) The presiding member for a review may:
 - (a) require a person appearing at a hearing of the review for the purpose of giving evidence to take an oath or to make an affirmation; and
 - (b) administer an oath or affirmation to a person so appearing.
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- (3) The applicant for a review by the Board of an original determination is a competent and compellable witness in the hearing of the review of that determination by the Board.
- (4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person will give will be true.
- (5) The power of the Board under paragraph (1)(a) to take evidence on oath or affirmation for the purposes of a review:
 - (a) may be exercised on behalf of the Board by:
 - (i) the presiding member for the review; or
 - (ii) by another person (whether a Board member or not) authorised by the presiding member; and
 - (b) may be exercised within or outside Australia; and
 - (c) if the Board directs that the power is to be exercised subject to any limitations specified by the Board—is subject to any limitations so specified.
- (6) If a person (the **authorised person**) is authorised, in accordance with subparagraph (5)(a)(ii), to take evidence for the purposes of a review:
 - (a) the authorised person has, for the purposes of taking that evidence, all the powers of the Board under subsection (1) and all the powers of the presiding member under subsection (2); and
 - (b) for the purposes of the exercise of those powers by the authorised person, this Part has effect as if a reference to the Board, or to the presiding member, in relation to the review included a reference to the authorised person.

352Q Board may summon persons to give evidence or produce documents

- (1) If the presiding member for a review has reasonable grounds to believe that a person has information, or a document or thing, relevant to the review, the presiding member may, in writing, summon the person to do either or both of the following on the day, and at the time and place, specified in the summons:
 - (a) appear at a hearing of the review to give evidence;

- (b) produce any document or other thing specified in the summons.
- (2) The day specified in the summons must be at least 14 days after the day the summons is given to the person.

352R Information may be made available to parties

- (1) If, after relevant documents relating to a review have been forwarded to the Principal Member in accordance with subsection 352D(4) and before the commencement of the hearing of the review, a party to the review gives any information to the Board for the purposes of the review, the Board must make that information available to each other party to the review.
- (2) However, if the Board is of the opinion that:
 - (a) any information under the control of the Board is of a confidential nature; or
 - (b) it might be prejudicial to the physical or mental health or well-being of the applicant to communicate any such information to the applicant;the Board may refrain from making it available to the applicant, but may make it available to a person representing the applicant.
- (3) Subsection (1) does not apply to information given by a party to a review who is not the Commission unless the Board is of the opinion that the information contains, or foreshadows the presentation of, evidence or a submission that has not been considered by the Commission in connection with the review.

352S Board not bound by technicalities etc.

- (1) The Board, in conducting a review, in hearing a review or in making a decision on a review of an original determination:
 - (a) is not bound to act in a formal manner and is not bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks just; and
 - (b) must act according to substantial justice and the substantial merits of the case, without regard to legal form and technicalities; and

- (c) without limiting paragraphs (a) and (b), must take into account any difficulties that, for any reason, lie in the way of ascertaining the existence of any fact, matter, cause or circumstance, including any reason attributable to:
 - (i) the effects of the passage of time, including the effect of the passage of time on the availability of witnesses; and
 - (ii) the absence of, or a deficiency in, relevant official records, including an absence or deficiency resulting from the fact that an occurrence that happened during the defence service of a member was not reported to the appropriate authorities.
- (2) The Commission may make available to the Board:
 - (a) any Statements of Principles applied by the Commission; and
 - (b) such other material as the Commission considers may be of assistance to the Board in the exercise of its powers or the performance of its functions under this Act.
- (3) Nothing in this section authorises the Commission to direct the Board with respect to its consideration of a particular review.

352T Board may remit matters to Commission for further consideration

- (1) At any stage of a review of an original determination, the Board may remit the original determination to the Commission for the Commission to reconsider the original determination.

Role of Commission

- (2) If an original determination is remitted to the Commission, the Commission must reconsider the determination and must:
 - (a) confirm the determination; or
 - (b) vary the determination; or
 - (c) revoke the determination and make a new determination in substitution for the determination revoked.
- (3) If the Commission confirms the determination, the review resumes.
- (4) If the Commission varies the determination:

- (a) the application for review is taken to be an application for review of the determination as varied; and
 - (b) the person who made the application may:
 - (i) proceed with the application for review of the determination as varied; or
 - (ii) withdraw the application.
- (5) If the Commission revokes the determination and makes a new determination in substitution for the determination revoked:
 - (a) the application is taken to be an application for review of the new determination; and
 - (b) the person who made the application may:
 - (i) proceed with the application for review of the new determination; or
 - (ii) withdraw the application.

Division 4—Alternative dispute resolution processes

352U Referral of review for alternative dispute resolution process

- (1) If an application is made to the Board for review of an original determination, the Principal Member may, in writing:
 - (a) direct the holding of a conference of the parties to the review, or their representatives, in relation to the review, any part of the review or any matter arising out of the review; or
 - (b) direct that the review, any part of the review or any matter arising out of the review, be referred for a particular alternative dispute resolution process (other than conferencing).
- (2) The Principal Member may, in writing, direct the holding of conferences of the parties to a review or their representatives in the case of applications made to the Board for review of original determinations of a kind specified in the direction.
- (3) The Principal Member may, in writing, direct that reviews be referred for a particular alternative dispute resolution process (other than conferencing) in the case of applications made to the Board for review of original determinations of a kind specified in the direction.

- (4) A direction may be given under paragraph (1)(a) or (b):
- (a) whether or not a direction has previously been given under paragraph (1)(a) or (b) in relation to the review; and
 - (b) whether or not a direction under subsection (2) or (3) has applied.

- (5) If a direction under this section is applicable to:
- (a) a review; or
 - (b) a part of a review; or
 - (c) a matter arising out of a review;
- each party must act in good faith in relation to the conduct of the alternative dispute resolution process concerned.

Note: A direction under this section is not a legislative instrument (see section 353U).

352V Directions by Principal Member

- (1) The Principal Member may give written directions about alternative dispute resolution processes.
- (2) Directions under subsection (1) may relate to the following:
- (a) the procedure to be followed in the conduct of an alternative dispute resolution process;
 - (b) the person who is to conduct an alternative dispute resolution process;
 - (c) the procedure to be followed when an alternative dispute resolution process ends.
- (3) Subsection (2) does not limit subsection (1).
- (4) A person is not entitled to conduct an alternative dispute resolution process unless the person is:
- (a) a Board member; or
 - (b) the National Registrar, a Registrar, a Deputy Registrar or a Conference Registrar; or
 - (c) a person engaged under section 353.
- (5) The National Registrar, a Registrar or a Deputy Registrar, in conducting an alternative dispute resolution process, does so in the capacity of a Conference Registrar.

352W Agreement about the terms of a decision etc.

- (1) If:
- (a) in the course of an alternative dispute resolution process under this Division, agreement is reached between the parties to a review or their representatives as to the terms of a decision of the Board:
 - (i) in the review; or
 - (ii) in relation to a part of the review; or
 - (iii) in relation to a matter arising out of the review; that would be acceptable to the parties; and
 - (b) the terms of the agreement are reduced to writing, signed by or on behalf of the parties and lodged with the Board; and
 - (c) 7 days pass after lodgement, and none of the parties has notified the Board in writing that the party wishes to withdraw from the agreement; and
 - (d) the Board is satisfied that a decision in the terms of the agreement or consistent with those terms would be within the powers of the Board;
- the Board may, if it appears to it to be appropriate to do so, act in accordance with whichever of subsection (2) or (3) is relevant in the particular case.
- (2) If the agreement reached is an agreement as to the terms of a decision of the Board in the review, the Board may, without holding a hearing of the review, make a decision in accordance with those terms.
- (3) If the agreement relates to:
- (a) a part of the review; or
 - (b) a matter arising out of the review;
- the Board may, in its decision on the review, give effect to the terms of the agreement without dealing at the hearing of the review with the part of the review, or the matter arising out of the review, to which the agreement relates.

Variation or revocation of decision

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

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

352X Evidence not admissible

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

Exceptions

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

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

If:

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

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

352Z Participation by telephone etc.

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

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

353 Engagement of persons to conduct alternative dispute resolution processes

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

Division 5—Decisions of the Board

353A Decision of Board

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

- (a) the evidence that was before the Commission when the determination was made; and
 - (b) any further evidence before the Board on the review that was not before the Commission, being further evidence relevant to the review.
- (2) It is the duty of the Board, in reviewing an original determination, to satisfy itself with respect to, or to determine, as the case requires, all matters relevant to the review.
- (3) For the purpose of reviewing an original determination, the Board may exercise all the powers and discretions that are conferred on the Commission by:
 - (a) this Act; and
 - (b) if the determination was made under another Act—that other Act;in like manner as they are required to be exercised by the Commission.
- (4) On review of an original determination, the Board must make a decision, in writing:
 - (a) affirming the original determination; or
 - (b) varying the original determination; or
 - (c) setting aside the original determination and:
 - (i) making a decision in substitution for the original determination; or
 - (ii) making a decision in substitution for the original determination and, in relation to the substituted decision, remitting one or more matters to the Commission for consideration in accordance with any directions or recommendations of the Board; or
 - (iii) remitting one or more matters to the Commission for reconsideration in accordance with any directions or recommendations of the Board.

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

Notice of decision

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

Reasons

- (2) The Board must give reasons either orally or in writing for its decision under section 353A.
- (3) If the Board does not give reasons in writing for its decision:
- (a) a party to the review may, within 28 days after the day a copy of the decision is given to the party, request the Board for a written statement of the Board's reasons for its decision; and
 - (b) the Board must comply with any request within 28 days after receiving the request.
- (4) If the Board gives reasons in writing for its decision, those reasons must include its findings on material questions of fact and a reference to the evidence or other material on which those findings were based.
- (5) If the Board gives reasons in writing for its decision and the reasons contain or refer to any information, opinion or other matter that, in the Board's opinion:
- (a) is of a confidential nature; or
 - (b) might be prejudicial to the physical or mental health or wellbeing of the applicant for the review to communicate to the applicant;
- any written statement of the Board's reasons for the decision given to the applicant (or a person authorised by the applicant) must not contain or refer to that information, opinion or other matter.

Notice of review right

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

Filing of decision

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

353C Dismissal of applications

Dismissal if parties consent

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

Dismissal if applicant discontinues or withdraws application

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

Dismissal if applicant fails to appear

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

representative participates in it by a means allowed under section 352Z; and

- (b) a person is taken to appear in person or by a representative at a directions hearing, or the hearing of the review, if the person or representative participates in it by a means allowed under section 352K.
- (6) The Principal Member must, before exercising a power under subsection (4), be satisfied that appropriate notice was given to the applicant for the review of the time and place of the directions hearing, the alternative dispute resolution process or the hearing of the review.

Dismissal if original determination not reviewable

- (7) If:
- (a) the applicant for the review of an original determination is notified in writing by the National Registrar that the original determination does not appear to be reviewable by the Board; and
 - (b) before the end of the period prescribed in an instrument under subsection (8), the person is unable to show that the original determination is so reviewable;
- the Principal Member may dismiss the application without proceeding to review the original determination.
- (8) The Minister must, by legislative instrument, prescribe a period for the purposes of paragraph (7)(b).

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

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

Notice requirements

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

353D Consequence of dismissal of application

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

353E Circumstances in which application may be reinstated

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

353F Date of operation of decision by Board

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

353G Correction of errors in decisions or statements of reasons

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

Division 6—Offences

353H Offence—failure of witness to attend

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

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

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

- (2) An offence under this section is an offence of strict liability.
- (3) Subsection (1) does not apply if the person has a reasonable excuse.

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

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

- (1) A person commits an offence if:
 - (a) the person is required under section 352P to take an oath or make an affirmation; and
 - (b) the person fails to comply with the requirement.

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

- (2) A person commits an offence if:
 - (a) the person appears as a witness before the Board; and
 - (b) the Board member presiding at the proceeding has required the person to answer a question; and
 - (c) the person fails to answer the question.

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

- (3) A person commits an offence if:
 - (a) the person has been served with a summons under section 352Q; and
 - (b) the summons required the person to produce a document; and
 - (c) the person fails to comply with the requirement.

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

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

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

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

353K Offence—giving false or misleading evidence

A person commits an offence if:

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

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

353L Offence—contempt of Board

Insulting a person

- (1) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the person's conduct insults another person in, or in relation to, the exercise of the other person's powers or functions under this Part or Chapter 8A.

Penalty: Imprisonment for 6 months.

Interrupting proceedings of the Board

- (2) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the person's conduct interrupts the proceedings of the Board.

Penalty: Imprisonment for 6 months.

Creating a disturbance

- (3) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the person's conduct creates a disturbance in or near a place where the Board is sitting.

Penalty: Imprisonment for 6 months.

Taking part in creating or continuing a disturbance

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

Penalty: Imprisonment for 6 months.

Contempt of Board

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

Penalty: Imprisonment for 6 months.

Division 7—Other matters

353M Immunity

Board members

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

Registrars

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

Alternative dispute resolution practitioners

- (3) An alternative dispute resolution practitioner has, in performing duties as an alternative dispute resolution practitioner under this Part, the same protection and immunity as a Justice of the High Court.

Party representatives

- (4) A person representing a party at a hearing of a review before the Board has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

Witnesses

- (5) Subject to this Part, a person summoned to attend, or appearing, before the Board as a witness has the same protection, and is, in addition to the penalties provided by this Part, subject to the same liabilities, as a witness in proceedings in the High Court.

Definition

- (6) In this section:

alternative dispute resolution practitioner means a person who conducts an alternative dispute resolution process under Division 4.

353N Medical expenses

- (1) The Commonwealth may, subject to this section, pay to an applicant for a review an amount to cover the medical expenses incurred by the applicant in respect of relevant documentary medical evidence submitted to the Board for the purposes of the review.
- (2) Subsection (1) does not apply to any relevant documentary medical evidence obtained before the day on which a copy or notice of the original determination that is subject to review was served on the applicant.
- (3) The applicant is not to be paid:
- (a) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to only one medical condition—more than the prescribed amount for medical expenses; or
 - (b) if the applicant has submitted to the Board for the purposes of the review relevant documentary medical evidence relating to more than one medical condition—more than the

prescribed amount for the medical expenses incurred in respect of the evidence relating to any one of those conditions.

- (4) An amount is not payable in respect of medical expenses unless:
 - (a) the person who has incurred the expenses; or
 - (b) any person approved by that person or by the Commission; applies in writing to the Commission for payment under subsection (5).
- (5) The application for payment must:
 - (a) be in accordance with a form approved by the Commission; and
 - (b) be made within 3 months after the relevant documentary medical evidence was submitted to the Board; and
 - (c) be lodged at a place approved by the Commission under subsection 323(2).
- (6) An application for payment lodged at a place approved by the Commission under subsection 323(2) is taken to have been made on a day determined under that subsection.

353P Travelling expenses for obtaining medical evidence

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

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

353Q Other travelling expenses

Applicant attending hearing

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

Attendant accompanying applicant

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

Persons who make claim on behalf of claimant

- (3) If:
- (a) a claim is made under section 319 by a person who, under subsection 320(2), is entitled to make the claim; and
 - (b) the person travels within Australia, with the approval of the Commission, for the purpose of attending a hearing of a review of an original determination in respect of the claim;
- the person is, subject to such conditions as are prescribed, entitled to be paid such travelling expenses in connection with that travel as are prescribed.

Expenses are payable by the Commonwealth

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

Meaning of Australia

- (5) In this section:

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

353R Applications for other travelling expenses

- (1) If a person who has travelled in Australia is entitled to be paid travelling expenses under section 353Q in connection with that travel, application for payment of travelling expenses in respect of that travel may be made:
- (a) by that person; or
 - (b) with the approval of that person; or
 - (c) if that person is, by reason of physical or mental ailment or of that person's death, unable to approve another person to make the application on the person's behalf—with the approval of the Commission, by another person on behalf of that person.
- (2) An application under subsection (1) must be:
- (a) in writing; and
 - (b) in accordance with a form approved by the Commission; and

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

353S Advance of travelling expenses for obtaining medical evidence

- (1) If the Commission is satisfied that:
 - (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 353P or 353Q; and
 - (b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;the Commission may authorise the payment of that advance to the person.

- (2) If:
- (a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and
 - (b) the person:
 - (i) does not incur those travelling expenses; or
 - (ii) incurs travelling expenses that are less than the amount of the advance;
- the person is liable to repay to the Commonwealth:
- (c) the amount of the advance; or
 - (d) the difference between the amount of the advance and the amount of the travelling expenses;
- as the case requires.

353T Fees for witnesses

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

353U Instruments that are not legislative instruments

The following are not legislative instruments:

- (a) a direction under subsection 352J(2), (4) or (7) that is given in writing (procedure of Board);
- (b) a direction under subsection 352N(2) that is given in writing (hearing to be in private except in special circumstances);
- (c) a direction under section 352U (referral of review for alternative dispute resolution process);

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

11 Paragraph 357(6B)(c)

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

12 After Chapter 8

Insert:

Chapter 8A—Veterans’ Review Board

Part 1—Simplified outline of this Chapter

359A Simplified outline of this Chapter

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

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

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

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

Part 2—Establishment of Board

359B Establishment

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

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

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

359BA Board's objective

In carrying out its functions, the Board must pursue the objective of providing a mechanism of review that:

- (a) is accessible; and
- (b) is fair, just, economical, informal and quick; and
- (c) is proportionate to the importance and complexity of the matter; and
- (d) promotes public trust and confidence in the decision-making of the Board.

Part 3—Administration

Division 1—Membership

359C Appointment of members

Appointment by Governor-General

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

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

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

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

Period of appointment

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

Basis of appointment

- (5) The Principal Member is to be appointed on a full-time basis.
- (6) A Board member other than the Principal Member may be appointed on a full-time basis or on a part-time basis.

359CA Acting appointments

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

- (a) during a vacancy in the office of a Board member (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Board member:
- (i) in the case of a full-time Board member—is absent from duty or from Australia; or
 - (ii) in the case of a full-time or part-time Board member—is, for any reason, unable to perform the duties of the office.

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

359CB Remuneration

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

- (2) A Board member is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

359CC Leave of absence

- (1) A full-time Board member has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time Board member leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

359CD Other paid work

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

359CE Other terms and conditions

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

359CF Resignation

- (1) A Board member may resign the Board member's appointment by giving the Governor-General a written resignation.
- (2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

359CG Termination of appointment

- (1) The Governor-General may terminate the appointment of a Board member:
 - (a) for misbehaviour; or

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

359CH Suspension of Board members

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

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

359CI Disclosure of interests

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

Division 2—Procedures of the Board

359CJ Constitution of Board for exercise of powers

- (1) Subject to subsections (2) and (3), for the purposes of a review by the Board under Part 4 of Chapter 8, the Board must be constituted by:
 - (a) the Principal Member or a Senior Member; and
 - (b) a Services member; and
 - (c) one other Board member.
- (2) The Board may, for the purposes of a particular review, be constituted by:
 - (a) the Principal Member; and
 - (b) a Senior Member; and
 - (c) a Services member.
- (3) The Board may, for the purposes of a particular review, or of a review included in a particular class of reviews, be constituted by:
 - (a) the Principal Member or a Senior Member; or
 - (b) one Board member, not being the Principal Member or a Senior Member;only.

359CK Management of administrative affairs of Board

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

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

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

359CL Arrangement of business of Board

- (1) The Principal Member is responsible for ensuring the expeditious and efficient discharge of the business of the Board.
- (2) Without limiting subsection (1), the Principal Member may give written directions as to:
- (a) the operations of the Board generally; and
 - (b) the operations of the Board at a particular place; and
 - (c) the procedure of the Board generally; and
 - (d) the procedure of the Board at a particular place; and
 - (e) the conduct of reviews by the Board under Part 4 of Chapter 8; and
 - (f) the arrangement of the business of the Board; and
 - (g) the places in Australia at which the Board may sit; and
 - (h) the provision of documents under section 352E, including documents that are or are not required to be lodged under that section.

Note: A direction under subsection (2) is not a legislative instrument (see section 359DD).

359CM Board members to constitute Board for purposes of a review

- (1) This section applies in relation to reviews by the Board under Part 4 of Chapter 8.
- (2) The Principal Member may give directions, from time to time, in writing, as to the persons who are to constitute the Board:
- (a) for the purpose of a particular review or particular reviews; or
 - (b) for the purposes of reviews listed for hearing at a specified place during a specified period, or during specified periods,

being reviews so listed for hearing by, or in accordance with the directions of, the Principal Member.

- (3) If the Board, constituted in accordance with a direction given under subsection (2):
- (a) completes its hearing of a review listed for hearing at the place and during a period specified in that direction; but
 - (b) does not make its decision on the review;
- then, unless the Principal Member otherwise directs, the Board members who constitute the Board in accordance with that direction, by force of this subsection, continue to constitute the Board for the purpose of making a decision in writing on that review.

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

359CN Board member ceasing to be Board member etc.

- (1) If one of the Board members constituting the Board, by virtue of a direction under section 359CM, for the purposes of a review by the Board under Part 4 of Chapter 8:
- (a) ceases to be a Board member; or
 - (b) ceases, for any reason, to be available for the purposes of a review at the place where the review is to be, or is being, heard or continued;
- the 2 remaining Board members are deemed to constitute the Board by virtue of the direction given under section 359CM until the Principal Member re-allocates the review, under that section, for further hearing.
- (2) If the Board member referred to in subsection (1) is the Principal Member or a Senior Member, the Principal Member must direct which of the 2 remaining Board members is to preside at any hearing of the review.
- (3) If:
- (a) the hearing of a review has been commenced but has not been completed before the Board; and
 - (b) the review has not been re-allocated as mentioned in subsection (1);

the review may be listed for further hearing at a particular place and time in accordance with directions given by the Principal Member with respect to the listing of reviews for hearing or further hearing and, if it is so listed:

- (c) the Board constituted by the Board members directed to constitute the Board for the hearing of reviews listed for hearing at that place during the period in which that time occurs may continue the hearing of the review and decide the review; and
 - (d) the review is deemed to have been re-allocated for further hearing and decision accordingly.
- (4) The Board to which a review is deemed to have been re-allocated under subsection (3) may, but need not, include a Board member who was one of the Board members who constituted the Board for the purpose of hearing the review before the re-allocation took place.
- (5) If a review re-allocated as mentioned in subsection (1), or deemed to have been re-allocated under subsection (3), had been commenced, but had not been completed, before the re-allocation took place, the Board as constituted for the purpose of that review by virtue of that re-allocation may, in the review before it, have regard to any record of the review before the Board as previously constituted.

Part 4—Other matters

359D Staff

- (1) Any staff required to assist the Board are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.
- (2) Without limiting subsection (1), the staff required to assist the Board may include one or more of the following:
 - (a) a National Registrar;
 - (b) Registrars;
 - (c) Deputy Registrars;

(d) Conference Registrars.

359DA Delegation by Principal Member

- (1) The Principal Member may, in writing, delegate all or any of the Principal Member's functions or powers under this Act to:
 - (a) a Senior Member; or
 - (b) an acting Senior Member.
- (2) The Principal Member may, in writing, delegate all or any of the Principal Member's functions or powers under the following provisions to the National Registrar:
 - (a) section 352H (notice of hearing etc.);
 - (b) section 352J (procedure of Board);
 - (c) section 353C (dismissal of applications);
 - (d) section 353E (circumstances in which application may be reinstated);
 - (e) section 359CL (arrangement of business of Board);
 - (f) section 359CM (Board members to constitute Board for purposes of a review);
 - (g) section 359CN (Board member ceasing to be Board member etc.).
- (3) The Principal Member may, in writing, delegate all or any of the Principal Member's functions or powers under subsection 352J(8) (requests by Principal Member), section 353C (dismissal of applications) or section 353E (circumstances in which application may be reinstated) to:
 - (a) a Registrar; or
 - (b) a Deputy Registrar; or
 - (c) a Conference Registrar.
- (4) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Principal Member.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

359DB Annual report

The Principal Member must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the Board's activities during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

359DC Oath or affirmation of office

- (1) A person who is appointed or re-appointed as a Board member, or to act as a Board member, must take an oath or make an affirmation, in the applicable form set out in the following table, before discharging the duties of the office.

Form of oath or affirmation		
Item	If the person is ...	the applicable form is ...
1	taking an oath	I, , do swear that I will be faithful and bear true allegiance to (<i>insert name of the Sovereign</i>), (<i>insert applicable pronoun, such as 'His' or 'Her'</i>) Heirs and Successors according to law, that I will well and truly serve (<i>insert applicable pronoun, such as 'Him' or 'Her'</i>) in the office of Principal Member (or Senior Member or member) of the Veterans' Review Board and that I will faithfully and impartially perform the duties of that office without fear or favour, affection or ill-will. So help me, God.
2	making an affirmation	I, , do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to (<i>insert name of the Sovereign</i>), (<i>insert applicable pronoun, such as 'His' or 'Her'</i>) Heirs and Successors according to law, that I will well and truly serve (<i>insert applicable pronoun, such as 'Him' or 'Her'</i>) in the office of Principal Member (or Senior Member or member) of the Veterans' Review Board and that I will faithfully and impartially perform the duties of that office without fear or favour, affection or ill-will.

- (2) The oath must be taken, or the affirmation must be made, before a justice of the peace or a commissioner for taking affidavits.

359DD Instruments that are not legislative instruments

The following are not legislative instruments:

- (a) a direction under subsection 359CK(5) (management of administrative affairs of Board);
- (b) a direction under subsection 359CL(2) (arrangement of business of Board);
- (c) a direction under section 359CM (Board members to constitute Board for purposes of a review).

13 Paragraph 423(ca)

Omit “section 353 because of the application of subsections 132(5), (6), (9), (10), (11), (11A), (11B) and (11C) of the *Veterans’ Entitlements Act 1986*”, substitute “sections 353P, 353Q and 353S”.

14 After paragraph 423(ca)

Insert:

- (cb) fees and allowances of witnesses payable under section 353T;

15 Section 437A

Before “The Minister”, insert “(1)”.

16 Section 437A

Omit “his or her functions or powers under this Act”, substitute “the Minister’s functions or powers under this Act (other than section 359CA or 359CC)”.

17 At the end of section 437A

Add:

- (2) The Minister may, by writing, delegate all or any of the Minister’s powers under section 359CA or 359CC to the Principal Member of the Board.

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

18 Subsection 3A(3) (note)

Omit “Part VI”, substitute “section 62 (reconsideration and review of determinations etc.)”.

19 Subsection 3A(4)

Omit “Part VI (about reconsideration and review of determinations)”, substitute “section 62 (reconsideration and review of determinations etc.)”.

20 Subsection 4(1)

Insert:

Board has the same meaning as in the MRCA.

21 Subsection 4(1) (definition of *proceeding under Part VI*)

Repeal the definition.

22 Subsection 4(12)

Repeal the subsection.

23 Subsection 26(4)

Repeal the subsection, substitute:

- (4) This section does not apply if an application for review of the determination under section 24 or 25 has been made under Part 4 of Chapter 8 of the MRCA (see section 62 of this Act).

24 Subsection 41B(1) (note)

Omit “(see section 60A)”, substitute “under Part 4 of Chapter 8 of the MRCA (see section 345B of that Act)”.

25 Subsection 60(1)

Omit “(1)”.

26 Subsection 60(1) (definition of *decision*)

Repeal the definition.

27 Subsection 60(1) (definition of *reviewable decision*)

Omit “or section 62”.

28 Subsection 60(2)

Repeal the subsection.

29 Section 60A

Repeal the section.

30 Paragraph 61(1)(c)

Omit “request a reconsideration of the determination under subsection 62(2)”, substitute “make an application for review of the determination by the Board under Part 4 of Chapter 8 of the MRCA (see section 62 of this Act)”.

31 Sections 62 to 67

Repeal the sections, substitute:

62 Reconsideration and review of determinations etc.

- (1) Section 347 of the MRCA applies in relation to a determination as if it were an original determination made by the Commission.

Note: This means that the Commission may, on its own initiative, reconsider a determination.

- (2) If a determination (the *reconsideration determination*) is made under subsection 347(3) of the MRCA because of the operation of subsection (1) of this section, section 346 of the MRCA applies in relation to the reconsideration determination as if:

- (a) the reconsideration determination were an original determination made by the Commission; and
- (b) a person in respect of whom the reconsideration determination was made were the claimant.

Note: This means that the Commission must give notice of the reconsideration determination.

- (3) Part 4 of Chapter 8 of the MRCA applies in relation to a determination, a reconsideration determination and a reviewable decision as if:
- (a) the determination, reconsideration determination or reviewable decision were an original determination; and
 - (b) a person in respect of whom the determination, reconsideration determination or reviewable decision was made were the claimant; and
 - (c) paragraph 353Q(3)(a) of that Part referred to a claim made by a person under Part V of this Act on behalf of another person.

Note: This means that a determination, a reconsideration determination and a reviewable decision may be reviewed by the Board under Part 4 of Chapter 8 of the MRCA.

- (4) If the Board reviews a determination, reconsideration determination or reviewable decision (the **DRCA determination**) under Part 4 of Chapter 8 of the MRCA, Part 5 of that Chapter applies in relation to the determination made by the Board on review as if:
- (a) the Board's determination on review were a reviewable determination; and
 - (b) a person in respect of whom the DRCA determination was made were the claimant.

Note: This means that the Board's determination on review of a DRCA determination may be reviewed by the Administrative Appeals Tribunal under Part 5 of Chapter 8 of the MRCA.

32 Subsection 111(5)

Repeal the subsection.

33 Sections 129 and 129A

Repeal the sections, substitute:

129A Reconsideration and review of certain determinations under 1971 Act

Part VI of this Act applies in relation to a determination under the 1971 Act that had effect immediately before the commencing day as if:

- (a) the person in respect of whom the determination was made were a claimant under this Act; and
- (b) the determination were a determination by the MRCC within the meaning of Part VI of this Act.

34 Subsection 151A(1B)

Omit “reconsideration or review under Part VI”, substitute “reconsideration under section 347 of the MRCA, or the review under Part 4 of Chapter 8 of the MRCA,”.

Veterans’ Entitlements Act 1986

35 Subsection 5Q(1) (definition of *Board*)

Repeal the definition, substitute:

Board has the same meaning as in the MRCA.

36 Subsection 5T(1) (note)

Omit “the Veterans’ Review Board,”.

37 Subsection 5T(1) (note)

Omit “IX,”.

38 Paragraph 22(5)(c)

Omit “subsection 31(6)”, substitute “section 31”.

39 Division 6 of Part II

Repeal the Division, substitute:

Division 6—Reconsideration of decisions by Commission

31 Commission may initiate reconsideration of decisions

- (1) This section applies in relation to any decision of the Commission in respect of the following claims or applications (including a decision under section 20 or 21 but not a decision under subsection 19A(1)):
 - (a) a claim for a pension under section 14;

- (b) an application for a pension, or for an increased pension, under section 15;
 - (c) an application for attendant allowance under section 98.
- (2) Section 347 of the MRCA applies in relation to the decision as if:
- (a) the decision were an original determination made by the Commission; and
 - (b) a reference in that section to the Commission were a reference to the Repatriation Commission.

Note: This means that the Commission may, on its own initiative, reconsider the decision.

- (3) If a determination (the ***reconsideration determination***) is made under subsection 347(3) of the MRCA because of the operation of subsection (2) of this section, section 346 of the MRCA applies in relation to the reconsideration determination as if:
- (a) the reconsideration determination were an original determination made by the Commission; and
 - (b) a person in respect of whom the reconsideration determination was made were the claimant; and
 - (c) a reference in that section to the Commission were a reference to the Repatriation Commission.

Note: This means that the Commission must give notice of the reconsideration determination.

40 Subsection 32(1)

Omit “its review under section 31”, substitute “its reconsideration under section 31”.

41 Subparagraph 32(1)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) in the case of a reconsideration under section 31—a person likely to be affected by the reconsideration or the Secretary;

42 Paragraph 32(1)(c)

Omit “or the review”, substitute “or the reconsideration”.

43 Subparagraph 32(1)(d)(ii)

Repeal the subparagraph, substitute:

- (ii) in the case of a reconsideration under section 31—the person likely to be affected by the reconsideration;

44 Paragraph 32(1)(d)

Omit “of the review”, substitute “of the reconsideration”.

45 Paragraph 32(1)(d)

Omit “or the review”, substitute “or the reconsideration”.

46 Paragraph 32(2)(b)

Repeal the paragraph, substitute:

- (b) for the purpose of a reconsideration under section 31—a person likely to be affected by the reconsideration;

47 Paragraph 32(5)(b)

Omit “review under section 31”, substitute “reconsideration under section 31”.

48 Subsection 32(9)

Omit “review”, substitute “reconsideration”.

49 Paragraphs 34(1)(c) to (e)

Repeal the paragraphs.

50 Paragraph 34(2)(b)

Omit “, (c), (d) or (e)”.

51 Subsection 115S(1) (note)

Omit “135A”, substitute “345B of the MRCA”.

52 Paragraph 119(1)(c)

Omit “review”, substitute “reconsideration”.

53 Paragraph 119(1)(d)

Repeal the paragraph.

54 Subsection 126(4)

Omit “section 135 or 175”, substitute “section 175 of this Act or Part 4 or 5 of Chapter 8 of the MRCA (because of the operation of section 134 of this Act)”.

55 Subparagraphs 129A(1)(a)(ii) and (d)(ii)

Repeal the subparagraphs.

56 Paragraphs 132(1)(b) to (d)

Omit “review”, substitute “reconsideration”.

57 Subsection 132(2)

Omit “review”, substitute “reconsideration”.

58 Subsections 132(5) and (6)

Repeal the subsections.

59 Subsection 132(9)

Repeal the subsection, substitute:

(9) If:

(a) a claim for a pension:

(i) is made on behalf of the claimant by a person who is a dependant of the claimant or who is approved under paragraph 16(b), (c) or (d) to make the claim on behalf of the claimant; or

(ii) is prosecuted by a person who is the legal personal representative of the claimant, or by a person approved under section 126, following the death of the claimant; and

(b) that person travels within Australia with the approval of the Commission for the purpose of an investigation, by the Department or the Commission, of the claim;

the person is, subject to such conditions as are prescribed, entitled to be paid such travelling expenses in connection with that travel as are prescribed.

60 Subsection 132(11A)

Repeal the subsection, substitute:

(11A) An application must be lodged at an office of the Department in Australia in accordance with section 5T.

61 Subsection 132(11B)

Repeal the subsection.

62 Subsection 132(12)

Omit “or 135”.

63 Section 132A

Repeal the section.

64 Part IX (heading)

Repeal the heading, substitute:

Part IX—Review of decisions by Board

65 Division 1 of Part IX (heading)

Repeal the heading.

66 Subsection 133(1)

Omit “(1)”.

67 Subsection 133(1)

Repeal the following definitions:

- (a) definition of *alternative dispute resolution processes*;
- (b) definition of *applicant*;
- (c) definition of *application*;
- (d) definition of *Conference Registrar*.

68 Subsection 133(1)

Insert:

decision means:

- (a) any decision of the Commission in respect of the following claims or applications (including a decision under section 20 or 21 but not a decision under subsection 19A(1)):
 - (i) a claim for a pension under section 14;
 - (ii) an application for a pension, or for an increased pension, under section 15;
 - (iii) an application for attendant allowance under section 98;or
- (b) a determination made by the Commission under subsection 347(3) of the MRCA because of the operation of subsection 31(2) of this Act.

69 Subsection 133(1)

Repeal the following definitions:

- (a) definition of *Deputy Registrar*;
- (b) definition of *member*;
- (c) definition of *National Registrar*;
- (d) definition of *Principal Member*;
- (e) definition of *Registrar*;
- (f) definition of *relevant documentary medical evidence*;
- (g) definition of *review*;
- (h) definition of *Senior Member*;
- (i) definition of *Services member*.

70 Subsection 133(2)

Repeal the subsection.

71 Section 133A

Repeal the section.

72 Division 2 of Part IX

Repeal the Division.

73 Division 3 of Part IX (heading)

Repeal the heading.

74 Before section 135

Insert:

134 Review of decisions by the Board

- (1) Subject to this Part, Part 4 of Chapter 8 of the MRCA applies in relation to a decision as if:
- (a) the decision were an original determination; and
 - (b) a person in respect of whom the decision was made were the claimant; and
 - (c) a reference in that Part to the Commission were a reference to the Repatriation Commission; and
 - (d) a reference in that Part to subsection 323(2) were a reference to section 5T of this Act; and
 - (e) paragraph 353Q(3)(a) of that Part referred to a claim for a pension made by a person mentioned in paragraph 132(9)(a) of this Act.

Note: This means that a decision may be reviewed by the Board under Part 4 of Chapter 8 of the MRCA.

- (2) Subject to Part X of this Act, if the Board reviews a decision (the **VEA decision**) under Part 4 of Chapter 8 of the MRCA, Part 5 of that Chapter applies in relation to the determination made by the Board on review as if:
- (a) the Board's determination on review were a reviewable determination; and
 - (b) a person in respect of whom the VEA decision was made were the claimant; and
 - (c) a reference in that Part to the Commission were a reference to the Repatriation Commission.

Note: This means that the Board's determination on review of a VEA decision may be reviewed by the Administrative Appeals Tribunal under Part 5 of Chapter 8 of the MRCA.

75 Section 135 (heading)

Repeal the heading, substitute:

135 Application for review—timing requirements

76 Subsections 135(1) to (4)

Repeal the subsections.

77 Subsections 135(5) and (5A)

Omit “subsection (1), (2) or (3)”, substitute “Part 4 of Chapter 8 of the MRCA”.

78 Subsections 135(6) and (7)

Repeal the subsections.

79 Section 135A

Repeal the section.

80 Section 136 (heading)

Repeal the heading, substitute:

136 Application for review—who may make an application

81 Subsection 136(1)

Repeal the subsection.

82 Subsection 136(2)

Omit “under subsection (1)”, substitute “for review under Part 4 of Chapter 8 of the MRCA”.

83 Subsection 136(3)

Omit “under subsection (1) of this section”, substitute “for review under Part 4 of Chapter 8 of the MRCA”.

84 Subsection 136(4)

Repeal the subsection.

85 Sections 137 to 140A

Repeal the sections, substitute:

137 Variation of pension assessment pending completion of review

If:

- (a) a request has been made under subsection 352J(8) of the MRCA (requests by Principal Member) in relation to a review; and
- (b) under subsection 352J(9) of that Act, the Board adjourns a hearing of the review; and
- (c) the review is of a decision with respect to a pension assessment;

the Board may vary the pension assessment pending the completion of the review, having regard to the records and evidence on which the Commission reached that decision.

86 Divisions 4 and 4A of Part IX

Repeal the Divisions.

87 Division 5 of Part IX (heading)

Repeal the heading.

88 Sections 146 to 153

Repeal the sections.

89 Sections 155 and 155A

Repeal the sections.

90 Division 6 of Part IX (heading)

Repeal the heading.

91 Subsection 156(1)

Omit “under this Part”.

92 Subparagraph 157(2)(a)(ii)

Omit “at an office of the Department in Australia”, substitute “by the Board”.

93 Paragraph 157(2)(b)

Repeal the paragraph, substitute:

- (b) if the substituted decision, or the varied decision, as the case may be, is a decision of a kind specified in subsection (3)—the Board must remit the matter to the Commission to fix the date from which the Board’s decision is to operate, being the date of the first available pension pay-day occurring after the date on which a copy of the Board’s decision is given to the Commission under section 353B of the MRCA;

94 Subsection 157(4A)

Omit “subparagraph 139(3)(c)(iii)”, substitute “subparagraph 353A(4)(c)(iii) of the MRCA”.

95 Divisions 7 and 8 of Part IX

Repeal the Divisions.

96 At the end of subsection 174(1)

Add:

Note: See subsection 134(2) for decisions of the Board that are reviewable by the Administrative Appeals Tribunal.

97 Subsections 175(1), (1AA) and (3)

Repeal the subsections.

98 Subsection 176(2)

Repeal the subsection.

99 Subsection 176(3)

Repeal the subsection, substitute:

- (3) Section 28 of the *Administrative Appeals Tribunal Act 1975* does not apply to or in relation to a person whose interests are affected by a reviewable decision if:
- (a) the decision is of a kind referred to in subsection 175(2), (2A), (2D) or (4); and
 - (b) the person has been served with a copy of that decision, and with the statement related to that decision, in accordance with section 57E, 64F, 118ZX or 140 of this Act, whichever was applicable.

100 Subsection 176(7)

Repeal the subsection.

101 Subsection 177(2)

Omit “made under subsection 175(1)”.

102 Subparagraphs 177(2)(b)(i) and (ii)

Omit “under subsection 175(1)”, substitute “for review by the Tribunal”.

103 Subsection 177(3)

Omit “176(7), (8)”, substitute “176(8)”.

104 Subsection 178(1)

Omit “reviewable”.

105 Subsections 212(1) to (3)

Repeal the subsections, substitute:

- (1) The Minister may, by writing, delegate all or any of the Minister’s powers under this Act to:
- (a) a commissioner; or
 - (b) an APS employee.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

106 Subsections 215(4) to (6)

Repeal the subsections.

107 Schedule 4

Repeal the Schedule.

Division 2—Application and transitional provisions

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

108 Subsection 4(1)

Insert:

Simplification Act means the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*.

109 After Part 4

Insert:

Part 5—Transitional provisions relating to reviews by the Veterans' Review Board

Division 1—Preliminary

25 Definitions

In this Part:

new law means the MRCA, the DRCA and the VEA as amended by Part 1 of Schedule 3 to the Simplification Act.

old law means the MRCA, the DRCA and the VEA as in force immediately before the review pathway commencement day.

old VEA means the VEA, as in force immediately before the review pathway commencement day.

review pathway commencement day means the day on which Part 1 of Schedule 3 to the Simplification Act commences.

Division 2—Application of new review pathway

26 Original determinations under the MRCA

Subject to this Part, the amendments of the MRCA made by Part 1 of Schedule 3 to the Simplification Act apply in relation to an original determination that is made on or after the review pathway commencement day, whether the claim to which the determination relates was made before, on or after that day.

27 Determinations under the DRCA

Subject to this Part, the amendments of the DRCA made by Part 1 of Schedule 3 to the Simplification Act apply in relation to a determination that is made under the DRCA on or after the review pathway commencement day, whether the claim to which the determination relates was made before, on or after that day.

28 Decisions under the VEA

Subject to this Part, the amendments of the VEA made by Part 1 of Schedule 3 to the Simplification Act apply in relation to a decision that is made under the VEA on or after the review pathway commencement day, whether the claim or application to which the decision relates was made before, on or after that day.

Division 3—Continuation of Board

29 Members of the Board

- (1) This section applies to a person who was, immediately before the review pathway commencement day, holding office as a member of the Board under section 158 of the old VEA.
- (2) The person is taken, on and after the review pathway commencement day, to have been appointed under section 359C of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that day; and

- (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that day.

Note: The person's remuneration will not be better than their remuneration as a member of the Board under section 158 of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

30 Acting members of the Board

- (1) This section applies to a person who was appointed to act as a member of the Board under section 161 of the old VEA if the appointment was in force immediately before the review pathway commencement day.
- (2) The person is taken, on and after the review pathway commencement day, to have been appointed under section 359CA of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that day; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that day.

31 Leave of absence

- (1) This section applies to a leave of absence if:
 - (a) the leave of absence was granted under section 162 of the old VEA before the review pathway commencement day; and
 - (b) the period of leave is, or includes, that day.
- (2) On and after the review pathway commencement day, the leave of absence is taken to have been granted under section 359CC of the MRCA.

32 Staff

- (1) This section applies to a person who, immediately before the review pathway commencement day, was engaged and made available to assist the Board under section 172 of the old VEA.

- (2) The person is taken, on and after the review pathway commencement day, to be engaged and made available to assist the Board under section 359D of the MRCA.
- (3) The repeal of section 172 of the old VEA does not affect the continuity of employment of the person.

33 Delegations by Principal Member

A delegation under section 166 of the old VEA that is in force immediately before the review pathway commencement day continues in force (and may be dealt with) on and after that day as if the delegation had been made under section 359DA of the MRCA.

34 Delegations by Minister to Principal Member

A delegation under paragraph 212(1)(b) of the old VEA that is in force immediately before the review pathway commencement day continues in force (and may be dealt with) on and after that day as if the delegation had been made under subsection 437A(2) of the MRCA.

35 Board annual reports

For the financial year ending before review pathway commencement day

- (1) Subsection (2) applies if:
 - (a) the review pathway commencement day occurs after the end of a financial year; and
 - (b) the report referred to in subsection 215(4) of the old VEA had not been prepared for the financial year before the review pathway commencement day.
- (2) Despite the repeal of subsections 215(4) to (6) of the old VEA by Part 1 of Schedule 3 to the Simplification Act, those subsections continue to apply in relation to the report for the financial year as if that repeal had not happened.

For the financial year in which review pathway commencement day occurs

- (3) Subsection (4) applies:
 - (a) if the review pathway commencement day occurs during a financial year; and
 - (b) in relation to the operations of the Board during the part of the financial year before the review pathway commencement day.
- (4) The first annual report prepared by the Principal Member under section 359DB of the MRCA must cover those operations.

Division 4—Other matters

36 Effect of things done by, or in relation to, the Board

A thing done by, or in relation to, the Board under a law of the Commonwealth before the review pathway commencement day is not affected by the amendments made by Part 1 of Schedule 3 to the Simplification Act.

37 Reviews in progress

- (1) This section applies if a review by the Board is pending immediately before the review pathway commencement day.
- (2) The Board must, as far as possible, continue the review under the new law.
- (3) Anything done in, or in relation to, the review before the review pathway commencement day continues to have effect for the purposes of, or in relation to, the review (as the case requires) on and after that day.
- (4) Anything done in, or in relation to, the review before the review pathway commencement day that was valid under, or done in accordance with, the old law is taken to be valid under, or to have been done in accordance with, the new law for the purposes of the review on and after the review pathway commencement day.

38 Continued effect of certain instruments

(1) If:

- (a) before the review pathway commencement day, an instrument was made under, or for the purposes of, a provision of the old VEA mentioned in column 1 of an item of the following table; and
- (b) immediately before the review pathway commencement day, the instrument is in force;

the instrument continues to have effect, on and after the review pathway commencement day, as if it had been made under the provision of the MRCA mentioned in column 2 of the item.

Continued effect of certain instruments		
Item	Column 1	Column 2
	Provision of the old VEA	Provision of the MRCA
1	subsection 132(5)	subsection 353Q(1)
2	subsection 132(6)	subsection 353Q(2)
3	subsection 132(9)	subsection 353Q(3)
4	paragraph 155(7)(b)	subsection 353C(8)
5	paragraph 170A(3)(a)	paragraph 353N(3)(a)
6	paragraph 170A(3)(b)	paragraph 353N(3)(b)
7	subsection 170B(2)	subsection 353P(2)
8	subsection 171(1)	subsection 353T(1)

(2) If:

- (a) before the review pathway commencement day, an instrument was made under subsection 132(9) of the old VEA; and
- (b) immediately before the review pathway commencement day, the instrument is in force;

the instrument continues to have effect, on and after the review pathway commencement day, as if it had been made under subsection 132(9) of the VEA as substituted by Part 1 of Schedule 3 to the Simplification Act.

39 Transitional regulations

- (1) The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) arising out of the enactment of Schedule 3 to the Simplification Act.
- (2) This Part does not limit the regulations that may be made for the purposes of subsection (1).

Part 2—Amendments commencing later

Military Rehabilitation and Compensation Act 2004

110 Subsection 345(1) (paragraph (b) of the definition of acute support package instrument)

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

111 Subsection 345(1) (paragraph (c) of the definition of acute support package instrument)

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

112 Section 345B

Omit “or the Repatriation Commission”.

113 Section 352A (paragraph (a) of the note)

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

114 Section 352A (paragraph (b) of the note)

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

115 Subsection 359B(1)

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

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

116 Subsection 62(3)

Omit “, a reconsideration determination and a reviewable decision”, substitute “and a reconsideration determination”.

117 Paragraphs 62(3)(a) and (b)

Omit “, reconsideration determination or reviewable decision”, substitute “or reconsideration determination”.

118 Subsection 62(3) (note)

Omit “, a reconsideration determination and a reviewable decision”,
substitute “and a reconsideration determination”.

119 Subsection 62(4)

Omit “, reconsideration determination or reviewable decision”,
substitute “or reconsideration determination”.

Veterans’ Entitlements Act 1986

120 Subsection 31(2)

Repeal the subsection, substitute:

- (2) Section 347 of the MRCA applies in relation to the decision as if the decision were an original determination made by the Commission.

Note: This means that the Commission may, on its own initiative, reconsider the decision.

121 Paragraph 31(3)(b)

Omit “claimant; and”, substitute “claimant.”.

122 Paragraph 31(3)(c)

Repeal the paragraph.

123 Paragraph 134(1)(c)

Repeal the paragraph.

124 Paragraph 134(2)(b)

Omit “claimant; and”, substitute “claimant.”.

125 Paragraph 134(2)(c)

Repeal the paragraph.

Schedule 4—Merging commissions

Military Rehabilitation and Compensation Act 2004

1 Section 3 (paragraph beginning “The procedure”)

Omit “Military Rehabilitation and Compensation Commission”, substitute “Repatriation Commission”.

2 Subsection 5(1)

Insert:

appointed Commissioner means a Commissioner other than the President.

3 Subsection 5(1) (definition of *appointed Commission member*)

Repeal the definition.

4 Subsection 5(1) (definition of *Commission*)

Omit “the Military Rehabilitation and Compensation Commission established by section 361”, substitute “the Repatriation Commission continued in existence by section 360B”.

5 Subsection 5(1) (definition of *Commission Chair*)

Repeal the definition.

6 Subsection 5(1)

Insert:

Commissioner means an appointed Commissioner or the President.

7 Subsection 5(1) (definition of *Commission member*)

Repeal the definition.

8 Subsection 5(1)

Insert:

President means the President of the Commission.

9 Subsection 5(1) (definition of *Repatriation Commission*)

Repeal the definition.

10 Subsection 5(1) (definition of *trust funds*)

After “of compensation” (wherever occurring), insert “or other benefits”.

11 Subsection 5(1) (definition of *trust funds*)

After “the compensation”, insert “, benefits”.

12 Subsections 49(1), 59(1), 83(1), 207(1) and 220(1) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

13 Subsections 224(1), (5) and (6) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

14 Subsection 230(1) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

15 Section 238 (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

16 Subsections 241(1) and 244(1) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

17 Subsections 248(1), (5) and (6) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

18 Subsection 257(1) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

19 Section 264 (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

20 Subsections 268(1), 288G(1) and 296(1) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

21 Section 299 (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

22 Subsections 303(1), (5) and (6) (note)

Omit “a trustee is appointed”, substitute “there is a trustee”.

23 Chapter 9

Repeal the Chapter, substitute:

Chapter 9—Repatriation Commission

Part 1—Simplified outline of this Chapter

360A Simplified outline of this Chapter

The Repatriation Commission is continued in existence under Part 2 of this Chapter. Part 2 also sets out the Commission’s functions and powers. The Commission’s functions and powers include the functions and powers of the former Military Rehabilitation and Compensation Commission.

Part 3 deals with the administration of the Commission, and includes provisions relating to Commissioners, acting Commissioners and meetings of the Commission.

Part 4 deals with staff, contractors, delegations of the Commission and the Commission’s annual report.

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Commissioners and acting Commissioners.

Part 2—Establishment of Commission

360B Establishment

- (1) The Repatriation Commission that was, immediately before the commencement of this section, in existence by virtue of the VEA, is continued in existence under the same name.
- (2) The Commission:
 - (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- (3) Debts incurred by the Commission in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

360BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Commission

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of **Department of State** in section 8 of that Act, the Commission is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the Commissioners are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

360BB Functions of the Commission

The functions of the Commission are:

- (a) to make decisions and determinations under this Act, the DRCA and the VEA in relation to the following:
 - (i) acceptance of liability;
 - (ii) the payment or provision of compensation;

- (iii) the provision of services for treatment and rehabilitation;
- (iv) granting pensions, allowances and other benefits; and
- (b) to minimise the duration and severity of service injuries and service diseases by arranging quickly under this Act for the rehabilitation of members and former members who suffered those injuries and diseases; and
- (c) to otherwise arrange for the provision of treatment, rehabilitation and other services in accordance with this Act, the DRCA and the VEA; and
- (d) to promote the return to suitable work (defence or civilian) by persons who suffered a service injury or service disease; and
- (e) to promote research into:
 - (i) the health of members and former members; and
 - (ii) the prevention of injury and disease; and
 - (iii) the rehabilitation of persons from injury and disease; and
- (f) to provide advice and information relating to the operation of this Act, the DRCA and the VEA to:
 - (i) the Minister; and
 - (ii) the Defence Minister; and
 - (iii) the Secretary of the Department; and
 - (iv) the Secretary of the Defence Department; and
 - (v) the Chief of the Defence Force;either on request or on the Commission's own initiative; and
- (g) such other functions as are conferred on the Commission by this or any other law of the Commonwealth.

360BC Powers of the Commission

- (1) The Commission has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) The Commission's powers include, but are not limited to, the following:
 - (a) the power to enter into contracts;

- (b) the power to erect buildings and structures and carry out works;
- (c) the power to do anything incidental to any of its functions.

Part 3—Administration

Division 1—Membership etc.

360C Membership

- (1) The Commission consists of the following:
 - (a) the President of the Commission;
 - (b) one Commissioner who meets the requirements in subsection (3);
 - (c) one Commissioner who meets the requirements in subsection (5);
 - (d) one Commissioner who meets the requirements subsection (6);
 - (e) one Commissioner who meets the requirements in subsection (7);
 - (f) one Commissioner who meets the requirements in subsection (8);
 - (g) up to 3 other Commissioners.
- (2) The President of the Commission must be the Secretary.

Repatriation Commissioner

- (3) A person meets the requirements of this subsection if the Minister is satisfied that the person has been selected from lists submitted to the Minister in accordance with subsection (4).
- (4) The Minister may, from time to time, request organisations representing veterans to submit to the Minister lists of names of persons from which the organisation concerned recommends that a selection be made of a person to serve as the Repatriation Commissioner.

Veteran Family Advocate Commissioner

- (5) A person meets the requirements of this subsection if the Minister is satisfied the person will represent families of veterans.

Commissioner representing Comcare

- (6) A person meets the requirements of this subsection if:
- (a) the person is nominated by the SRC Minister; and
 - (b) the person is:
 - (i) the Chief Executive Officer of Comcare; or
 - (ii) a person described in subsection 89E(1) of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (iii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the SRC Minister.

Commissioner representing the Commonwealth Superannuation Corporation

- (7) A person meets the requirements of this subsection if:
- (a) the person is nominated by the Minister administering the *Governance of Australian Government Superannuation Schemes Act 2011*; and
 - (b) the person is:
 - (i) a director of the Commonwealth Superannuation Corporation; or
 - (ii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the Minister mentioned in paragraph (a).

Commissioner nominated by the Defence Minister

- (8) A person meets the requirements of this subsection if:
- (a) the person is nominated by the Defence Minister; and
 - (b) either of the following apply:
 - (i) the person is a Permanent Forces member;
 - (ii) the person is engaged under the *Public Service Act 1999* and performing duties in the Defence Department.

360CA Appointment of Commissioners

The appointed Commissioners are to be appointed by the Governor-General, by written instrument.

Note: The *appointed Commissioners* are the Commissioners other than the President (see section 5).

360CB Period and basis of appointment

- (1) An appointed Commissioner mentioned in paragraph 360C(1)(b) or (c) is to be appointed on a full-time basis.
- (2) Each other appointed Commissioner is to be appointed on a part-time basis.
- (3) An appointed Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

Note: An appointed Commissioner may be reappointed (see section 33AA of the *Acts Interpretation Act 1901*).

360CC Acting appointments*Acting by operation of law*

- (1) The person acting as the Secretary is to act as the President:
 - (a) during a vacancy in the office of the President (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the President:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For the appointment of a person to act as the Secretary, see section 61 of the *Public Service Act 1999*.

Acting appointments

- (2) Subject to subsection (3), the Minister may, by written instrument, appoint a person to act as an appointed Commissioner:

- (a) during a vacancy in the office of an appointed Commissioner (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when an appointed Commissioner:
 - (i) is absent from duty; or
 - (ii) is suspended under section 360CJ; or
 - (iii) is, for any reason, unable to perform the duties of the office.

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

- (3) The Minister must not:
 - (a) appoint a person to act as a Commissioner mentioned in paragraph 360C(1)(b) unless the person meets the requirements in subsection 360C(3); or
 - (b) appoint a person to act as a Commissioner mentioned in paragraph 360C(1)(c) unless the person meets the requirements in subsection 360C(5); or
 - (c) appoint a person to act as a Commissioner mentioned in paragraph 360C(1)(d) unless the person meets the requirements in subsection 360C(6); or
 - (d) appoint a person to act as a Commissioner mentioned in paragraph 360C(1)(e) unless the person meets the requirements in subsection 360C(7); or
 - (e) appoint a person to act as a Commissioner mentioned in paragraph 360C(1)(f) unless the person meets the requirements in subsection 360C(8).

360CD Remuneration

President

- (1) The President is not to be paid remuneration or allowances in the capacity of President.
- (2) For the purpose of the payment of allowances to the Secretary, the Secretary's duties are taken to include the Secretary's duties as President.

Note: The President of the Commission must be the Secretary (see subsection 360C(2)).

Appointed Commissioners

- (3) An appointed Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Commissioner is to be paid the remuneration that is prescribed by the regulations.
- (4) An appointed Commissioner is to be paid the allowances that are prescribed by the regulations.
- (5) Subsections (3) and (4) have effect subject to the *Remuneration Tribunal Act 1973*.

Note: Subsection 7(11) of the *Remuneration Tribunal Act 1973* significantly limits the entitlement of certain appointed Commissioners to remuneration under this section, because it provides that generally a person who holds a Commonwealth office, or is employed by the Commonwealth, on a full-time basis is not entitled to remuneration for a part-time office.

360CE Leave of absence

- (1) A full-time appointed Commissioner has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant a full-time appointed Commissioner leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.
- (3) The Minister may grant leave of absence to a part-time appointed Commissioner on the terms and conditions that the Minister determines.

360CF Other paid work

A full-time appointed Commissioner must not engage in paid work outside the duties of the Commissioner without the Minister's approval.

360CG Other terms and conditions

An appointed Commissioner holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Governor-General.

360CH Resignation

- (1) An appointed Commissioner may resign the Commissioner's appointment by giving the Governor-General a written resignation.
- (2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

360CI Termination of appointment

- (1) The Governor-General may terminate the appointment of an appointed Commissioner:
 - (a) for misbehaviour; or
 - (b) if the Commissioner is unable to perform the duties of the Commissioner's office because of physical or mental incapacity.
- (2) The Governor-General must terminate the appointment of an appointed Commissioner if:
 - (a) the Commissioner:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the Commissioner's creditors; or
 - (iv) makes an assignment of the Commissioner's remuneration for the benefit of the Commissioner's creditors; or
 - (b) in the case of a full-time appointed Commissioner—the Commissioner:
 - (i) engages, except with the approval of the Minister, in paid work outside the duties of the Commissioner's office (see section 360CF); or

- (ii) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
- (c) the Commissioner fails, without reasonable excuse, to comply with the Commissioner's obligations under:
 - (i) section 360CK (disclosure of interests); or
 - (ii) section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

360CJ Suspension of appointment

- (1) The Minister may suspend an appointed Commissioner from office:
 - (a) for misbehaviour; or
 - (b) if the Commissioner is unable to perform the duties of the Commissioner's office because of physical or mental incapacity.
- (2) If the Minister suspends the appointment of a Commissioner, the Governor-General may, on the recommendation of the Minister:
 - (a) terminate the appointment of the Commissioner under subsection 360CI(1); or
 - (b) direct that the suspension of the Commissioner continue for such further period as the Governor-General specifies; or
 - (c) direct that the suspension of the Commissioner terminate.
- (3) The suspension of a Commissioner from office under this section does not affect any entitlement of the Commissioner to be paid remuneration and allowances.

360CK Commissioner to disclose any interest in claims etc.

- (1) This section applies to a Commissioner performing functions in relation to the following matters:
 - (a) a claim for acceptance of liability or for compensation that the Commission is considering or is to consider;
 - (b) a claim for acceptance of liability or for compensation that the Commission is reviewing or is to review;
 - (c) a decision relating to:

- (i) acceptance of liability or for compensation; or
- (ii) a claim for acceptance of liability or for compensation; that the Commission is reviewing, is to review or is considering whether to review;
- (d) a claim or application for a pension that the Commission is considering or is to consider;
- (e) a pension that the Commission is reviewing or is to review;
- (f) a decision relating to:
 - (i) a pension; or
 - (ii) a claim or application for a pension; that the Commission is reviewing or is to review.

Note: This section does not apply to persons (other than Commissioners) to whom the Commission has delegated functions and powers under section 360DB. However other disclosure requirements may apply to such persons (for example, under the *Public Service Act 1999* or in contractual terms and conditions).

- (2) If the Commissioner has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the Commissioner's functions in relation to a matter mentioned in subsection (1), the Commissioner must disclose the interest to:
 - (a) the person making the claim, the applicant or the person receiving the pension (as the case requires); and
 - (b) the Minister.
- (3) The disclosure must be made as soon as possible after the relevant facts have come to the Commissioner's knowledge.
- (4) The Commissioner must not take part in the Commission's consideration or review of the matter, unless both of the following consent to the Commissioner doing so:
 - (a) the person making the claim, the applicant or the person receiving the pension (as the case requires);
 - (b) the Minister.
- (5) If the Minister becomes aware that the Commissioner has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the Commissioner's functions in relation to the matter:

-
- (a) if the Minister considers that the Commissioner should not take part, or should not continue to take part, in the consideration or review of the matter by the Commission—the Minister must give a direction to the Commissioner accordingly; or
 - (b) in any other case—the Minister must cause the interest of the Commissioner to be disclosed to the person making the claim, the applicant or the person receiving the pension (as the case requires).
- (6) In this section:

compensation includes compensation under the DRCA.

pension means:

- (a) a pension under Part II or IV of the VEA; or
- (b) a service pension (within the meaning of the VEA); or
- (c) an income support supplement (within the meaning of the VEA); or
- (d) an allowance or other benefit under the VEA.

Division 2—Procedures of the Commission

360CL Convening meetings

- (1) The Commission must hold such meetings as are necessary for the efficient performance of its functions.
- (2) The President:
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting within 30 days after receiving a written request to do so from a majority of Commissioners.

360CM Presiding at meetings

- (1) The President must preside at all meetings at which the President is present.
- (2) If the President is not present at a meeting, the Commissioners present must appoint one of themselves to preside.

360CN Quorum

- (1) At a meeting of the Commission, a quorum is constituted by a majority of Commissioners.
- (2) However, if:
 - (a) a Commissioner is required by:
 - (i) section 360CK (disclosure of interests); or
 - (ii) a direction given by the Minister under section 360CK; or
 - (iii) rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*; not to be present during the deliberations, or to take part in any decision, of the Commission with respect to a particular matter; and
 - (b) when the Commissioner leaves the meeting concerned there is no longer a quorum present;the remaining Commissioners at the meeting constitute a quorum for the purpose of any deliberation or decision at that meeting with respect to that matter.

360CO Voting at meetings

- (1) A question arising at a meeting of the Commission is to be determined by a majority of the votes of the Commissioners present and voting.
- (2) The person presiding at a meeting of the Commission has a deliberative vote and, if the votes are equal, a casting vote.

360CP Conduct of meetings

The Commission may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which Commissioners may participate in meetings.

360CQ Minutes

The Commission must keep minutes of its meetings.

360CR Decisions without meetings

- (1) The Commission is taken to have made a decision at a meeting if:
 - (a) without meeting, a majority of the Commissioners entitled to vote on the proposed decision indicate agreement with the decision; and
 - (b) that agreement is indicated in accordance with the method determined by the Commission under subsection (2); and
 - (c) all the Commissioners were informed of the proposed decision, or reasonable efforts were made to inform all the Commissioners of the proposed decision.
- (2) Subsection (1) applies only if the Commission:
 - (a) has determined that it may make decisions of that kind without meeting; and
 - (b) has determined the method by which Commissioners are to indicate agreement with proposed decisions.
- (3) For the purposes of paragraph (1)(a), a Commissioner is not entitled to vote on a proposed decision if the Commissioner would not have been entitled to vote on that proposal if the matter had been considered at a meeting of the Commission.
- (4) The Commission must keep a record of decisions made in accordance with this section.

Part 4—Other matters**360D Staff**

- (1) Any staff required to assist the Commission are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.
- (2) When performing services for the Commission, the staff are subject to the directions of the Commission.

360DA Contractors

The Commission may engage persons under a written agreement to assist the Commission to perform or exercise the functions or powers of the Commission.

360DB Delegation by the Commission

- (1) The Commission may, in writing, delegate all or any of its functions or powers (other than the Commission's power under subsection 6B(5) of this Act or subsection 69B(6) of the VEA) to:
- (a) a Commissioner; or
 - (b) a member of the staff assisting the Commission; or
 - (c) a person engaged by the Commission under section 360DA.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Commission.

360DC Annual report

The Commission must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the Commission's activities during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

24 Subsection 409(5) (paragraph (d) of the definition of *receiving Commonwealth body*)

Repeal the paragraph.

25 Paragraphs 410(1)(a) and (2)(a) and 411(1)(a)

Repeal the paragraphs, substitute:

- (a) is or was a Commissioner; or

26 After section 427

Insert:

427A Commission may accept contributions

- (1) The Commission may accept from a person contributions of money and other property made to it:
 - (a) for a purpose specified by the person, if application of the money or other property for that purpose is necessary or convenient to be done for, or in connection with, the performance of the Commission's functions or duties; or
 - (b) for application by the Commission, as it deems fit, for, or in connection with, the performance of the Commission's functions or duties.
- (2) Contributions accepted by the Commission in accordance with subsection (1) may be applied:
 - (a) if the person making the contribution specified that the person desired the contribution to be applied for a particular purpose, for the benefit of a particular class of persons or for the benefit of a particular institution maintained by the Commission—for the purpose so specified; or
 - (b) in any other case—by the Commission as it deems fit, for, or in connection with, the performance of the Commission's functions or duties.
- (3) Subject to subsection (2), contributions accepted by the Commission in accordance with subsection (1) are to be dealt with as prescribed and, subject to the regulations (if any) prescribing the manner in which those contributions are to be dealt with, as determined by the Commission.

427B Commission may administer trusts

- (1) Subject to this section, the Commission may be appointed, and may in its corporate name act, as trustee:
 - (a) under a will, settlement or other instrument creating a trust for the benefit of members, former members, dependants of members or former members or other persons who were dependent on members or former members; or

- (b) under the will of a member or former member creating a trust for beneficiaries under that will.
- (2) The Commission may decline to accept, or accept subject to such conditions as it deems fit, a trust or appointment to act as trustee.
- (3) If the Commission accepts an appointment as trustee of a trust, the Commission:
 - (a) has the same powers, duties and liabilities; and
 - (b) is entitled to the same rights and immunities; and
 - (c) is subject to the same control by a court;as a natural person would have, be entitled to and be subject to if appointed to be, and acting as, trustee of that trust.
- (4) If the Commission is a trustee of 2 or more trusts under this section, the Commission may, subject to subsection (5), for the purpose of investing the trust funds, pool the trust funds in respect of those trusts.
- (5) The Commission must not pool trust funds under subsection (4), or invest trust funds pooled under that subsection, in a way that prevents the trust funds held in respect of each trust being identified sufficiently to enable the Commission to properly perform its functions as trustee.
- (6) The Commission may:
 - (a) make an arrangement with another person for the other person to manage the trust funds; and
 - (b) for the purposes of such an arrangement, transfer the trust funds to the other person;but the making of such an arrangement, or the transferring of the trust funds, does not relieve the Commission of any duties or liabilities as trustee.
- (7) The regulations may make provision for and in relation to the investment of money vested in the Commission as trustee pending application in accordance with the trust or for the purpose of deriving income for application in accordance with the trust.
- (8) In this section:

trust funds, in relation to a trust of which the Commission is the trustee, means money vested in the Commission as trustee.

27 Section 430A (heading)

Omit “and disclosure”.

28 Subsection 430A(1)

Omit “member of the Commission”, substitute “Commissioner”.

29 Subsections 430A(2) to (4)

Repeal the subsections, substitute:

Interaction with Privacy Act 1988

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

30 Section 432

Repeal the section, substitute:

432 Trustees for persons entitled to compensation etc.

- (1) This section applies if:
- (a) a person who is entitled to be paid any of the following is under a legal disability:
 - (i) compensation under Chapter 3, 4, 5 or 6;
 - (ii) compensation under the DRCA;
 - (iii) a pension or allowance under the VEA;
 - (iv) a veteran payment (within the meaning of the VEA); or
 - (b) if such a person is under 18—there is no person who has the primary responsibility for the daily care of that person.
- (2) The Commission may, in writing:
- (a) appoint the Commonwealth, or any other person, to be the trustee of the payments; or
 - (b) itself assume the office of trustee of the payments.

Note: Section 433 sets out the powers of the trustee.

- (3) The Commission may, in writing, revoke:
 - (a) the appointment of a trustee; or
 - (b) the assumption by the Commission of the office of trustee.
- (4) If the Commission revokes the appointment of a trustee:
 - (a) the Commission may, in writing:
 - (i) appoint a new trustee; or
 - (ii) itself assume the office of trustee; and
 - (b) the trust funds vest in:
 - (i) if subparagraph (a)(i) applies—the new trustee; or
 - (ii) if subparagraph (a)(ii) applies—the Commission.
- (5) If the Commission revokes the assumption by the Commission of the office of trustee:
 - (a) the Commission may, in writing, appoint a new trustee; and
 - (b) the trust funds vest in the new trustee.
- (6) If the Commission:
 - (a) revokes the appointment of a trustee and does not exercise its powers under paragraph (4)(a); or
 - (b) revokes the assumption by the Commission of the office of trustee and does not exercise its powers under paragraph (5)(a);the trust is terminated.

31 Subsection 433(1)

Repeal the subsection, substitute:

- (1) If a trustee is appointed, or the Commission assumes the office of trustee, under section 432 in respect of payments of compensation and other benefits mentioned in paragraph 432(1)(a), the payments are payable to the trustee.

32 Paragraph 433(3)(a)

After “compensation”, insert “or other benefit”.

33 Subsection 434(1)

Repeal the subsection, substitute:

(1) This section applies if:

- (a) a trustee appointed under section 432 is the Commonwealth or an APS employee; or
- (b) the Commission assumes the office of trustee under section 432.

34 Subsection 434(3)

Omit “under this Act”, substitute “or other benefits mentioned in paragraph 432(1)(a)”.

35 Subsection 434(5)

After “compensation”, insert “or other benefits mentioned in paragraph 432(1)(a)”.

36 Paragraph 434(6)(a)

After “compensation”, insert “or other benefits”.

37 Subsection 435(1)

After “compensation”, insert “or other benefits mentioned in paragraph 432(1)(a)”.

38 Subsection 435(1)

Omit “employee of the Australian Public Service”, substitute “APS employee”.

39 Subsection 435(2)

After “compensation”, insert “or other benefit”.

40 Paragraph 437A(1)(a)

Omit “Commission member”, substitute “Commissioner”.

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

41 Subsection 4(1)

Insert:

Commission has the same meaning as in the MRCA.

42 Subsection 4(1) (definition of MRCC)

Repeal the definition.

43 Section 110

Repeal the section.

44 Subsection 115(2)

Omit “Repatriation”.

45 Section 140

Omit “Military Rehabilitation and Compensation”.

46 The whole of the Act

Omit every occurrence of “MRCC”, substitute “Commission”.

Veterans’ Entitlements Act 1986

47 Section 5 (paragraph beginning “Sections 5A to”)

Omit “5A”, substitute “5B”.

48 Section 5A

Repeal the section.

49 Subsection 5Q(1)

Repeal the following definitions:

- (a) definition of *acting commissioner*;
- (b) definition of *Acting Deputy President*;
- (c) definition of *Acting President*.

50 Subsection 5Q(1) (definition of Commission)

Omit “: see section 5A”, substitute “has the same meaning as in the MRCA”.

51 Subsection 5Q(1) (definition of commissioner)

Repeal the definition.

52 Subsection 5Q(1)

Insert:

Commissioner has the same meaning as in the MRCA.

53 Subsection 5Q(1)

Repeal the following definitions:

- (a) definition of *Deputy President*;
- (b) definition of *Military Rehabilitation and Compensation Commission*;
- (c) definition of *President*.

54 Subsection 5Q(1A)

Omit “Parts VIII, XI and XIA,”, substitute “Part VIII”.

55 Subparagraph 38(1BA)(b)(iii)

Omit “Military Rehabilitation and Compensation”.

56 Paragraph 45SB(1)(g)

Omit “Military Rehabilitation and Compensation”.

57 Section 58C

Omit “and sections 202 to 202B”, substitute “of this Act and sections 432 to 435 of the MRCA”.

58 Subsection 91(8)

Repeal the subsection, substitute:

- (8) If the Pharmaceutical Benefits Remuneration Tribunal submits the recommendations and a copy of the report to the Minister, the Commission may:
 - (a) under subsection (4), vary the Repatriation Pharmaceutical Benefits Scheme; or
 - (b) under subsection 286(5) of the MRCA, vary the pharmaceutical benefits determination under section 286 of that Act;
 in any manner the Commission considers desirable as a result of its consideration of the recommendations and the report.

59 Section 106 (note)

Omit “Military Rehabilitation and Compensation”.

60 Subsection 122AA(1)

Omit “commissioner of the Commission”, substitute “Commissioner”.

61 Subsections 122AA(2) to (4)

Repeal the subsections, substitute:

Interaction with Privacy Act 1988

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

62 Section 131 (paragraph (c) of the definition of *receiving Commonwealth body*)

Repeal the paragraph.

63 Part XI

Repeal the Part.

64 Sections 200 to 202B

Repeal the sections.

65 Subsection 203(4)

Omit “, or the Military Rehabilitation and Compensation Commission,”.

66 Subsection 212(1)

Omit “(1)”.

67 Paragraph 212(1)(a)

Omit “commissioner”, substitute “Commissioner”.

68 Subsection 212(4)

Repeal the subsection.

69 Sections 213 and 215

Repeal the sections.

Schedule 5—Repatriation Medical Authority and Specialist Medical Review Council

Military Rehabilitation and Compensation Act 2004

1 Section 3 (paragraph beginning “The procedure”)

Before “and the administration of the Act”, insert “, the Repatriation Medical Authority, the Specialist Medical Review Council”.

2 Subsection 5(1)

Insert:

Authority means the Repatriation Medical Authority continued in existence by section 370B.

Authority member means a member of the Authority, appointed under section 370DA, and includes the Chair of the Authority.

Councillor means a Councillor of the Review Council appointed under section 380DA, and includes the Convener of the Review Council.

presiding Councillor: see subsection 380DK(3).

related to service: see section 370C.

3 Subsection 5(1) (definition of *Repatriation Medical Authority*)

Repeal the definition.

4 Subsection 5(1)

Insert:

Review Council means the Specialist Medical Review Council continued in existence by section 380B.

sound medical-scientific evidence: see section 370CA.

5 Subsection 5(1) (definition of *Statement of Principles*)

Repeal the definition, substitute:

Statement of Principles means a Statement of Principles determined under:

- (a) section 370CB (Statement of Principles—reasonable hypothesis); or
- (b) section 370CC (Statement of Principles—balance of probabilities); or
- (c) subsection 370CN(1) (Statement of Principles where directed by the Review Council—reasonable hypothesis); or
- (d) subsection 370CN(3) (Statement of Principles where directed by the Review Council—balance of probabilities).

6 Section 22

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “Chapter 9A”.

7 Section 332

Omit “the *Veterans’ Entitlements Act 1986 (VEA)*”, substitute “Chapter 9A”.

8 Section 332

Omit “Part XIA of the VEA”, substitute “Part 3 of Chapter 9A”.

9 Section 332

Omit “under the VEA to the Repatriation Medical Authority (*RMA*)”, substitute “to the Authority”.

10 Section 332

Omit “Part XIB of the VEA, the Specialist Medical”, substitute “Chapter 9B, the”.

11 Section 332 (paragraph beginning “Under Part XIB of the VEA”)

Omit “RMA” (wherever occurring), substitute “Authority”.

12 Subsection 338(2)

Omit “If the Repatriation Medical Authority has given notice under section 196G of the *Veterans’ Entitlements Act 1986*”, substitute “If the Authority has given notice under section 370CJ”.

13 Paragraph 338(2)(c)

Omit “subsection 196B(2) of that Act”, substitute “section 370CB”.

14 Paragraph 338(3)(a)

Omit “subsection 196B(2) or (11) of the *Veterans’ Entitlements Act 1986*”, substitute “section 370CB or subsection 370CN(1)”.

15 Subsection 338(4)

Omit “Repatriation Medical Authority has neither determined a Statement of Principles under subsection 196B(2) of the *Veterans’ Entitlements Act 1986*”, substitute “Authority has neither determined a Statement of Principles under section 370CB”.

16 Subsection 339(2)

Omit “Repatriation Medical Authority has given notice under section 196G of the *Veterans’ Entitlements Act 1986*”, substitute “Authority has given notice under section 370CJ”.

17 Paragraph 339(2)(c)

Omit “subsection 196B(3) of that Act”, substitute “section 370CC”.

18 Subparagraph 339(3)(b)(i)

Omit “subsection 196B(3) or (12) of the *Veterans’ Entitlements Act 1986*”, substitute “section 370CC or subsection 370CN(3)”.

19 Subsection 339(4)

Omit “Repatriation Medical Authority has neither determined a Statement of Principles under subsection 196B(3) of the *Veterans’ Entitlements Act 1986*”, substitute “Authority has neither determined a Statement of Principles under section 370CC”.

20 Paragraph 340(1)(a)

Omit “Repatriation Medical”.

21 Paragraph 340(1)(a)

Omit “(see section 196B of the *Veterans’ Entitlements Act 1986*)”,
substitute “(see Part 3 of Chapter 9A)”.

22 Subsection 340(5)

Omit “subsection 196B(2) of the *Veterans’ Entitlements Act 1986*”,
substitute “section 370CB”.

23 Subsection 340(6)

Omit “subsection 196B(3) of the *Veterans’ Entitlements Act 1986*”,
substitute “section 370CC”.

24 Subsection 340(7)

Repeal the subsection.

25 Paragraph 341(1)(b)

Omit “determined under section 196B of the *Veterans’ Entitlements Act 1986*”.

26 After Chapter 9

Insert:

Chapter 9A—Repatriation Medical Authority

Part 1—Simplified outline of this Chapter

370A Simplified outline of this Chapter

The Repatriation Medical Authority is continued in existence under Part 2 of this Chapter.

Part 2 also sets out the Authority’s functions. The Authority’s main function is to determine Statements of Principles. A Statement of Principles is an instrument that sets out all factors related to service that have been found to cause specific injuries, diseases or death.

Part 3 sets out the process for determining Statements of Principles.

Part 4 deals with the administration of the Authority, and includes provisions relating to Authority members, acting Authority members and meetings of the Authority.

Part 5 deals with staff, consultants, delegations by the Chair of the Authority and the Authority's annual report.

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

Part 2—Establishment of Authority

370B Establishment

- (1) The Repatriation Medical Authority that was, immediately before the commencement of this section, in existence by virtue of the VEA, is continued in existence under the same name.
- (2) The Authority:
 - (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- (3) Debts incurred by the Authority in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

370BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Authority

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of *Department of State* in section 8 of that Act, the Authority is not a

Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the Authority members are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

370BB Functions and powers of the Authority

- (1) The functions of the Authority are:
 - (a) to determine Statements of Principles; and
 - (b) any other function conferred on the Authority by this Act, the regulations or any other law of the Commonwealth.
- (2) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Part 3—Statements of Principles

Division 1—Preliminary

370C Meaning of *related to service*

A factor causing, or contributing to, an injury, disease or death is ***related to service*** rendered by a person if:

- (a) it resulted from an occurrence that happened while the person was rendering that service; or
- (b) it arose out of, or was attributable to, that service; or
- (c) it was contributed to in a material degree by, or was aggravated by, that service; or
- (d) in the case of a factor causing, or contributing to, an injury—it resulted from an accident that would not have occurred:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon the person having rendered that service; or
- (e) in the case of a factor causing, or contributing to, a disease—it would not have occurred:
 - (i) but for the rendering of that service by the person; or

- (ii) but for changes in the person's environment consequent upon the person having rendered that service; or
- (f) in the case of a factor causing, or contributing to, the death of a person—it was due to an accident that would not have occurred, or to a disease that would not have been contracted:
 - (i) but for the rendering of that service by the person; or
 - (ii) but for changes in the person's environment consequent upon the person having rendered that service; or
- (g) it resulted from an accident that occurred while the person was travelling, while rendering that service but otherwise than in the course of duty, on a journey:
 - (i) to a place for the purpose of performing duty; or
 - (ii) away from a place of duty upon having ceased to perform duty.

370CA Meaning of *sound medical-scientific evidence*

Information about a particular kind of injury, disease or death is taken to be *sound medical-scientific evidence* if:

- (a) the information:
 - (i) is consistent with material relating to medical science that has been published in a medical or scientific publication and has been, in the opinion of the Authority, subjected to a peer review process; or
 - (ii) in accordance with generally accepted medical practice, would serve as the basis for the diagnosis and management of a medical condition; and
- (b) in the case of information about how that kind of injury, disease or death may be caused—meets the applicable criteria for assessing causation currently applied in the field of epidemiology.

Division 2—Determining Statements of Principles

370CB Determining Statement of Principles—reasonable hypothesis

- (1) If the Authority is of the view that there is sound medical-scientific evidence that indicates that a particular kind of injury, disease or

death can be related to one of the following kinds of service rendered by a person:

- (a) warlike service;
- (b) non-warlike service;
- (c) British nuclear test defence service;
- (d) hazardous service;

the Authority must, by legislative instrument, determine a Statement of Principles in respect of that kind of injury, disease or death.

Note 1: The Authority is required to make and amend a Statement of Principles in certain circumstances (see section 370CG).

Note 2: The Authority must also make a Statement of Principles for determining claims using the reasonable hypothesis standard of proof when directed by the Review Council (see subsection 370CN(1)).

Note 3: This Act applies in relation to operational service as if it were warlike service or non-warlike service (see section 443).

(2) The Statement of Principles must set out:

- (a) the factors that must as a minimum exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

370CC Determining Statement of Principles—balance of probabilities

(1) If the Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that a particular kind of injury, disease or death can be related to one of the following kinds of service rendered by a person:

- (a) peacetime service;
- (b) service to which a claim mentioned in subsection 120B(1) of the VEA relates;

the Authority must, by legislative instrument, determine a Statement of Principles in respect of that kind of injury, disease or death.

Note 1: The Authority is required to make and amend a Statement of Principles in certain circumstances (see section 370CG).

Note 2: The Authority must also make a Statement of Principles for determining claims using the balance of probabilities standard of proof when directed by the Review Council (see subsection 370CN(3)).

(2) The Statement of Principles must set out:

- (a) the factors that must exist; and
- (b) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Division 3—Investigations by the Authority

Subdivision A—When investigations must be carried out

370CD Initial investigation

If the Authority:

- (a) receives a request under section 370CH to carry out an investigation in respect of a particular kind of injury, disease or death; or
- (b) of its own initiative, decides that a particular kind of injury, disease or death ought to be investigated to find out whether a Statement of Principles may be determined in respect of it;

the Authority must carry out an investigation to obtain information that would enable the Authority to establish:

- (c) how the injury may be suffered or sustained, the disease may be contracted or the death may occur; and
- (d) the extent (if any) to which the injury, disease or death may be a service injury, a service disease or a service death.

Note 1: After carrying out an investigation under this section, the Authority must either make a Statement of Principles, or make a declaration stating it does not propose to make a Statement of Principles (see section 370CG).

Note 2: This section does not mean that the Authority must carry out an investigation before it can determine a Statement of Principles under section 370CB or 370CC.

370CE Subsequent investigation

(1) If the Authority:

(a) receives a request under section 370CH to review:

(i) some or all of the contents of a Statement of Principles;
or

(ii) a decision of the Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or

(b) thinks that there are grounds for such a review; or

(c) is directed by the Review Council under subsection 380CA(2) to carry out an investigation in respect of a particular kind of injury, disease or death;

the Authority must carry out an investigation to find out if there is new information available about:

(d) how the injury may be suffered or sustained, the disease may be contracted or the death may occur; or

(e) the extent (if any) to which the injury, disease or death may be a service injury, a service disease or a service death.

Note: The Authority is not required to carry out an investigation in certain circumstances (see section 370CF).

(2) If the investigation:

(a) relates to a request under section 370CH to review some of the contents of a Statement of Principles; or

(b) is one to which paragraph (1)(b) of this section applies and that relates to some of the contents of a Statement of Principles; or

(c) is carried out because of a direction under subsection 380CA(2) by the Review Council, following a request to the Review Council under section 380CC to review the Authority's refusal to carry out an investigation relating to a request under section 370CH, to review some of the contents of a Statement of Principles;

the Authority may limit its investigation to matters relating to those contents.

Note: After carrying out an investigation under this section, the Authority must either make or amend a Statement of Principles, or make a declaration stating it does not propose to make or amend a Statement of Principles (see section 370CG).

370CF Circumstances when investigation not required

- (1) If:
- (a) the Authority has carried out an investigation in respect of a particular kind of injury, disease or death; and
 - (b) within 12 months after the Authority has, at the end of the investigation:
 - (i) determined or amended a Statement of Principles; or
 - (ii) declared that it does not propose to make or amend a Statement of Principles;a person or organisation asks the Authority under section 370CH to review:
 - (iii) some or all of the contents of the Statement of Principles; or
 - (iv) its decision not to make a Statement of Principles; and
 - (c) the Authority thinks that there are no grounds for such a review;
- the Authority may decide not to carry out an investigation in respect of that kind of injury, disease or death.
- (2) The Authority may decide not to carry out an investigation in respect of a request for a review of a kind mentioned in paragraph 370CH(2)(b) or (c) if:
- (a) the request does not state the grounds on which the review is sought; or
 - (b) the Authority considers that the request does not identify sufficient relevant information:
 - (i) to support the grounds on which the review is sought; or
 - (ii) to otherwise justify the review; or
 - (c) the request is vexatious or frivolous.

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- (3) If the Authority decides under subsection (1) or (2) not to carry out an investigation, it must inform the person or organisation in writing of the decision, stating the reasons for it.

Subdivision B—Action following investigation

370CG Action following investigation

Decision to determine etc. a Statement of Principles

- (1) If, after carrying out an investigation under section 370CD, the Authority is of the view that there is sound medical-scientific evidence on which it can rely to determine a Statement of Principles under section 370CB or 370CC in respect of a kind of injury, disease or death, the Authority must do so as soon as practicable.
- (2) If, after carrying out an investigation under section 370CE, the Authority is of the view that there is a new body of sound medical-scientific evidence that, together with sound medical-scientific evidence previously considered by the Authority, justifies the determination, or amendment, of a Statement of Principles under section 370CB or 370CC in respect of a kind of injury, disease or death that can be related to service rendered by a person, the Authority must do one or more of the following as the case requires:
- (a) determine a Statement of Principles under section 370CB or 370CC in respect of that kind of injury, disease or death;
 - (b) amend an existing Statement of Principles in respect of that kind of injury, disease or death;
 - (c) revoke an existing Statement of Principles, and determine a new Statement of Principles under section 370CB or 370CC, in respect of that kind of injury, disease or death.

Decision not to determine etc. Statement of Principles

- (3) If, after carrying out an investigation under section 370CD in respect of a particular kind of injury, disease or death, the Authority is of the view:
- (a) that there is no sound medical-scientific evidence on which it can rely to determine a Statement of Principles under section

370CB or 370CC in respect of that kind of injury, disease or death; or

- (b) that the sound medical-scientific evidence on which it can rely is insufficient to allow it to do so;

the Authority must make a declaration in writing:

- (c) stating that it does not propose to make a Statement of Principles; and
- (d) giving the reasons for its decision.

- (4) If, after carrying out an investigation under section 370CE in respect of a particular kind of injury, disease or death, the Authority is of the view:

- (a) that there is no new sound medical-scientific evidence about that kind of injury, disease or death; or
- (b) that the new sound medical-scientific evidence available is not sufficient to justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined in respect of that kind of injury, disease or death;

the Authority must make a declaration in writing:

- (c) stating that it does not propose to make a Statement of Principles, or amend the Statement of Principles already determined (as the case may be); and
- (d) giving the reasons for its decision.

Notice of decision not to determine etc. Statement of Principles

- (5) If the Authority decides not to make, or not to review or not to amend, a Statement of Principles, it must, within 14 days, notify the Commission in writing of its decision.
- (6) If the decision is made following a request from a person or organisation under section 370CH, the Authority must also notify the person or organisation in writing of its decision.

Decisions not legislative instruments

- (7) A declaration under subsection (3) or (4) is not a legislative instrument.

Subdivision C—Requests for investigation or review**370CH Request for investigation or review**

- (1) Any of the following may request the Authority to carry out an investigation or review of a kind mentioned in subsection (2):
 - (a) the Commission;
 - (b) a person eligible to make a claim for compensation under section 319;
 - (c) an organisation representing veterans, Australian mariners or members of the Forces (all within the meaning of the VEA);
 - (d) an organisation representing members or their dependants.
- (2) For the purposes of subsection (1), the kinds of investigation or review are as follows:
 - (a) an investigation under section 370CD in respect of a particular kind of injury, disease or death;
 - (b) a review of a decision of the Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death following an investigation under section 370CD;
 - (c) a review of some or all of the contents of a Statement of Principles.
- (3) A request under subsection (1) must be made:
 - (a) in a form approved by the Authority; and
 - (b) in a manner approved by the Chair of the Authority.
- (4) If the request is a request for a review of a kind mentioned in paragraph (2)(b) or (c), the request must also:
 - (a) state the grounds on which the review is sought; and
 - (b) identify any information relied on to support those grounds.

370CI Authority may consolidate requests

If:

- (a) 2 or more requests for review are made under section 370CH;
- and

- (b) the requests are in relation to the same injury, disease or death;
- the Authority may carry out one investigation in relation to those requests.

Subdivision D—Conduct of investigations

370CJ Notice of investigation

- (1) As soon as practicable after the Authority:
 - (a) has been asked under section 370CH to carry out:
 - (i) an investigation; or
 - (ii) a review of a decision of the Authority not to make a Statement of Principles; or
 - (iii) a review of some or all of the contents of a Statement of Principles;
regarding a particular kind of injury, disease or death; or
 - (b) has decided on its own initiative to carry out such an investigation or such a review;

the Authority must, by notifiable instrument:

 - (c) give notice stating that the Authority intends to carry out an investigation in respect of that kind of injury, disease or death; and
 - (d) invite persons or organisations authorised under subsection 370CL(1) to do so to make written submissions to the Authority.
- (2) The notifiable instrument under subsection (1):
 - (a) must specify:
 - (i) the date on which the Authority will hold its first meeting for the purposes of the investigation; and
 - (ii) the date by which all submissions must have been received by the Authority; and
 - (b) must be made at least 28 days before the date of the first meeting of the Authority.
- (3) A failure to comply with paragraph (2)(a) does not affect the validity of the notifiable instrument.

370CK Powers of Authority with respect to investigations

- (1) The Authority may not, for the purposes of an investigation, carry out any new research work (including any test or experiment).
- (2) The Authority may, for the purposes of an investigation, ask the Secretary:
 - (a) to forward to the Authority any information:
 - (i) in the possession of the Secretary; or
 - (ii) that the Secretary may obtain;relating to the kind of injury, disease or death under investigation; or
 - (b) to carry out research (including any test or experiment) to obtain, confirm or disprove specific information about the kind of injury, disease or death under investigation and forward a report to the Authority.
- (3) In forming any view during the investigation, the Authority:
 - (a) may rely only on sound medical-scientific evidence:
 - (i) that has been submitted to it; or
 - (ii) that it has obtained on its own initiative or from the Secretary (under subsection (2)) or from a consultant; and
 - (b) must consider and evaluate all the evidence so made available to it.

370CL Submissions to the Authority

- (1) If the Authority is carrying out an investigation under section 370CD or 370CE, any person or organisation referred to in any of paragraphs 370CH(1)(a) to (d) may make a submission in writing to the Authority on any matter (other than a legal matter) relevant to the investigation.
 - (2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Authority on any matter (other than a legal matter) within the person's expertise that is relevant to the investigation.
 - (3) If an individual, the Commission or an organisation has made a written submission, the individual or the individual's
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representative, or a representative of the Commission or of the organisation may, subject to subsection (4), appear before the Authority to make an oral submission complementing the written submission. The oral submission may not cover any legal matter.

- (4) A person or organisation may not be represented before the Authority by a legal practitioner.

Division 4—Matters relating to reviews by the Review Council

370CM Authority to send information to Review Council

The Authority must, within 28 days after being notified that the Review Council has been asked to review:

- (a) a Statement of Principles; or
- (b) a decision of the Authority not to determine a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (c) a decision of the Authority not to amend a Statement of Principles in respect of a particular kind of injury, disease or death; or
- (d) a decision of the Authority under subsection 370CF(1) not to carry out an investigation in respect of a particular kind of injury, disease or death;

send to the Review Council a copy of all the information that was available to the Authority when it:

- (e) determined, amended, or last amended, the Statement of Principles; or
- (f) decided, or last decided, not to determine, or not to amend, a Statement of Principles in respect of that kind of injury, disease or death; or
- (g) decided not to carry out the investigation.

370CN Action following review by Review Council

Determining a Statement of Principles where directed by the Review Council—reasonable hypothesis

- (1) If, after reviewing a decision of the Authority not to determine a Statement of Principles under section 370CB in respect of a particular kind of injury, disease or death, the Review Council directs the Authority under subsection 380C(4) to determine such a Statement of Principles, the Authority must, by legislative instrument, determine a Statement of Principles in respect of that kind of injury, disease or death.
- (2) The Statement of Principles must set out, in accordance with the direction of the Review Council:
 - (a) the factors that must as a minimum exist; and
 - (b) which of those factors must be related to service rendered by a person;before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Determining a Statement of Principles where directed by the Review Council—balance of probabilities

- (3) If, after reviewing a decision of the Authority not to determine a Statement of Principles under section 370CC in respect of a particular kind of injury, disease or death, the Review Council directs the Authority under subsection 380C(4) to determine such a Statement of Principles, the Authority must, by legislative instrument, determine a Statement of Principles in respect of that kind of injury, disease or death.
- (4) The Statement of Principles must set out, in accordance with the direction of the Review Council:
 - (a) the factors that must exist; and
 - (b) which of those factors must be related to service rendered by a person;before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Amending a Statement of Principles where directed by the Review Council

- (5) If, under subsection 380C(4), the Review Council directs the Authority to amend a Statement of Principles in respect of a kind of injury, disease or death, the Authority must do so in accordance with the directions of the Review Council.

Requirements where Statement of Principles made or amended under this section

- (6) A Statement of Principles as determined or amended under this section:
- (a) is taken to have commenced on the day on which the Review Council made the notifiable instrument under subsection 380C(4) directing the Authority to do so; and
 - (b) must specify that day.
- (7) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply in relation to a Statement of Principles determined or amended under this section.

Amendment and revocation of Statement of Principles made or amended under this section

- (8) A Statement of Principles, as determined or amended under this section, may be amended or revoked by the Authority in the same way as if it had been determined or amended under section 370CB or 370CC, as applicable.

Part 4—Administration

Division 1—Membership etc.

370D Membership

The Authority consists of the Chair of the Authority and 4 other members.

370DA Appointment of Authority members

- (1) The Authority members are to be appointed by the Minister by written instrument.

Note: An Authority member may be reappointed (see section 33AA of the *Acts Interpretation Act 1901*).

- (2) The Minister must not appoint a person as Chair of the Authority unless the person is a medical practitioner, or a medical scientist, with at least 10 years' experience.
- (3) In making appointments, the Minister must ensure that at least one Authority member has at least 5 years' experience in the field of epidemiology.

370DB Basis and period of appointment

- (1) An Authority member is to be appointed on a part-time basis.
- (2) An Authority member holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

370DC Acting appointments

The Minister may, by written instrument, appoint an Authority member to act as the Chair of the Authority:

- (a) during a vacancy in the office of the Chair (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Chair:
- (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

370DD Remuneration

- (1) An Authority member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Authority member is to be paid the remuneration that is prescribed under subsection (4).

- (2) An Authority member is to be paid the allowances that are prescribed under subsection (4).
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) The Minister may, by legislative instrument, prescribe:
 - (a) remuneration for the purposes of subsection (1); and
 - (b) allowances for the purposes of subsection (2).

370DE Other terms and conditions

An Authority member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

370DF Resignation

- (1) An Authority member may resign the Authority member's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

370DG Termination of appointment

The Minister may terminate the appointment of an Authority member:

- (a) for misbehaviour; or
- (b) if the Authority member is unable to perform the duties of the Authority member's office because of physical or mental incapacity; or
- (c) if the Authority member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the Authority member's creditors; or

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- (iv) makes an assignment of the Authority member's remuneration for the benefit of the Authority member's creditors; or
 - (d) the Authority member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

Division 2—Procedures of the Authority

370DH Convening meetings

- (1) The Authority must hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chair of the Authority may convene a meeting at any time.

370DI Presiding at meetings

The Chair of the Authority must preside at all meetings of the Authority.

370DJ Quorum

- (1) At a meeting of the Authority, a quorum is constituted by 3 Authority members.
- (2) However, if:
 - (a) an Authority member is required by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* not to be present during the deliberations, or to take part in any decision, of the Authority with respect to a particular matter; and
 - (b) when the Authority member leaves the meeting concerned there is no longer a quorum present;the remaining Authority members constitute a quorum for the purposes of any deliberation or decision at that meeting with respect to that matter.

370DK Voting at meetings

- (1) A question arising at a meeting of the Authority is to be determined by a majority of the votes of the Authority members present and voting.
- (2) The Chair of the Authority has a deliberative vote but, if the votes are equal, does not have a casting vote.

370DL Conduct of meetings

The Authority may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which Authority members may participate in meetings.

370DM Minutes

The Authority must keep minutes of its meetings.

Part 5—Other matters

370E Staff

- (1) Any staff required to assist the Authority are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.
- (2) When performing services for the Authority, the staff are subject to the directions of the Authority.

370EA Consultants

- (1) The Authority may engage consultants to provide expert advice to the Authority about any disease, injury or death that the Authority is investigating.
- (2) The Authority must not engage a consultant without the approval of the Minister.

370EB Delegation by Chair of the Authority

- (1) The Chair of the Authority may, in writing, delegate the Chair's power under subsection 370DH(2) to:
- (a) an Authority member; or
 - (b) a member of the staff assisting the Authority.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated power, the delegate must comply with any written directions of the Chair.

370EC Annual report

The Authority must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the Authority's activities during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

Chapter 9B—Specialist Medical Review Council

Part 1—Simplified outline of this Chapter

380A Simplified outline of this Chapter

The Specialist Medical Review Council is continued in existence under Part 2 of this Chapter.

Part 2 also sets out the Review Council's functions. The Review Council's main function is to review decisions of the Authority in relation to Statements of Principles.

Part 3 sets out the process for reviews undertaken by the Review Council.

Part 4 deals with the administration of the Review Council, and includes provisions relating to Councillors and meetings of the Review Council.

Part 5 deals with staff and delegations by the Convener of the Review Council.

Part 7 of the *Acts Interpretation Act 1901* also has provisions that are relevant to Councillors.

Part 2—Establishment of Review Council

380B Establishment

- (1) The Specialist Medical Review Council that was, immediately before the commencement of this section, in existence by virtue of the VEA, is continued in existence under the same name.
- (2) The Review Council:
 - (a) is a body corporate with perpetual succession; and
 - (b) must have a seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.
- (3) Debts incurred by the Review Council in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

380BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Review Council

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of **Department of State** in section 8 of that Act, the Review Council is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the Councillors are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

380BB Functions and powers of the Review Council

- (1) The functions of the Review Council are:
 - (a) to review decisions made by the Authority in relation to Statements of Principles; and
 - (b) any other function conferred on the Review Council by this Act, the regulations or any other law of the Commonwealth.
- (2) The Review Council has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Part 3—Reviews by the Review Council

Division 1—Review of decisions of the Authority

380C Review of decision relating to Statement of Principles

When review is to be carried out

- (1) If the Review Council is asked under section 380CB to review:
 - (a) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or
 - (b) a decision of the Authority not to determine a Statement of Principles in respect of a particular kind of injury, disease or death; or
 - (c) a decision of the Authority not to amend a Statement of Principles in respect of a particular kind of injury, disease or death;then, subject to subsection (2), the Review Council must, for that purpose, carry out a review of all the information that was available to the Authority when it:
 - (d) determined, amended, or last amended, the Statement of Principles; or
 - (e) decided, or last decided, not to determine, or not to amend, a Statement of Principles;
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in respect of that kind of injury, disease or death.

- (2) If the Review Council has been asked to review some or all of the contents of a Statement of Principles, the Review Council may carry out a review under subsection (1) only if:
- (a) the period within which the Statement of Principles may be disallowed under section 42 of the *Legislation Act 2003* has ended; and
 - (b) the Statement of Principles has not been disallowed.
- (3) If:
- (a) the Review Council has been asked to review some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; and
 - (b) there is another Statement of Principles in force in respect of that kind of injury, disease or death, but the Review Council has not been asked to review some or all of the contents of that other Statement of Principles;
- then the Review Council must also review that other Statement of Principles by reviewing the information subsection (1) requires it to review in reviewing the Statement of Principles it has been asked to review.

Outcome of review

- (4) If, after carrying out the review, the Review Council is of the view that there is sound medical-scientific evidence on which the Authority could have relied:
- (a) to amend either or both of the Statements of Principles in force in respect of that kind of injury, disease or death; or
 - (b) to determine a Statement of Principles in respect of that kind of injury, disease or death;
- the Review Council must, by notifiable instrument, make a declaration stating its views, setting out the evidence in support and:
- (c) directing the Authority to amend either or both of the Statements of Principles, or determine a Statement of Principles (as the case may be), in accordance with the directions given by the Review Council; or

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- (d) remitting the matter for reconsideration by the Authority in accordance with any directions or recommendations of the Review Council.
- (5) If, after carrying out the review, the Review Council is of the view:
- (a) that there is no sound medical-scientific evidence that justifies the making of a Statement of Principles, or an amendment of either or both of the Statements of Principles, in respect of that kind of injury, disease or death; or
 - (b) that the sound medical-scientific evidence available to the Authority is insufficient to justify the making of a Statement of Principles, or an amendment of either or both of the Statements of Principles, in respect of that kind of injury, disease or death;
- the Review Council must, by notifiable instrument, make a declaration to that effect giving the reasons for its decision. The Review Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

Notification of outcome of review

- (6) The Review Council must give a copy of the notifiable instrument made under subsection (4) or (5) to:
- (a) the person or organisation that asked for the review; and
 - (b) the Commission (if it is not the person referred to in paragraph (a) of this subsection); and
 - (c) the Authority.

380CA Review of decision not to carry out investigation

- (1) If the Review Council is asked under section 380CC to review a decision of the Authority under subsection 370CF(1) not to carry out an investigation in respect of a particular kind of injury, disease or death, the Review Council must consider:
- (a) the reasons given by the Authority for making the decision; and
 - (b) the information on which the Authority relied in making that decision; and

- (c) the grounds on which the request for the review was made and any submission made in support of those grounds.
 - (2) If, after considering the matters referred to in paragraphs (1)(a), (b) and (c), the Review Council is of the view that:
 - (a) there appears to be a new body of sound medical-scientific evidence in respect of that kind of injury, disease or death that has not been previously considered by the Authority; and
 - (b) that new body of evidence, together with the sound medical-scientific evidence available to the Authority, could justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death;the Review Council must, by notifiable instrument, make a declaration to that effect giving the reasons for its decision and directing the Authority to carry out an investigation under subsection 370CE in respect of that kind of injury, disease or death. The Review Council may include in the declaration any recommendation or direction that the Review Council considers fit to make about the carrying out of the investigation.
 - (3) If, after considering the matters referred to in paragraphs (1)(a), (b) and (c), the Review Council is not of the view referred to in subsection (2) in respect of that kind of injury, disease or death, the Review Council must, by notifiable instrument, make a declaration:
 - (a) affirming the decision of the Authority not to carry out the investigation; and
 - (b) giving the reasons for its decision.The Review Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.
 - (4) The Review Council must give a copy of the notifiable instrument made under subsection (2) or (3) to:
 - (a) the person or organisation that asked for the review; and
 - (b) the Commission (if it is not the person referred to in paragraph (a) of this subsection); and
 - (c) the Authority.
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Division 2—Requests for review

380CB Request for review of contents of Statement of Principles

- (1) Subject to subsection (2), any of the following:
 - (a) the Commission;
 - (b) a person eligible to make a claim for compensation under section 319;
 - (c) an organisation representing veterans, Australian mariners or members of the Forces (all within the meaning of the VEA);
 - (d) an organisation representing members or their dependants;may ask the Review Council to review:
 - (e) some or all of the contents of a Statement of Principles; or
 - (f) a decision of the Authority not to make, or not to amend, a Statement of Principles in respect of a particular kind of injury, disease or death.
- (2) The request must be made:
 - (a) in the case of a request to review some or all of the contents of a Statement of Principles—within 3 months after the Statement of Principles was made, amended or last amended; or
 - (b) in any other case—within 3 months after the decision of the Authority.
- (3) A request must:
 - (a) state the grounds on which the review is sought; and
 - (b) be made in a manner approved by the Convener of the Review Council.
- (4) The Review Council must notify the Secretary and the Authority of the request within 28 days after receiving the request.

380CC Request for review of decision of Authority not to carry out an investigation

- (1) If:
 - (a) a person or organisation asks the Authority under section 370CH to review:

- (i) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or
 - (ii) the Authority's decision not to make a Statement of Principles in respect of a particular kind of injury, disease or death; and
 - (b) the Authority refuses under subsection 370CF(1) to carry out an investigation in respect of that kind of injury, disease or death;
- the person or organisation may, within 3 months after the refusal, ask the Review Council to review the decision of the Authority not to carry out the investigation.
- (2) The request must:
 - (a) state the grounds on which the review is sought; and
 - (b) be accompanied by any submission that the person or organisation wishes to submit in support of those grounds; and
 - (c) be made in a manner approved by the Convener of the Review Council.
 - (3) The Review Council must notify the Secretary and the Authority of the request within 28 days after receiving the request.

Division 3—Conduct of investigations

380CD Notice of investigation

- (1) As soon as practicable after the Review Council has been asked under section 380CB to review:
 - (a) a decision of the Authority not to make, or not to amend, a Statement of Principles in respect of a particular kind of injury, disease or death; or
 - (b) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death;the Review Council must, by notifiable instrument:
 - (c) give notice stating that the Review Council intends to carry out a review of the information available to the Authority about that kind of injury, disease or death; and

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- (d) invite persons or organisations authorised under subsection 380CE(1) to do so to make written submissions to the Review Council.
 - (2) The notifiable instrument under subsection (1):
 - (a) must specify the date by which all submissions must have been received by the Review Council; and
 - (b) must be made at least 28 days before the date of the first meeting of the Review Council for the purposes of the review.
 - (3) A failure to comply with paragraph (2)(a) does not affect the validity of the notifiable instrument.

380CE Submissions to Review Council

- (1) If the Review Council is carrying out a review under section 380C, any person or organisation referred to in any of paragraphs 380CB(1)(a) to (c) may make a submission in writing to the Review Council about any information (***relevant information***) that was both available to the Authority and is relevant to the review.
- (2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Review Council on any relevant information pertaining to that field.
- (3) If an individual, the Commission or an organisation has made a written submission, the individual or the individual's representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission.
- (4) If the Review Council is carrying out a review under section 380CA at the request of an individual, the Commission or an organisation, the individual or the individual's representative, or a representative of the Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission (if any) made under paragraph 380CC(2)(b).

- (5) A person or organisation may not be represented before the Review Council by a legal practitioner.
- (6) In this section, a reference to a submission does not include a submission on a legal matter.

Division 4—Payment of medical and travelling expenses

380CF Medical expenses

- (1) The Commonwealth may, subject to this section, pay to a person (the *applicant*) who asks the Review Council to conduct a review under this Part an amount to cover the medical expenses incurred by the applicant in respect of medical evidence relevant to, and obtained by the applicant for the purposes of, the review and submitted to the Review Council.
- (2) The applicant must not be paid more than the amount prescribed by, or worked out in accordance with, the regulations.
- (3) An amount is not payable in respect of medical expenses unless:
 - (a) the person who has incurred the expenses; or
 - (b) any person approved by that person or by the Review Council;applies in writing to the Review Council for payment.
- (4) The application for payment must:
 - (a) be made within 3 months after the medical evidence was submitted to the Review Council; and
 - (b) be accompanied by any document that the applicant considers relevant; and
 - (c) be made in a manner approved by the Convener of the Review Council.

380CG Travelling expenses for obtaining medical evidence

- (1) If the applicant has had to travel to obtain any medical evidence submitted to the Review Council as mentioned in subsection 380CF(1), the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

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- (2) If:
- (a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and
 - (b) the Review Council is of the view that it is reasonable for the applicant to be so accompanied by an attendant;
- the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.
- (3) Travelling expenses are not payable in respect of travel outside Australia.
- (4) Travelling expenses are not payable unless:
- (a) the person who has incurred the expenses; or
 - (b) any person approved by that person or by the Review Council;
- applies in writing to the Review Council for payment under subsection (5).
- (5) The application for payment must:
- (a) be made within:
 - (i) 3 months after the completion of the travel; or
 - (ii) if the Review Council thinks that there are exceptional circumstances that justify extending that period—such further period as the Review Council allows; and
 - (b) be accompanied by any document that the applicant considers relevant; and
 - (c) be made in a manner approved by the Convener of the Review Council.
- (6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

380CH Advance of travelling expenses for obtaining medical evidence

- (1) If the Review Council is satisfied that:
- (a) it is reasonable to expect that a person may become entitled to travelling expenses under section 380CG; and
 - (b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;
-

the Review Council may authorise the payment of that advance to the person.

(2) If:

- (a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and
- (b) the person:
 - (i) does not incur those travelling expenses; or
 - (ii) incurs travelling expenses that are less than the amount of the advance;

the person is liable to repay to the Commonwealth:

- (c) the amount of the advance; or
- (d) the difference between the amount of the advance and the amount of the travelling expenses;

as the case requires.

380CI Travelling expenses for making oral submissions

(1) If:

- (a) either:
 - (i) the Review Council is carrying out a review under section 380C and an individual, or an organisation referred to in paragraph 380CB(1)(c), has made a written submission in relation to the review; or
 - (ii) the Review Council is carrying out a review under section 380CA at the request of an individual or an organisation; and
- (b) a person who is one of the following appears before the Review Council to make an oral submission in relation to the review:
 - (i) the individual or the individual's representative;
 - (ii) a representative of the organisation;

the person is, subject to this section, entitled to be paid, for travel that the person undertook to appear, the travelling expenses that are prescribed.

(2) If:

- (a) the person is accompanied by an attendant when travelling to appear before the Review Council; and

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- (b) the Review Council is of the view that it is reasonable for the person to be so accompanied by an attendant;
the attendant is, subject to this section, entitled to be paid, for that travel, the travelling expenses that are prescribed.
- (3) Travelling expenses are not payable in respect of travel outside Australia.
- (4) Travelling expenses are not payable unless:
- (a) the person who has incurred the expenses; or
 - (b) any person approved by that person or by the Review Council;
- applies in writing to the Review Council for payment and the Review Council approves the application.
- (5) The application made under subsection (4) must:
- (a) be made within 3 months after the completion of the travel; and
 - (b) be accompanied by any document that the person making the application considers relevant; and
 - (c) be made in a manner approved by the Convener of the Review Council.
- (6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

Part 4—Administration

Division 1—Membership etc.

380D Membership

- (1) The Review Council consists of such number of Councillors as are appointed by the Minister from time to time.
- (2) The Minister may appoint the number of Councillors that the Minister consider necessary for the proper exercise of the functions of the Review Council.

380DA Appointment of Councillors

- (1) The Councillors are to be appointed by the Minister by written instrument.

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

- (2) The Minister must appoint one of the Councillors to be the Convener.

380DB Qualification for appointment

- (1) The Minister must not appoint a person to be a Councillor unless the person is a medical practitioner, or a medical scientist, with at least 10 years' experience.
- (2) In making appointments, the Minister must:
 - (a) ensure that at least one Councillor has at least 5 years' experience in the field of epidemiology; and
 - (b) have regard to the branches of medical science expertise which would be necessary for deciding matters referred to the Review Council for review.

380DC Basis and period of appointment

- (1) A Councillor is to be appointed on a part-time basis.
- (2) A Councillor holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

380DD Acting appointments

The Minister may, by written instrument, appoint a Councillor to act as the Convener of the Review Council:

- (a) during a vacancy in the office of the Convener (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the Convener:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.

380DE Remuneration

- (1) A Councillor is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Councillor is to be paid the remuneration that is prescribed under subsection (4).
- (2) A Councillor is to be paid the allowances that are prescribed under subsection (4).
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) The Minister may, by legislative instrument, prescribe:
 - (a) remuneration for the purposes of subsection (1); and
 - (b) allowances for the purposes of subsection (2).

380DF Other terms and conditions

A Councillor holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

380DG Resignation

- (1) A Councillor may resign the Councillor's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

380DH Termination of appointment

The Minister may terminate the appointment of a Councillor:

- (a) for misbehaviour; or
- (b) if the Councillor is unable to perform the duties of the Councillor's office because of physical or mental incapacity; or
- (c) if the Councillor:
 - (i) becomes bankrupt; or

- (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (iii) compounds with the Councillor's creditors; or
- (iv) makes an assignment of the Councillor's remuneration for the benefit of the Councillor's creditors; or
- (d) the Councillor fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

Division 2—Procedures of the Review Council

380DI Constitution of Review Council for reviews

The Review Council is, for the purposes of a review under Part 3, to be constituted by at least 3, but not more than 5, Councillors selected by the Convener of the Review Council.

380DJ Convening meetings

The Convener of the Review Council or the presiding Councillor may convene such meetings of the Review Council as are necessary to carry out a review under Part 3.

380DK Presiding at meetings

- (1) If the Review Council as constituted for the purposes of a review under Part 3 includes the Convener of the Review Council, the Convener must preside at all meetings of the Review Council as so constituted at which the Convener is present.
- (2) If the Review Council as constituted for the purposes of a review under Part 3 does not include the Convener, the Convener must appoint a Councillor (the *presiding Councillor*) selected for the purposes of the review to preside at all meetings of the Review Council as so constituted at which the presiding Councillor is present.

380DL Voting at meetings

- (1) A question arising at a meeting of the Review Council is to be determined by a majority of the votes of the Councillors present and voting.
- (2) The person presiding at a meeting of the Review Council has a deliberative vote but, if the votes are equal, does not have a casting vote.

380DM Conduct of meetings

The Review Council may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* contains further information about the ways in which Councillors may participate in meetings.

380DN Minutes

The Review Council must keep minutes of its meetings.

Part 5—Other matters**380E Staff**

- (1) Any staff required to assist the Review Council are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.
- (2) When performing services for the Review Council, the staff are subject to the directions of the Review Council.

380EA Delegation by Convener of the Review Council

- (1) The Convener of the Review Council, or a presiding Councillor, may, in writing, delegate their power under section 380DJ to:
 - (a) a Councillor; or
 - (b) a member of the staff assisting the Review Council.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated power, the delegate must comply with any written directions of the Convener or the presiding Councillor (as the case requires).

27 After section 411

Insert:

411A Copyright in submissions

- (1) The Authority or the Review Council is not the owner of any copyright subsisting in material (***submitted material***) contained in a submission made to the Authority or the Review Council (as the case may be) for the purposes of an investigation under Part 3 of Chapter 9A.
- (2) Despite the *Copyright Act 1968*, the Authority or the Review Council does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Authority or the Review Council (as the case may be) does an act comprised in the copyright without the licence of the owner of the copyright.

411B Access to information

- (1) Subject to subsection (2), any person or organisation referred to in any of paragraphs 370CH(1)(a) to (d) or 380CB(1)(a) to (c) is entitled, on request made in writing to:
- (a) in the case of a person or organisation referred to in paragraphs 370CH(1)(a) to (d)—the Authority; or
 - (b) in the case of a person or organisation referred to in paragraphs 380CB(1)(a) to (c)—the Review Council;
- to have reasonable access to any document containing information considered by the Authority or the Review Council (as the case may be) for the purposes of an investigation.
- (2) The Authority or the Review Council (as the case may be) may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

Veterans' Entitlements Act 1986**28 Section 5AB**

Repeal the section.

29 Subsection 5Q(1)

Insert:

Authority has the same meaning as in the MRCA.

30 Subsection 5Q(1)

Repeal the following definitions:

- (a) definition of *Chairperson*;
- (b) definition of *Convener*;
- (c) definition of *councillor*;
- (d) definition of *member*;
- (e) definition of *registered medical practitioner*;
- (f) definition of *Review Council*;
- (g) definition of *sound medical-scientific evidence*.

31 Subsection 5T(1) (note)

Repeal the note.

32 Subsection 120A(2)

Omit “Repatriation Medical Authority has given notice under section 196G”, substitute “Authority has given notice under section 370CJ of the MRCA”.

33 Paragraph 120A(2)(a)

Omit “subsection 196B(2)”, substitute “section 370CB of the MRCA”.

34 Paragraph 120A(3)(a)

Omit “subsection 196B(2) or (11)”, substitute “section 370CB, or subsection 370CN(1), of the MRCA”.

35 Paragraph 120A(3)(b)

Omit “180A(2)”, substitute “120C(2)”.

36 Subsection 120A(4)

Omit “subsection 196B(2)”, substitute “section 370CB of the MRCA”.

37 Subsection 120B(2)

Omit “Repatriation Medical Authority has given notice under section 196G”, substitute “Authority has given notice under section 370CJ of the MRCA”.

38 Paragraph 120B(2)(a)

Omit “subsection 196B(3)”, substitute “section 370CC of the MRCA”.

39 Subparagraph 120B(3)(b)(i)

Omit “subsection 196B(3) or (12)”, substitute “section 370CC, or subsection 370CN(3), of the MRCA”.

40 Subparagraph 120B(3)(b)(ii)

Omit “180A(3)”, substitute “120C(3)”.

41 Subsection 120B(4)

Omit “subsection 196B(3)”, substitute “section 370CC of the MRCA”.

42 After section 120B

Insert:

120C Determination by Commission overriding Authority’s decision in relation to Statements of Principles

(1) If:

- (a) the Authority has determined, or has declared that it does not propose to make or amend, a Statement of Principles in respect of a particular kind of injury, disease or death (see Part 3 of Chapter 9A of the MRCA); and
- (b) the Commission is of the opinion that, because the Statement of Principles is in force, or because of the decision by the Authority not to make or amend the Statement of Principles:
 - (i) claims for pensions in respect of incapacity from injury or disease of that kind made by veterans, members of

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- the Forces, or members of a Peacekeeping Force, of a particular class; or
- (ii) claims for pensions made by dependants of those veterans or members in respect of the death of such a veteran or member;
- cannot succeed; and
- (c) the Commission is also of the opinion that, in all the circumstances of the case, those veterans, members or their dependants should receive a pension;
- the Commission may, in its discretion, make a determination in respect of that kind of injury, disease or death under subsection (2) or (3), or determinations under both subsections (as the case requires).
- (2) A determination under this subsection in respect of a particular kind of injury, disease or death must be by legislative instrument and must:
- (a) state that it has effect only in relation to the class of veterans, members of the Forces, or members of a Peacekeeping Force referred to in subparagraph (1)(b)(i); and
- (b) state that it applies only in respect of claims relating to:
- (i) operational service rendered by a veteran; or
- (ii) peacekeeping service rendered by a member of a Peacekeeping Force; or
- (iii) hazardous service rendered by a member of the Forces; or
- (iv) British nuclear test defence service rendered by a member of the Forces; and
- (c) set out:
- (i) the factors that must as a minimum exist; and
- (ii) which of those factors must be related to service (within the meaning of the MRCA) rendered by a person;
- before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.
- (3) A determination under this subsection in respect of a particular kind of injury, disease or death must be by legislative instrument and must:
-

- (a) state that it has effect only in relation to the class of veterans or members of the Forces referred to in subparagraph (1)(b)(i); and
 - (b) state that it applies only in respect of claims relating to:
 - (i) eligible war service (other than operational service) rendered by a veteran; or
 - (ii) defence service (other than hazardous service and British nuclear test defence service) rendered by a member of the Forces; and
 - (c) set out:
 - (i) the factors that must exist; and
 - (ii) which of those factors must be related to service (within the meaning of the MRCA) rendered by a person; before it can be said, on the balance of probabilities, that an injury, disease or death of that kind is connected with the circumstances of that service.
- (4) While there is in force under subsection (2) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under section 370CB of the MRCA in respect of that kind of injury, disease or death does not apply in respect of any veteran, member of the Forces, member of any Peacekeeping Force or dependant in relation to whom the determination has effect.
- (5) While there is in force under subsection (3) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under section 370CC of the MRCA in respect of that kind of injury, disease or death does not apply in respect of any veteran or member of the Forces or dependant in relation to whom the determination has effect.

43 Paragraph 129A(1)(a)

Repeal the paragraph, substitute:

- (a) a provision of this Act requires or permits a notice or other document to be given to a person by the Secretary, the Department, an officer of the Department, or the Commission; and

44 Paragraph 129A(1)(d)

Repeal the paragraph, substitute:

(d) in a manner approved in writing by the Commission.

45 Parts XIA and XIB

Repeal the Parts.

Schedule 6—Disability compensation cessation date

Veterans' Entitlements Act 1986

1 Subsection 121(4)

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

2 After subsection 121(4)

Insert:

*Exception—pension under Part II or IV at rate determined under
Division 4 of Part II*

- (4AA) If a person who is receiving a pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II dies, an amount is payable to the person's estate as an instalment of that pension in relation to the pension period in which the person died.

Schedule 7—Application and transitional provisions

Military Rehabilitation and Compensation Act 2004

1 Subsection 53B(4)

Repeal the subsection.

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

2 Section 3

Repeal the section.

3 Subsection 4(1)

Insert:

1912 Act means the *Commonwealth Workmen's Compensation Act 1912*.

1930 Act means the *Commonwealth Employees' Compensation Act 1930*.

1971 Act means the *Compensation (Commonwealth Government Employees) Act 1971*.

4 Subsection 4(1) (definition of commencement date)

Repeal the definition.

5 Subsection 4(1)

Insert:

date of commencement means 1 July 2026.

injury includes an injury sustained before the commencement of Part X of the DRCA.

6 After paragraph 5(1)(b)

Insert:

- (ba) in the case of an injury or disease—it is taken to be attributable to that service under subsection 27A(1) or (2) of the MRCA; or

7 Section 6

Repeal the section, substitute:

6 References to injuries sustained before commencement of Part X to the DRCA

A reference in this Act to an injury sustained before the commencement of Part X of the DRCA is a reference to an injury within the meaning of whichever of the 1912 Act, the 1930 Act or the 1971 Act was in force at the time the injury was sustained, as that Act was in force at that time.

8 Part 2

Repeal the Part, substitute:

Part 2—Application of the MRCA to injuries, diseases, deaths, losses and damage

7 Application of the MRCA to injuries, diseases, deaths, losses and damage

Application to injuries, diseases and deaths

- (1) On and after the date of commencement, the MRCA applies to a person's injury, disease or death:
 - (a) whether the injury is sustained, the disease is contracted, or the death occurs, before, on or after that date; and
 - (b) whether the injury, disease or death relates to defence service rendered by the person before, on or after that date.

Application to aggravations of, and material contributions to, injuries and diseases

- (2) On and after the date of commencement, the MRCA applies to an aggravation of, or a material contribution to, a person's injury or disease, or a sign or symptom of a person's injury or disease:
- (a) whether the aggravation or material contribution occurs before, on or after that date; and
 - (b) whether the aggravation or material contribution relates to defence service rendered by the person before, on or after that date.

Application to injuries, diseases and deaths caused by certain treatment

- (3) On and after the date of commencement, the MRCA applies to an injury, disease or death that occurs as an unintended consequence of treatment of a kind mentioned in section 29 of the MRCA:
- (a) whether the injury is sustained, the disease is contracted, or the death occurs, before, on or after that date; and
 - (b) whether the treatment is provided before, on or after that date.
- (4) On and after the date of commencement, the MRCA applies to an aggravation of, or a material contribution to, an injury or disease, or a sign or symptom of an injury or disease, that occurs as an unintended consequence of treatment of a kind mentioned in section 29 of the MRCA:
- (a) whether the aggravation or material contribution occurs before, on or after that date; and
 - (b) whether the treatment is provided before, on or after that date.

Application to loss or damage to medical aids

- (5) On and after the date of commencement, the MRCA applies to the loss of, or damage to, a member's medical aid, whether the loss or damage results from an occurrence that happens before, on or after that date.

9 Before section 13

Insert:

12 Interactions between certain entitlements

Compensation for permanent impairment

- (1) A person is not entitled to compensation under section 68 of the MRCA in respect of impairment suffered as a result of an injury sustained, or a disease contracted, by the person if the person:
 - (a) has received compensation in respect of that impairment under:
 - (i) section 24 or 25 of the DRCA; or
 - (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
 - (b) is entitled to, and is receiving, a pension under Part II or IV of the VEA in respect of the impairment.

Note: This does not exclude the person from being entitled to additional compensation under section 71 of the MRCA in respect of additional impairment suffered as a result of a deterioration in the person's original injury or disease.

Compensation for incapacity

- (2) A person is not entitled to compensation under Part 3 or 4 of Chapter 4 of the MRCA for a period in respect of incapacity resulting from an injury sustained, or a disease contracted, by the person if the person:
 - (a) has received compensation for that period in respect of that incapacity under:
 - (i) section 19, 20, 21, 21A, 22 or 31 of the DRCA, as in force immediately before the date of commencement; or
 - (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
 - (b) is entitled to, and is receiving, a pension under Part II or IV of the VEA for that period in respect of that incapacity.
- (3) A person is entitled to compensation under Part 3 or 4 of Chapter 4 of the MRCA for a period in respect of incapacity resulting from an injury sustained, or a disease contracted, by the person even if the person received compensation in respect of the same injury or disease for one or more other periods under section 19, 20, 21,

21A, 22 or 31 of the DRCA, as in force immediately before the date of commencement.

Note: See also section 92 of this Act in respect of persons who are being paid compensation for incapacity under section 19, 20, 21, 21A, 22 or 31 of the DRCA immediately before the date of commencement.

Compensation in respect of a person's death

- (4) A person is not entitled to compensation under Part 2, 3 or 4 of Chapter 5 of the MRCA in respect of the death of another person if the first-mentioned person has received compensation in respect of the death under:
- (a) section 17 of the DRCA; or
 - (b) the 1912 Act, the 1930 Act or the 1971 Act.
- (5) A person is not entitled to compensation under Part 2, 3 or 4 of Chapter 5 of the MRCA (other than Division 6 of Part 3 of that Chapter) in respect of the death of another person if:
- (a) the death occurred before the date of commencement; and
 - (b) the first-mentioned person is entitled to, and is receiving, a pension under section 13A of the VEA in respect of the death.

Note: Section 111 of this Act provides for the transfer of certain VEA Veterans' Children Education Scheme recipients to the scheme established under Division 6 of Part 3 of Chapter 5 of the MRCA.

- (6) A person is not entitled to the lump sum amount mentioned in paragraph 234(1)(a) of the MRCA in respect of the death of another person if:
- (a) the death occurs on or after the date of commencement; and
 - (b) the first-mentioned person is entitled to, and is receiving, a pension under section 13A of the VEA in respect of the death.

Compensation in respect of funeral expenses

- (7) A person is not entitled to compensation under Part 5 of Chapter 5 of the MRCA in respect of the cost of a deceased member's funeral if:
- (a) the person has received compensation in respect of the funeral under:

- (i) section 18 of the DRCA; or
- (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
- (b) a funeral benefit has been paid to the estate of the deceased member under section 98B of the VEA.

Compensation in respect of medical expenses etc.

- (8) A person is not entitled to compensation under Part 4 of Chapter 6 of the MRCA in respect of the cost of treatment, or costs incurred in respect of a journey made to obtain treatment or in respect of accommodation required during such a journey, if the person has received compensation in respect of those costs under:
 - (a) section 16 of the DRCA; or
 - (b) the 1912 Act, the 1930 Act or the 1971 Act.

Provision of treatment

- (9) A person is not entitled to be provided with treatment under Part 3 of Chapter 6 of the MRCA for an injury or disease for a period if the person is being provided with treatment under subsection 85(1) or (2) of the VEA for that injury or disease for that period.

Note: A person who is being provided with treatment under subsection 85(1) or (2) of the VEA for an injury or disease may become entitled to be provided with treatment under Part 3 of Chapter 6 of the MRCA for that injury or disease (see section 117 of this Act).

10 Subsection 13(1)

Repeal the subsection, substitute:

- (1) This section applies to a claim that is made under section 319 of the MRCA on or after the date of commencement, including a claim in respect of a person who has:
 - (a) a war-caused or defence-caused injury or disease (within the meaning of the VEA) (the *old injury or disease*); or
 - (b) an injury or disease (within the meaning of the DRCA) (the *old injury or disease*).

11 At the end of Part 3

Add:

14A Offsetting VEA and DRCA payments against Additional Disablement Amount

- (1) For the purposes of section 220C of the MRCA, the maximum weekly amount of Additional Disablement Amount that could be payable to a person, at a time, must also be reduced by one half of the fortnightly rate at which any pension because of paragraph 13(1)(b) or 70(1)(b) of the VEA is payable to the person at that time.
- (2) For the purposes of section 220C of the MRCA, the maximum weekly amount of Additional Disablement Amount that could be payable to a person must also be reduced by the sum of any previous payments of a lump sum to the person under section 24, 25 or 27 of the DRCA, converted to a weekly amount in accordance with regulations made for the purposes of subsection 122(2) of this Act.

12 Part 4 (heading)

Omit “transitional provisions”, substitute “matters”.

13 Sections 15 to 21

Repeal the sections.

14 Section 22

Omit “commencement date”, substitute “date on which section 3 of the MRCA commenced”.

15 Section 23

Omit “(other than a decision made under or in respect of a provision being inserted or amended by Schedule 1 or 2 to this Act)”.

16 After Part 5

Insert:

Part 6—Other application and transitional provisions relating to the Simplification Act

Division 1—Preliminary

40 Definitions

In this Part:

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; or
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

MRCC means the Military Rehabilitation and Compensation Commission that was established by section 361 of the old MRCA.

old DRCA means the DRCA as in force immediately before the date of commencement.

old MRCA means the MRCA as in force immediately before the date of commencement.

old VEA means the VEA as in force immediately before the date of commencement.

Division 2—Transitional provisions relating to the Repatriation Commission

Subdivision A—Continuation of Commission

41 Commissioners

- (1) This section applies to a person who was, immediately before the date of commencement, holding office as a commissioner because

of an appointment under section 182 of the old VEA, other than a person who was holding office as the Deputy President of the Commission.

- (2) The person is taken, on and after the date of commencement, to have been appointed under section 360CA of the MRCA:
- (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as a commissioner under section 182 of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

42 Acting Commissioners

- (1) This section applies to a person who was appointed to act as a commissioner under section 191 of the old VEA if the appointment was in force immediately before the date of commencement.
- (2) The person is taken, on and after the date of commencement, to have been appointed under section 360CC of the MRCA:
- (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

43 Cessation of appointment of Deputy President

- (1) This section applies to a person who, immediately before the date of commencement, was holding office as a commissioner (because of an appointment under section 182 of the old VEA) and as the Deputy President of the Commission.
- (2) The person ceases to hold those offices at the start of the date of commencement.
- (3) Nothing in this section prevents the person being appointed to an office under the MRCA.

44 Staff

- (1) This section applies to a person who, immediately before the date of commencement, was engaged and made available to assist the Commission under section 196 of the old VEA.
- (2) The person is taken, on and after the date of commencement, to be engaged and made available to assist the Commission under section 360D of the MRCA.
- (3) The repeal of section 196 of the old VEA does not affect the continuity of employment of the person.

45 Contractors

A person who, immediately before the date of commencement, was engaged by the Commission to perform services under paragraph 181(3)(d) of the old VEA is taken, on and after that date, to be engaged by the Commission under section 360DA of the MRCA on the same terms and conditions.

46 Delegations by the Commission

A delegation under section 213 of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the delegation had been made under subsection 360DB(1) of the MRCA.

47 Commission annual reports

- (1) This section applies to a report referred to in subsection 215(1) of the old VEA.
- (2) Despite the repeal of section 215 of the old VEA by Schedule 4 to the Simplification Act, that section continues to apply in relation to the report for a financial year ending on or before 30 June 2026, as if that repeal had not happened.

Subdivision B—Other matters**48 Assets and liabilities of the Commission**

Assets and liabilities of the Commission immediately before the date of commencement continue, on and after that date, to be assets and liabilities of Commission (without any conveyance, transfer or assignment).

49 Contributions made to Commission

- (1) This section applies in relation to a contribution that:
 - (a) was accepted by the Commission under section 200 of the old VEA before the date of commencement; and
 - (b) had not been dealt with by the Commission under that section before that date.
- (2) On and after the date of commencement, the contribution is taken to have been accepted, and must be dealt with, by the Commission under section 427A of the MRCA.

50 Continued effect of certain trust arrangements etc under the DRCA

- (1) This section applies if, immediately before the date of commencement, money is held by the MRCC for the benefit of a person under section 110 of the old DRCA.
- (2) On and after the date of commencement, the Commission is taken to have assumed the office of trustee of the money under subsection 432(2) of the MRCA.
- (3) If:
 - (a) before the date of commencement, the money was invested in accordance with subsection 110(2) of the old DRCA; and
 - (b) immediately before that date, an arrangement for that investment is in force;the arrangement has effect, on and after that date, as if it were an arrangement under paragraph 434(5)(a) of the MRCA.
- (4) If:

- (a) before the date of commencement, a direction mentioned in subsection 110(1) or (4) of the old DRCA was given in relation to the money, or the money as invested; and
 - (b) immediately before that date, the direction had not been revoked by the person who gave it;
- then, despite sections 433 and 434 of the MRCA, the money, or the money as invested, must be dealt with, on or after that date, in accordance with the direction, unless the direction is revoked by person who gave it.

51 Continued effect of certain trust arrangements etc. under the VEA

- (1) If an appointment to which section 201 of the old VEA applies:
 - (a) was accepted by the Commission before the date of commencement; and
 - (b) is in force immediately before that date;the appointment continues to have effect, on and after that date, as if it were an appointment to which section 427B of the MRCA applies.
- (2) An arrangement under paragraph 201(3C)(a) of the old VEA that is in force immediately before the date of commencement has effect, on and after that date, as if it were an arrangement under paragraph 427B(6)(a) of the MRCA.
- (3) An instrument made under subsection 202(1) of the old VEA that is in force immediately before the date of commencement has effect, on and after that date, as if it were an instrument made under subsection 432(2) of the MRCA.
- (4) An arrangement under paragraph 202A(5)(a) of the old VEA that is in force immediately before the date of commencement has effect, on and after that date, as if it were an arrangement under paragraph 434(5)(a) of the MRCA.

52 Determinations by the Commission

- (1) A determination under subsection 180A(2) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the

determination had been made under subsection 120C(2) of the VEA.

- (2) A determination under subsection 180A(3) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the determination had been made under subsection 120C(3) of the VEA.

53 Effect of things done by, or in relation to, the Commission

A thing done by, or in relation to, the Commission under a law of the Commonwealth before the date of commencement is not affected by the amendments made by Schedule 4 to the Simplification Act.

Division 3—Transitional provisions relating to the MRCC

Subdivision A—Things done by or in relation to the MRCC

54 Members of the MRCC

- (1) This section applies to a person who was, immediately before the date of commencement:
- (a) holding office as a member of the MRCC because of an appointment under subsection 365(1) of the old MRCA; and
 - (b) a member of the MRCC described in subparagraph 364(1)(b)(ii) or (iii) of the old MRCA.
- (2) The person is taken, on and after the date of commencement, to have been appointed under section 360CA of the MRCA:
- (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as a member of the MRCC under section 365 of the old MRCA unless a higher level of remuneration is determined by the Remuneration Tribunal.

55 Acting members of the MRCC

- (1) This section applies to a person who was appointed to act as a Commission member under section 367 of the old MRCA if the appointment was in force immediately before the date of commencement.
- (2) The person is taken, on and after the date of commencement, to have been appointed under section 360CC of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

56 Cessation of appointment of certain members of the MRCC

- (1) This section applies to a person who was, immediately before the date of commencement:
 - (a) holding office as a member of the MRCC (because of an appointment under 365(1) of the old MRCA); and
 - (b) a member of the MRCC described in subparagraph 364(1)(b)(i) of the old MRCA.
- (2) The person ceases to hold that office at the start of the date of commencement.

57 Staff

- (1) This section applies to a person who, immediately before the date of commencement, was engaged and made available to assist the MRCC under section 382 of the old MRCA.
- (2) The person is taken, on and after the date of commencement, to be engaged and made available to assist the Commission under section 360D of the MRCA.
- (3) The repeal of section 382 of the old MRCA does not affect the continuity of employment of the person.

58 Consultants

A person who, immediately before the date of commencement, was engaged by the MRCC as a consultant under section 383 of the old MRCA is taken, on and after that date, to be engaged by the Commission under section 360DA of the MRCA on the same terms and conditions.

59 Delegations by the MRCC

A delegation under section 384 of the old MRCA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the delegation had been made under subsection 360DB(1) of the MRCA.

60 MRCC annual reports

- (1) This section applies to the report referred to in section 385 of the old MRCA for the financial year ending on 30 June 2026.
- (2) Despite the repeal of section 385 of the old MRCA by Schedule 4 to the Simplification Act, that section applies, on and after the date of commencement, in relation to the report as if it provided for the President (within the meaning of the MRCA) to give the Minister the report.

Subdivision B—Other matters**61 Assets and liabilities of the MRCC**

- (1) Assets and liabilities of the MRCC immediately before the date of commencement are, at the start of that date, transferred to the Commission.
- (2) The Commission must make the arrangements necessary to give effect to the transfer.

62 Transfer of records

- (1) This section applies to any records or documents that were in the possession of the MRCC immediately before the date of commencement.
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- (2) The records and documents are to be transferred to the Commission after that date.

63 Legal proceedings involving the MRCC

If, immediately before the date of commencement, the MRCC was a party to proceedings pending in any court or tribunal, the Commission is substituted for the MRCC as a party to the proceedings after that date.

64 Things done by, or in relation to, the MRCC

- (1) If, before the date of commencement, a thing was done by, or in relation to, the MRCC, then the thing has effect, on and after that date, as if it had been done by, or in relation to, the Commission.
- (2) The regulations may provide that subsection (1) does not apply in relation to a specified thing done by, or in relation to, the Commission.

65 References to the MRCC in instruments

- (1) This section applies to an instrument if:
 - (a) the instrument is in force immediately before the date of commencement; and
 - (b) the instrument contains a reference to the MRCC.
- (2) The instrument has effect, on and after the date of commencement, as if a reference in the instrument to the MRCC were a reference to the Commission.
- (3) The regulations may provide that subsection (2) does not apply in relation to a specified instrument or a specified reference.
- (4) This section does not prevent the instrument from being amended or repealed on or after the date of commencement.
- (5) In this section:

instrument includes:

 - (a) a contract, deed, undertaking, arrangement or agreement; and
 - (b) a notice, authority, order or instruction; and

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- (c) an instrument made under an Act or regulation.

66 Compensation for acquisition of property

- (1) If the operation of this Part would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia or the Supreme Court of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the Court determines.

Division 4—Transitional provisions relating to the Repatriation Medical Authority

Subdivision A—Continuance of the Authority

67 Members of the Authority

- (1) This section applies to a person who, immediately before the date of commencement, was holding office as a member of the Authority under section 196L of the old VEA.
- (2) The person is taken, on and after the date of commencement, to have been appointed under section 370DA of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as a member of the Authority under section 196L of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

68 Chair of the Authority

- (1) This section applies to a person who, immediately before the date of commencement, was holding office as the Chairperson of the Authority under section 196L of the old VEA.
- (2) The person is taken, on and after the date of commencement, to have been appointed as the Chair of the Authority under section 370DA of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as the Chairperson of the Authority under section 196L of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

69 Staff

- (1) This section applies to a person who, immediately before the date of commencement, was engaged and made available to assist the Authority under section 196T of the old VEA.
- (2) The person is taken, on and after the date of commencement, to be engaged and made available to assist the Authority under section 370E of the MRCA.
- (3) The repeal of section 196T of the old VEA does not affect the continuity of employment of the person.

70 Consultants

A person who, immediately before the date of commencement, was engaged by the Authority as a consultant under section 196U of the old VEA is taken, on and after that date, to be engaged by the Authority under section 370EA of the MRCA on the same terms and conditions.

71 Delegations by the Chair

A delegation under subsection 196R(1) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the delegation had been made under subsection 370EB(1) of the MRCA.

72 Authority annual reports

- (1) This section applies to an annual report referred to in section 196UA of the old VEA.
- (2) Despite the repeal of section 196UA of the old VEA by Schedule 5 to the Simplification Act, that section continues to apply in relation to the annual report for a financial year ending on or before 30 June 2026, as if that repeal had not happened.

Subdivision B—Other matters**73 Assets and liabilities of the Authority**

Assets and liabilities of the Authority immediately before the date of commencement continue, on and after that date, to be assets and liabilities of the Authority (without any conveyance, transfer or assignment).

74 Statements of Principles

- (1) A Statement of Principles determined under subsection 196B(2) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if it had been determined under section 370CB of the MRCA.
- (2) A Statement of Principles determined under subsection 196B(3) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if it had been determined under section 370CC of the MRCA.

- (3) A Statement of Principles determined under subsection 196B(11) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if it had been determined under subsection 370CN(1) of the MRCA.
- (4) A Statement of Principles determined under subsection 196B(12) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if it had been determined under subsection 370CN(3) of the MRCA.

75 Requests for investigation by the Authority

- (1) This section applies if:
 - (a) before the date of commencement, the Authority received a request under section 196E of the old VEA to:
 - (i) carry out an investigation in respect of a particular kind of injury, disease or death; or
 - (ii) review a decision of the Authority not to make a Statement of Principles; and
 - (b) immediately before that date, the Authority had not completed the investigation or reviewed the decision.
- (2) The request has effect on and after the date of commencement as if it were a request made under section 370CH of the MRCA.

76 Directions by the Review Council

- (1) This section applies if:
 - (a) before the date of commencement, the Authority was directed by the Review Council under subsection 196W(7) of the old VEA to carry out an investigation in respect of a particular kind of injury, disease or death; and
 - (b) immediately before that date, the Authority had not completed the investigation.
- (2) The direction has effect, on and after the date of commencement, as if it had been given by the Review Council under subsection 380CA(2) of the MRCA.

77 Sending information to the Review Council

Despite the repeal of section 196K of the old VEA, that section continues to apply, on and after the date of commencement, in relation to notifications made to the Authority before that date, as if that repeal had not happened.

Division 5—Transitional provisions relating to the Specialist Medical Review Council**Subdivision A—Continuance of the Review Council****78 Members of the Review Council**

- (1) This section applies to a person who, immediately before the date of commencement, was holding office as a member of the Review Council under section 196ZE of the old VEA.
- (2) The person is taken, on and after the date of commencement, to have been appointed under section 380DA of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that date; and
 - (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as a member of the Review Council under section 196ZE of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

79 Convener of the Review Council

- (1) This section applies to a person who, immediately before the date of commencement, was holding office as the Convener of the Review Council under section 196ZE of the old VEA.
- (2) The person is taken, on and after the date of commencement, to have been appointed as the Convener of the Review Council under subsection 380DA(2) of the MRCA:
 - (a) for the balance of the person's term of appointment that remained immediately before that date; and

- (b) on terms and conditions (including remuneration) that are equal to, or better than, the terms and conditions that applied to the person immediately before that date.

Note: The person's remuneration will not be better than their remuneration as the Convener of the Review Council under section 196ZE of the old VEA unless a higher level of remuneration is determined by the Remuneration Tribunal.

80 Staff

- (1) This section applies to a person who, immediately before the date of commencement, was engaged and made available to assist the Review Council under section 196ZM of the old VEA.
- (2) The person is taken, on and after the date of commencement, to be engaged and made available to assist the Commission under section 380E of the MRCA.
- (3) The repeal of section 196ZM of the old VEA does not affect the continuity of employment of the person.

81 Delegations by the Convener

A delegation under subsection 196ZK(4) of the old VEA that is in force immediately before the date of commencement continues in force (and may be dealt with), on and after that date, as if the delegation had been made under subsection 380EA(1) of the MRCA.

Subdivision B—Other matters

82 Assets and liabilities of the Review Council

Assets and liabilities of the Review Council immediately before the date of commencement continue, on and after that date, to be assets and liabilities of the Review Council (without any conveyance, transfer or assignment).

83 Requests for review of Statement of Principles by the Review Council

- (1) This section applies if:
-

-
- (a) before the date of commencement, the Review Council received a request under section 196Y of the old VEA to review:
 - (i) some or all of the contents of a Statement of Principles; or
 - (ii) a decision of the Repatriation Medical Authority not to make, or not to amend, a Statement of Principles; and
 - (b) immediately before that date, the Review Council had not reviewed the Statement of Principles or the decision.
- (2) The request has effect, on and after the date of commencement, as if it were a request made under section 380CB of the MRCA.

84 Requests for review of decision by the Authority

- (1) This section applies if:
- (a) before the date of commencement, the Review Council received a request under section 196Z of the old VEA to review a decision by the Authority not to carry out an investigation in respect of a kind of injury, disease or death; and
 - (b) immediately before that date, the Review Council had not reviewed the decision.
- (2) The request has effect, on and after the date of commencement, as if it were a request made under section 380CC of the MRCA.

85 Payment of medical and travel expenses

Division 4 of Part 3 of Chapter 9B of the MRCA applies in relation to expenses incurred by a person in connection with, or for the purposes of, a review by the Review Council, whether the review is conducted before, on or after the date of commencement.

86 Continued effect of regulations relating to medical and travel expenses

If:

- (a) before the date of commencement, regulations were made for the purposes of a provision of the old VEA mentioned in column 1 of an item of the following table; and
- (b) immediately before that date, the regulations are in force; the regulations continue to have effect, on and after that date, as if they had been made for the purposes of the provision of the MRCA mentioned in column 2 of the item.

Continued effect of regulations relating to medical and travel expenses		
Item	Column 1 Provision of the old VEA	Column 2 Provision of the MRCA
1	subsection 196ZN(2)	subsection 380CF(2)
2	subsection 196ZO(1)	subsection 380CG(1)
3	subsection 196ZO(2)	subsection 380CG(2)
4	subsection 196ZQ(1)	subsection 380CI(1)
5	subsection 196ZQ(2)	subsection 380CI(2)

87 Directions about lodgement of requests and applications

- (1) If a direction under section 196ZR of the old VEA as to the manner of lodging a request for the purposes of paragraph 196Y(3)(c) of the old VEA is in force immediately before the date of commencement, that manner of lodging a request is taken, on and after that date, to be a manner approved by the Convener of the Review Council for the purposes of paragraph 380CB(3)(b) of the MRCA.
- (2) If a direction under section 196ZR of the old VEA as to the manner of lodging a request for the purposes of paragraph 196Z(2)(d) of the old VEA is in force immediately before the date of commencement, that manner of lodging a request is taken, on and after that date, to be a manner approved by the Convener of the Review Council for the purposes of paragraph 380CC(2)(c) of the MRCA.
- (3) If a direction under section 196ZR of the old VEA as to the manner of lodging an application for the purposes of paragraph 196ZN(4)(d) of the old VEA is in force immediately before the date of commencement, that manner of lodging an

application is taken, on and after that date, to be a manner approved by the Convener of the Review Council for the purposes of paragraph 380CF(4)(c) of the MRCA.

- (4) If a direction under section 196ZR of the old VEA as to the manner of lodging an application for the purposes of paragraph 196ZO(5)(d) of the old VEA is in force immediately before the date of commencement, that manner of lodging an application is taken, on and after that date, to be a manner approved by the Convener of the Review Council for the purposes of paragraph 380CG(5)(c) of the MRCA.
- (5) If a direction under section 196ZR of the old VEA as to the manner of lodging an application for the purposes of paragraph 196ZQ(5)(c) of the old VEA is in force immediately before the date of commencement, that manner of lodging an application is taken, on and after that date, to be a manner approved by the Convener of the Review Council for the purposes of paragraph 380CI(5)(c) of the MRCA.

Division 6—Other application and transitional provisions

Subdivision A—Amendments made by Schedule 1

88 Effect of closing eligibility to DRCA on pending claims

- (1) This section applies if:
 - (a) before the date of commencement, a claim was made under Part V of the old DRCA; and
 - (b) immediately before that date, the claim had not been finally determined.
- (2) To avoid doubt, section 14AA of the DRCA, as inserted by Part 1 of Schedule 1 to the Simplification Act, does not affect the continued operation of other provisions of the DRCA, as in force on and after the date of commencement, in relation to the determination of that claim (including any reconsideration or review of a decision made in relation to that claim).
- (3) This section is subject to sections 93 and 107 of this Act.

Note: Under sections 93 and 107 of this Act, certain pending claims made under the old DRCA are taken, on and after the date of commencement, to be claims for compensation made under section 319 of the MRCA.

89 Effect of closing eligibility to VEA on pending claims and applications

- (1) This section applies if:
 - (a) before the date of commencement, a claim or an application was made under the VEA; and
 - (b) immediately before that date, the claim or application had not been finally determined; and
 - (c) the claim or application is of a kind that could not be made on or after that date because of the operation of section 12AA of the VEA, as inserted by Part 1 of Schedule 1 to the Simplification Act.
- (2) To avoid doubt, section 12AA of the VEA does not affect the continued operation of other provisions of that Act, as in force on and after the date of commencement, in relation to the determination of the claim or application (including any reconsideration or review of a decision made in relation to that claim or application).

- (3) This section is subject to sections 106, 110 and 112 of this Act.

Note: Under sections 106, 110 and 112 of this Act, certain pending claims and applications made under the old VEA are taken, on and after the date of commencement, to be claims for compensation made under section 319 of the MRCA or applications made under certain other provisions of the MRCA.

90 Bringing across certain instruments relating to pre-2004 operations

- If:
- (a) before the date of commencement, an instrument was made under, or for the purposes of, a provision of the VEA mentioned in column 1 of an item of the following table; and
 - (b) immediately before that date, the instrument is in force;

the instrument is taken to have been made, on that date, under the provision of the MRCA mentioned in column 2 of the item.

Note: The instruments continue in force for the purposes of the VEA.

Bringing across certain instruments relating to pre-2004 operations

Item	Column 1 Provision of the VEA	Column 2 Provision of the MRCA
1	paragraph 5B(2)(a)	paragraph 442(2)(a)
2	paragraph 5B(2)(b)	paragraph 442(2)(b)
3	paragraph 5B(2)(c)	paragraph 442(2)(c)
4	paragraph 5R(1)(c)	subsection 442(5)
5	subsection 6D(1)	subsection 447(1)
6	subsection 69B(6)	subsection 6B(5)
7	subsection 120(7)	section 6C

91 Application provision—permanent impairment

The amendments of the MRCA made by Division 1 of Part 3 of Schedule 1 to the Simplification Act apply in relation to a claim for compensation that is made on or after the date of commencement.

92 Transfer of old DRCA incapacity compensation recipients to MRCA

- (1) This section applies in relation to a person if, immediately before the date of commencement, compensation under section 19, 20, 21, 21A, 22 or 31 of the old DRCA is being paid to the person in respect of an injury or disease.

Continued application of old DRCA to weeks before transfer week

- (2) Despite the amendments of the old DRCA made by Division 2 of Part 3 of Schedule 1 to the Simplification Act, the old DRCA continues to apply, on and after the date of commencement, in relation to an amount of compensation payable to the person under section 19, 20, 21, 21A, 22 or 31 of the old DRCA for a week that ends before the transfer week starts, as if those amendments had not been made.
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Application of MRCA to transfer week and later weeks

- (3) For the transfer week and each later week:
- (a) if the person is a Permanent Forces member or a continuous full-time Reservist for the week—section 85 of the MRCA has effect in relation to the person and the injury or disease as if paragraph 85(1)(d) of that Act were omitted; and
 - (b) if the person is a part-time Reservist for the week—section 86 of the MRCA has effect in relation to the person and the injury or disease as if paragraph 86(1)(e) of that Act were omitted; and
 - (c) if the person is a cadet or a declared member for the week—section 87 of the MRCA has effect in relation to the person and the injury or disease as if paragraph 87(1)(e) of that Act were omitted; and
 - (d) if the person is a former member—subject to subsection (4) of this section, the following apply:
 - (i) section 118 of the MRCA has effect in relation to the person and the injury or disease as if paragraph 118(1)(d) of that Act were omitted;
 - (ii) sections 141, 144, 149, 154, 161, 164, 168 and 173 of the MRCA have effect in relation to the person and the injury or disease as if a reference to a compensable pay-related allowance included an allowance covered by the definition of *A* in subsection 8(1) of the old DRCA.

Note 1: Subsection (3) of this section means that the Commonwealth will be liable to pay compensation to the person under section 85, 86, 87 or 118 of the MRCA (as applicable) in respect of the injury or disease without the person needing to make a claim for compensation under section 319 of the MRCA.

Note 2: The Commission is taken to have accepted liability for the person's injury or disease, and the person's injury or disease is taken to be a service injury or a service disease, because of the operation of section 24A of the MRCA.

Continued application of old DRCA in relation to compensation where person maintained in a hospital

- (4) If, immediately before the date of commencement, the person was receiving compensation under section 22 of the old DRCA:

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- (a) despite the repeal of that section by Division 2 of Part 3 of Schedule 1 to the Simplification Act, that section continues to apply, on and after that date, in relation to the person as if that repeal had not happened; and
 - (b) section 127 of the MRCA does not apply in relation to the person on or after that date unless the Commonwealth ceases to be liable to pay compensation under section 22 of the old DRCA to the person.

Meaning of transfer week

- (5) In this section:

transfer week means the first week that starts on or after the date of commencement.

93 Pending claims for DRCA incapacity compensation

- (1) This section applies if:
 - (a) before the date of commencement, a claim was made under the old DRCA for compensation under section 19, 20, 21, 21A, 22 or 31 of that Act; and
 - (b) immediately before that date, the claim had not been finally determined.
- (2) The claim is taken, on and after the date of commencement, to be a claim for compensation made under section 319 of the MRCA.

94 References in certain instruments to employees receiving compensation under section 19, 20, 21, 21A, 22 or 31 of the DRCA

- (1) This section applies to an instrument if:
 - (a) the instrument is in force under section 41B of the DRCA immediately before the date of commencement; and
 - (b) the instrument contains a reference to an employee who is receiving, or is eligible to receive, compensation under section 19, 20, 21, 21A, 22 or 31 of the DRCA.
- (2) The instrument has effect, on and after the date of commencement, as if the reference to an employee who is receiving, or is eligible to

receive, compensation under section 19, 20, 21, 21A, 22 or 31 of the DRCA were a reference to a person who is receiving compensation under the MRCA because of the operation of section 92 of this Act.

- (3) This section does not prevent the instrument from being amended or repealed on or after the date of commencement.

95 Continued effect of acute support packages under the old DRCA

- (1) This section applies if:
- (a) before the date of commencement, a person was granted an acute support package under an instrument made for the purposes of section 41B of the old DRCA; and
 - (b) immediately before that date:
 - (i) the period during which assistance or benefits in the acute support package may be provided had not ended; and
 - (ii) the acute support package had not been revoked.
- (2) The amendments of the old DRCA made by Division 2 of Part 3 of Schedule 1 to the Simplification Act do not affect the continuity of the acute support package.

96 Application provision—section 30D of the VEA

The amendment of section 30D of the VEA made by Division 2 of Part 3 of Schedule 1 to the Simplification Act applies in relation to each day in a periodic payments period that occurs on or after the date of commencement, whether the period starts before, on or after that date.

97 Application provision—liability restrictions on tobacco use

The amendment of the MRCA made by Division 3 of Part 3 of Schedule 1 to the Simplification Act applies in relation to a claim that is made on or after the date of commencement.

98 Application provision—medical event on duty

- (1) Paragraph 27(da) of the MRCA, as inserted by Division 4 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to a claim for acceptance of liability for an injury that is made on or after the date of commencement, regardless of when the injury was sustained.
- (2) Paragraph 28(ea) of the MRCA, as inserted by Division 4 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to a claim for acceptance of liability for a death that is made on or after the date of commencement, regardless of when the death occurred.
- (3) The amendments of sections 338 and 339 of the MRCA made by Division 4 of Part 3 of Schedule 1 to the Simplification Act apply in relation to a claim for acceptance of liability that is made on or after the date of commencement.

99 Application provision—posthumous permanent impairment payments

The amendments made by Division 5 of Part 3 of Schedule 1 to the Simplification Act apply in relation to compensation payable in respect of a person who dies on or after the date of commencement, whether the claim for compensation was made before, on or after that date.

100 Application provision—overpayments and debts

- (1) The amendments of section 415 of the MRCA made by Division 6 of Part 3 of Schedule 1 to the Simplification Act apply, on and after the date of commencement, in relation to amounts paid, and amounts liable to be paid, before, on or after that date.
- (2) The amendment of section 416 of the MRCA made by Division 6 of Part 3 of Schedule 1 to the Simplification Act applies in relation to a person who retires on or after the date of commencement.
- (3) The amendments of sections 428 and 429 of the MRCA made by Division 6 of Part 3 of Schedule 1 to the Simplification Act apply, on and after the date of commencement, in relation to debts that become due to the Commonwealth before, on or after that date.

- (4) Despite the repeal of sections 114A and 114B of the old DRCA by Division 6 of Part 3 of Schedule 1 to the Simplification Act, those sections continue to apply, on and after the date of commencement, in relation to a person who retires before that date, as if that repeal had not happened.

101 Application provision—common law damages

The amendment of the MRCA made by Division 8 of Part 3 of Schedule 1 to the Simplification Act applies in relation to an action or proceeding instituted on or after the date of commencement.

102 Application provision—information sharing

Sections 406 and 409 of the MRCA, as amended by Division 9 of Part 3 of Schedule 1 to the Simplification Act, and sections 407A, 407B and 409A of the MRCA, as inserted by that Division, apply in relation to the use and disclosure of information and documents on or after the date of commencement, whether the information or documents were obtained before, on or after that date.

103 Offsetting

- (1) Section 388 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to an action brought on or after the date of commencement.
- (2) Sections 390 and 391 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, apply in relation to a claim for damages made on or after the date of commencement.
- (3) Sections 399, 401 and 402 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, apply in relation to damages recovered on or after the date of commencement.
- (4) Section 403 of the MRCA, as amended by Division 10 of Part 3 of Schedule 1 to the Simplification Act, applies in relation to:
 - (a) an agreement to pay damages that is made on or after the date of commencement; and
 - (b) damages awarded on or after the date of commencement.

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- (5) If:
- (a) on or after the date of commencement, a provision of Chapter 10 of the MRCA applies in relation to a particular case; and
 - (b) apart from this subsection, a relevant DRCA or VEA provision would also apply in relation to that particular case; the relevant DRCA or VEA provision has no effect in relation to the particular case.
- (6) In this section:
- relevant DRCA or VEA provision*** means a provision of:
- (a) Part IV of the DRCA; or
 - (b) Division 5A of Part II of the VEA; or
 - (c) Division 4 of Part IV of the VEA.

104 Bringing across rehabilitation programs under the DRCA and VEA

- (1) This section applies if, immediately before the date of commencement, a person is undertaking a rehabilitation program (the ***old program***) under the old DRCA or the old VEA.
- (2) On and after the date of commencement:
 - (a) the old program is taken to be an approved rehabilitation program for the purposes of the MRCA; and
 - (b) the person's rehabilitation authority for the purposes of the old DRCA or the old VEA is taken to be the person's rehabilitation authority for the purposes of the MRCA; and
 - (c) the person is taken to be a person to whom Part 2 of Chapter 3 of the MRCA applies.

Subdivision B—Amendments made by Schedule 2

105 Application provision—funeral compensation

- (1) Subject to subsection (2), the amendments of the MRCA made by Division 1 of Part 1 of Schedule 2 to the Simplification Act, apply in relation to a claim for compensation that is made on or after the

date of commencement, whether the claim relates to the funeral of a person who dies before, on or after that date.

- (2) Section 268AA of the MRCA, as added by Division 1 of Part 1 of Schedule 2 to the Simplification Act, applies in relation to the funeral of a person who dies on or after the date of commencement.

106 Pending applications for VEA funeral benefits

- (1) This section applies if:
 - (a) before the date of commencement, an application was made under the old VEA for funeral benefits under section 99 or 100 of that Act; and
 - (b) immediately before that date, the application had not been finally determined.
- (2) The application is taken, on and after the date of commencement, to be a claim for compensation made under section 319 of the MRCA.

107 Pending claims for DRCA funeral expenses

- (1) This section applies if:
 - (a) before the date of commencement, a claim was made under the old DRCA for compensation under section 18 of that Act; and
 - (b) immediately before that date, the application had not been finally determined.
- (2) The claim is taken, on and after the date of commencement, to be a claim for compensation made under section 319 of the MRCA.

108 Decoration allowance

Despite the repeal of section 102 of the old VEA by Division 4 of Part 1 of Schedule 2 to the Simplification Act, that section continues to apply, on and after the date of commencement, in relation to a pension period (within the meaning of the old VEA) that starts before that date and ends on or after that date, as if that repeal had not happened.

109 Transfer of old VEA prisoner of war recognition supplement recipients to MRCA

- (1) This section applies in relation to a person if, immediately before the date of commencement, prisoner of war recognition supplement under Part VIB of the old VEA is being paid to the person.

Continued application of old VEA to fortnights before transfer fortnight

- (2) Despite the amendments of the old VEA made by Division 5 of Part 1 of Schedule 2 to the Simplification Act, the old VEA continues to apply, in relation to an amount of prisoner of war recognition supplement payable to the person under Part VIB of that Act for a fortnight that ends before the transfer fortnight, as if those amendments had not been made.

Application of MRCA to transfer fortnight and later fortnights

- (3) For the transfer fortnight and each later fortnight, Part 3 of Chapter 5AA of the MRCA has effect in relation to the person as if section 268AO were omitted.

Note: Subsection (3) means that the person is eligible for prisoner of war supplement under Part 3 of Chapter 5AA of the MRCA without the person needing to make a claim for compensation under section 319 of the MRCA.

Meaning of transfer fortnight

- (4) In this section:

transfer fortnight means the fortnight that starts immediately after the end of the last pension period (within the meaning of the VEA) that ends before the date of commencement.

110 Pending claims for prisoner of war recognition supplement and prisoner of war compensation

- (1) This section applies if:
(a) before the date of commencement, a claim was made under:

- (i) Schedule 5 to the *Social Security and Veterans' Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Act 2007* for a compensation payment under that Schedule; or
 - (ii) section 115Q of the old VEA for prisoner of war recognition supplement under Part VIB of that Act; or
 - (iii) section 7 of the *Veterans' Entitlements (Clarke Review) Act 2004* for a compensation payment under Part 2 of that Act; or
 - (iv) section 6 of the *Compensation (Japanese Internment) Act 2001* for a compensation payment under that Act; and
- (b) immediately before that date, the claim had not been finally determined.
- (2) The claim is taken, on and after the date of commencement, to be a claim for compensation made under section 319 of the MRCA.

111 Transfer of VEA Veterans' Children Education Scheme recipients to MRCA

- (1) This section applies in relation to a person if, immediately before the date of commencement, the person is receiving a payment or other benefit under the VEA Veterans' Children Education Scheme.
- (2) On and after the date of commencement:
- (a) the scheme established under section 258 of the MRCA (the ***MRCA education scheme***) applies, with any necessary modifications, in relation to the person:
 - (i) as if the person were an eligible young person; and
 - (ii) as if the MRCA education scheme provided for the person to receive the same payments and other benefits as the person was receiving under the VEA Veterans' Children Education Scheme immediately before the date of commencement; and
 - (b) despite subsection 258(2) of the MRCA, a claim under section 319 in respect of the person is not required in order for the person to be provided with those same payments and other benefits.

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- (3) Subsection (2) does not prevent the Commission from varying or revoking the MRCA education scheme in accordance with section 258 of the MRCA, including the scheme as it applies to a person because of this section.

- (4) In the section:

VEA Veterans' Children Education Scheme means the Veterans' Children Education Scheme in force under section 117 of the VEA immediately before the date of commencement.

112 Pending applications under Part VII of the old VEA

- (1) This section applies if:
- (a) before the date of commencement, an application was made under:
 - (i) section 116B of the old VEA; or
 - (ii) section 116CB of the old VEA; or
 - (iii) the Veterans' Children Education Scheme (within the meaning of the old VEA); and
 - (b) immediately before that date, the application had not been finally determined.
- (2) The application is taken, on and after the date of commencement, to be:
- (a) if subparagraph (1)(a)(i) applies—an application made under paragraph 257C(1)(a) of the MRCA; or
 - (b) if subparagraph (1)(a)(ii) applies—an application made under paragraph 257C(1)(b) of the MRCA; or
 - (c) if subparagraph (1)(a)(iii) applies—a claim for compensation made under section 319 of the MRCA.

113 Reviews under section 116D of the old VEA

Reviews under section 116D of the old VEA

- (1) If:
- (a) before the date of commencement, a request was made under section 116D of the old VEA for review of a decision; and

- (b) immediately before that date, a decision on the review had not been made;

then, despite the repeal of section 116D and subsection 175(5) of the old VEA by Division 6 of Part 1 of Schedule 2 to the Simplification Act, those provisions continue to apply, on and after that date, in relation to the review as if those repeals had not happened.

Applications made under subsection 175(5) of the old VEA

- (2) To avoid doubt, the repeal of subsection 175(5) of the old VEA by Division 6 of Part 1 of Schedule 2 to the Simplification Act does not affect any application made under that provision before the date of commencement.

114 Continued effect of certain determinations made under Part VII of the old VEA

If:

- (a) before the date of commencement, a determination was made for the purposes of a provision of the old VEA mentioned in column 1 of an item of the following table; and
- (b) immediately before that date, the determination is in force; the determination continues to have effect, on and after that date, as if it has been made for the purposes of the provision of the MRCA mentioned in column 2 of the item.

Continued effect of certain determinations made under Part VII of the old VEA

Item	Column 1 Provision of the old VEA	Column 2 Provision of the MRCA
1	section 116A	subsection 257B(1)
2	section 116C	subsection 257C(4)
3	section 116CA	subsection 257B(2)
4	section 116CC	subsection 257C(4)

115 Application provision—additional compensation for children of severely impaired veterans

The amendments of the MRCA made by Division 7 of Part 1 of Schedule 2 to the Simplification Act apply in relation to a claim for compensation that is made on or after the date of commencement.

116 Travel for treatment arrangements

- (1) The amendments of the MRCA made by Division 1 of Part 2 of Schedule 2 to the Simplification Act apply in relation to a journey that starts on or after the date of commencement.
- (2) Despite the repeal of subsections 16(6) to (9) and 144B(6) of the old DRCA made by Division 1 of Part 2 of Schedule 2 to the Simplification Act, those provisions, as in force immediately before the date of commencement, continue to apply on and after that date in relation to a journey that starts before that date.
- (3) Despite the repeal of section 110, and the amendments of sections 111 and 112, of the old VEA made by Division 1 of Part 2 of Schedule 2 to the Simplification Act, those provisions, as in force immediately before the date of commencement, continue to apply on and after that date in relation to a journey that starts before that date.

117 All treatment to be provided under MRCA in certain circumstances

- (1) This section applies if:
 - (a) apart from this section, at a time (the *transfer time*) on or after the date of commencement, a person becomes entitled to be provided with treatment for a service injury or disease under Part 3 of Chapter 6 of the MRCA; and
 - (b) at that time, the person is eligible to be, or is being, provided with treatment under subsection 85(1) or (2) of the VEA for a separate war-caused or defence-caused injury or disease (within the meaning of that Act) (the *VEA injury or disease*).
- (2) At the transfer time:

- (a) the person becomes entitled to be provided with treatment under Part 3 of Chapter 6 of the MRCA for the VEA injury or disease; and
 - (b) the person ceases to be eligible to be provided with treatment under subsection 85(1) or (2) of the VEA for that injury or disease.
- (3) However, section 288A of the MRCA does not apply in respect of any treatment obtained for the VEA injury or disease before the transfer time.

118 Application provision—treatment arrangements

Despite the repeal of section 85B of the old VEA by Division 2 of Part 2 of Schedule 2 to the Simplification Act, that section continues to apply, on and after the date of commencement, in relation to treatment provided during a period that starts before that date and ends on or after that date, as if that repeal had not happened.

119 Application provision—presumptive liability

The amendments of the MRCA made by Part 3 of Schedule 2 to the Simplification Act apply in relation to a claim for acceptance of liability that is made on or after the date of commencement.

120 Application provision—additional disablement amount

The amendment of section 199 of the MRCA made by Part 4 of Schedule 2 to the Simplification Act applies in relation to a written offer of a choice that is made on or after the date of commencement.

Subdivision C—Amendments made by Schedule 6

121 Application provision—disability compensation cessation date

The amendments of the VEA made by Schedule 6 to the Simplification Act apply in relation to a pension period (within the meaning of the VEA) that starts on or after the date of commencement.

Subdivision D—Other matters

122 Transitional regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Part to be prescribed by the regulations; or
 - (b) of a transitional nature (including any saving or application provisions) arising out of the enactment of the Simplification Act.
- (2) Without limiting subsection (1), the regulations may provide a method of converting a lump sum amount into weekly amounts for the purpose of subsection 14A(2) of this Act.
- (3) This Part does not limit the regulations that may be made for the purposes of subsection (1).

17 Schedules 1 to 4

Repeal the Schedules.

Schedule 8—Consequential amendments

Part 1—Main amendments

Aged Care Act 1997

1 Paragraph 86-3(1)(i)

Omit “administers the *Veterans’ Entitlements Act 1986*”, substitute “administers section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

2 Subsection 86-3(4) (paragraph (b) of the definition of *receiving Commonwealth body*)

Repeal the paragraph.

3 Subsection 86-3(4) (paragraph (g) of the definition of *receiving Commonwealth body*)

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

4 Section 86-7

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

5 Subsection 96-2(11)

Omit “the *Veterans’ Entitlements Act 1986* under section 213 of that Act”, substitute “section 360DB of the *Military Rehabilitation and Compensation Act 2004*”.

6 Paragraph 96-10(2)(b)

Omit “*Military Rehabilitation and Compensation”, substitute “Repatriation”.

7 Clause 1 of Schedule 1 (definition of *Military Rehabilitation and Compensation Commission*)

Repeal the definition.

8 Clause 1 of Schedule 1 (definition of *Repatriation Commission*)

Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “section 360B of the *Military Rehabilitation and Compensation Act 2004*”.

Aged Care Quality and Safety Commission Act 2018

9 Subsection 61(3) (paragraph (a) of the definition of *receiving Commonwealth body*)

Repeal the paragraph.

10 Subsection 61(3) (paragraph (f) of the definition of *receiving Commonwealth body*)

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

11 Subsection 61(3) (definition of *Repatriation Commission*)

Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “section 360B of the *Military Rehabilitation and Compensation Act 2004*”.

Aged Care (Transitional Provisions) Act 1997

12 Subsection 96-2(9)

Omit “the *Veterans’ Entitlements Act 1986* under section 213 of that Act”, substitute “section 360DB of the *Military Rehabilitation and Compensation Act 2004*”.

13 Clause 1 of Schedule 1 (definition of *Repatriation Commission*)

Omit “section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “section 360B of the *Military Rehabilitation and Compensation Act 2004*”.

Age Discrimination Act 2004

14 Subsection 41(6)

Repeal the subsection.

A New Tax System (Family Assistance) Act 1999

15 After paragraph 7(ha) of Schedule 3

Insert:

(haa) a payment of an Additional Disablement Amount under Division 3A of Part 7 of Chapter 4 of the *Military Rehabilitation and Compensation Act 2004*;

Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006

16 Subsection 4(1) (definition of Commission)

Omit “means the Repatriation Commission continued in existence by section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “has the same meaning as in the *Military Rehabilitation and Compensation Act 2004*”.

17 Subsection 30(1) (note)

Omit “section 180 of the *Veterans’ Entitlements Act 1986*”, substitute “section 360BB of the *Military Rehabilitation and Compensation Act 2004*”.

Australian Veterans’ Recognition (Putting Veterans and Their Families First) Act 2019

18 Subsection 7(3)

Omit “Military Rehabilitation and Compensation Commission”, substitute “Repatriation Commission”.

Child Support (Assessment) Act 1989

19 Subsection 150(1) (definition of *Veterans' Affairs Department*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Child Support (Registration and Collection) Act 1988

20 Subsection 4(1) (definition of *Veterans' Affairs Department*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

21 Subsection 72AC(1)

Omit “(within the meaning of the *Veterans' Entitlements Act 1986*)”.

22 At the end of section 72AC

Add:

(4) In this section:

Repatriation Commission means the Repatriation Commission continued in existence by section 360B of the *Military Rehabilitation and Compensation Act 2004*.

Data-matching Program (Assistance and Tax) Act 1990

23 Subsection 3(1) (definition of *Veterans' Affairs Department*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Defence Force Discipline Act 1982

24 Paragraph 3(7)(c)

Omit “Part IV of the *Veterans' Entitlements Act 1986*”, substitute “the *Military Rehabilitation and Compensation Act 2004*”.

Dental Benefits Act 2008

25 Subparagraph 41(1)(c)(vi)

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Disability Discrimination Act 1992

26 Subsection 53(2) (definition of *peacekeeping service*)

Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.

Health Insurance Act 1973

27 Subsection 3(1) (definition of *Veterans’ Affairs Minister*)

Omit “the *Veterans’ Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Higher Education Support Act 2003

28 Subparagraphs 46-20(2)(n)(ii) and (iii)

Repeal the subparagraphs.

29 Subparagraph 46-20(2)(n)(iv)

After “administers”, insert “section 1 of”.

30 Subclause 1(1) of Schedule 1 (definition of *Military Rehabilitation and Compensation Commission*)

Repeal the definition.

31 Subclause 1(1) of Schedule 1 (definition of *Repatriation Commission*)

Omit “the body corporate continued in existence by section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “the Repatriation Commission continued in existence by section 360B of the *Military Rehabilitation and Compensation Act 2004*”.

Housing Australia Future Fund Act 2023

32 Section 4 (definition of Veterans' Affairs Minister)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Income Tax Assessment Act 1936

33 Subsection 6(1) (definition of Veterans' Affairs Secretary)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

34 Subparagraph 160AAAA(2)(a)(i)

Omit “(other than Part VII)”.

35 Subsections 202CB(8) and 202CE(9)

Omit “Military Rehabilitation and Compensation Commission”, substitute “Repatriation Commission”.

36 Subsection 265A(4)

Omit “*Veterans' Entitlements Act 1986* on a question affecting the right of a dependant of a deceased veteran to a pension under Part II or IV of that Act, or any decision of the Military Rehabilitation and Compensation Commission established under section 361 of the *Military Rehabilitation and Compensation Act 2004* on a question affecting the right of a dependant of a deceased member (within the meaning of that Act) to compensation under Chapter 5 of that Act”, substitute “*Military Rehabilitation and Compensation Act 2004* (the **MRCA**) on a question affecting the right of a dependant of a deceased veteran to a pension under Part II or IV of the *Veterans' Entitlements Act 1986*, or on a question affecting the right of a dependant of a deceased member (within the meaning of the MRCA) to compensation under Chapter 5 of the MRCA”.

37 Saving provision

Section 160AAAA of the *Income Tax Assessment Act 1936*, as in force immediately before the day this item commences, continues to apply, on and after that day, in relation to a year of income in which the taxpayer is eligible for a pension, allowance or benefit under Part VII of the *Veterans' Entitlements Act 1986*.

Income Tax Assessment Act 1997

38 Section 11-15 (table item headed “social security or like payments”)

Omit:

clean energy payment under the scheme prepared
under Part VII of the *Veterans' Entitlements Act*
1986 52-65
.....

39 Paragraphs 52-65(1)(ba) and (e)

Repeal the paragraphs.

40 Subsections 52-65(1F) and (1G)

Repeal the subsections, substitute:

(1G) Clean energy payments under the *Veterans' Entitlements Act 1986*
are exempt from income tax.

41 Section 52-65 (table items 5.1, 15.1, 16.1, 20.1 and 22.1)

Repeal the items.

42 Section 52-75 (table items 3B, 5, 12A, 15, 16, 20 and 22)

Repeal the items.

43 Section 52-114 (table item 2)

After “291”, insert “, 291A”.

44 Section 52-114 (after table item 9)

Insert:

9A	Additional Disablement Amount (section 220A)	Exempt	Not applicable
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45 Section 52-114 (after table item 11)

Insert:

11A	Victoria Cross allowance (section 230A)	Exempt	Not applicable
11B	Decoration allowance (section 230C)	Exempt	Not applicable

46 Section 52-114 (table items 13 and 15)

Omit “and (iii)”, substitute “, (iii) and (iv)”.

47 Section 52-114 (table item 18)

Omit “section 266”, substitute “sections 266, 268AA, 268AB and 268AC”.

48 Section 52-114 (after table item 18)

Insert:

18A	Compensation relating to prisoners of war (sections 268AJ and 268AM)	Exempt	Not applicable
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49 Section 52-114 (table item 22)

After “209A”, insert “, 220D”.

50 Subparagraph 52-145(1)(b)(iii)

Repeal the subparagraph.

51 Application of amendments

The amendments of section 52-114 of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to the 2026-27 income year and later income years.

52 Saving provisions

- (1) Paragraph 52-65(1)(ba) of the *Income Tax Assessment Act 1997* and subsection 52-65(1G) of that Act, as in force immediately before the
-

day this item commences, continue to apply on and after that day in relation to a clean energy payment that is made before, on or after that day under the scheme prepared under Part VII of the *Veterans' Entitlements Act 1986*.

- (2) Paragraph 52-65(1)(e) of the *Income Tax Assessment Act 1997* and subsection 52-65(1F) of that Act, as in force immediately before the day this item commences, continue to apply on and after that day in relation to a payment of a prisoner of war recognition supplement under Part VIB of the *Veterans' Entitlements Act 1986* made before, on or after that day.
- (3) Item 5.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of decoration allowance made before, on or after that day.
- (4) Item 15.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of a section 99 funeral benefit made before, on or after that day.
- (5) Item 16.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of a section 100 funeral benefit made before, on or after that day.
- (6) Item 20.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of travelling expenses made before, on or after that day.
- (7) Item 22.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of Victoria Cross allowance made before, on or after that day.
- (8) Subparagraph 52-145(1)(b)(iii) of the *Income Tax Assessment Act 1997*, as in force immediately before the day this item commences, continues to apply on and after that day in relation to a payment of an allowance or reimbursement under the scheme known as the Veterans' Children Education Scheme.

My Health Records Act 2012

53 Subsection 5(1) (definition of *Veterans' Affairs Department*)

Repeal the definition, substitute:

Veterans' Affairs Department means the Department administered by the Minister administering section 1 of the *Military Rehabilitation and Compensation Act 2004*.

National Cancer Screening Register Act 2016

54 Section 4 (definition of *Veterans' Affairs Department*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

National Health Act 1953

55 Subsection 4(1) (definition of *Veterans' Affairs Minister*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Safety, Rehabilitation and Compensation Act 1988

56 Paragraph 43(1)(a)

Omit “for the purposes of Part IV of the *Veterans' Entitlements Act 1986*”, substitute “within the meaning of the *Military Rehabilitation and Compensation Act 2004*”.

Social Security Act 1991

57 Subparagraphs 8(8)(y)(v), (vi), (via), (viaaaa) and (viiaa)

Repeal the subparagraphs.

58 Subparagraph 8(8)(y)(viii)

Omit “Act; or”, substitute “Act;”.

59 Subparagraph 8(8)(y)(ix)

Repeal the subparagraph.

60 Paragraph 8(8)(zo)

Omit “or 266”, substitute “, 266, 268AA, 268AB or 268AC”.

61 After paragraph 8(8)(zq)

Insert:

- (zqa) a payment of an Additional Disablement Amount under Division 3A of Part 7 of Chapter 4 of the Military Rehabilitation and Compensation Act;
- (zqb) if subsection 220C(5) of the Military Rehabilitation and Compensation Act applies to a person—an amount per fortnight, worked out under subsection (13) of this section, that would, apart from this paragraph, be income of the person;

Note: Subsection 220C(5) of the Military Rehabilitation and Compensation Act reduces an Additional Disablement Amount by reference to amounts of Commonwealth superannuation that the person has received or is receiving.

62 After paragraph 8(8)(zsa)

Insert:

- (zsb) a payment under section 230A of the Military Rehabilitation and Compensation Act (Victoria Cross allowance);
- (zsc) a payment under an instrument made under section 230C of the Military Rehabilitation and Compensation Act (decoration allowance);
- (zsd) a payment, by a foreign country, of an allowance or annuity that is of a similar kind to a payment covered by paragraph (zsb) or (zsc);
- (zse) a payment under Part 3 of Chapter 5AA of the Military Rehabilitation and Compensation Act (prisoner of war recognition supplement);
- (zsf) a payment under section 268AJ of the Military Rehabilitation and Compensation Act (compensation in respect of former members and civilians interned by certain military forces);

63 Paragraph 8(8AA)(d)

Repeal the paragraph.

64 At the end of section 8

Add:

- (13) For the purposes of paragraph 8(8)(zqb), the amount per fortnight that is not income for the purposes of this Act is:

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

where:

Additional Disablement Amount reduction amount means the amount by which the Additional Disablement Amount (as reduced under subsection 220C(3) of the Military Rehabilitation and Compensation Act) is reduced under subsection 220C(6) of the Military Rehabilitation and Compensation Act (but not below zero).

65 Paragraph 592K(2)(c)

Repeal the paragraph.

66 Subparagraph 592K(5)(b)(iii)

Repeal the subparagraph.

67 Subsection 592L(7) (paragraph (c) of the definition of *student relocation payment*)

Repeal the paragraph.

68 Subparagraph 1061ZVBC(b)(i)

Repeal the subparagraph.

69 Application provision

The *Social Security Act 1991*, as in force immediately before the day this item commences, continues to apply, on and after that day, in relation to payments of any of the following that are made before, on or after that day:

- (a) decoration allowance under section 102 of the *Veterans' Entitlements Act 1986*;
- (b) Victoria Cross allowance under section 103 of that Act;
- (c) a payment, by a foreign country, of an allowance or annuity that is of a similar kind to decoration allowance payable under section 102 of that Act or to Victoria Cross allowance payable under section 103 of that Act;
- (d) prisoner of war recognition supplement under Part VIB of that Act;
- (e) a payment known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 117 of that Act;
- (f) a funeral benefit under Part VI of that Act.

Student Assistance Act 1973

70 Subparagraph 7D(b)(i)

Repeal the subparagraph.

71 Application provision

Section 7D of the *Student Assistance Act 1973*, as in force immediately before the day this item commences, continues to apply, on and after that day, in relation to a payment that is:

- (a) known as a student start-up scholarship payment, or a relocation scholarship payment, under the scheme referred to in section 117 of the *Veterans' Entitlements Act 1986*; and
- (b) made before, on or after that day.

Superannuation Act 1976

72 Subsections 54G(2), 54H(1) and 54JA(6A)

Omit "Military Rehabilitation and Compensation Commission", substitute "Repatriation Commission".

Treatment Benefits (Special Access) Act 2019

73 Subsection 5(1) (definition of *Commission*)

Omit “means the Repatriation Commission continued in existence by section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “has the same meaning as in the *Military Rehabilitation and Compensation Act 2004*”.

74 Subsection 40(1) (note)

Omit “section 180 of the *Veterans’ Entitlements Act 1986*”, substitute “section 360BB of the *Military Rehabilitation and Compensation Act 2004*”.

Part 2—Contingent amendments

Defence Act 1903

75 Subsection 4(1) (definition of *Department of Veterans' Affairs*)

Omit “the *Veterans' Entitlements Act 1986*”, substitute “section 1 of the *Military Rehabilitation and Compensation Act 2004*”.

Schedule 9—Defence and Veterans' Services Commission

Part 1—Main amendments

Defence Act 1903

1 After Part VIID

Insert:

Part VIIIE—Defence and Veterans' Services Commission

Division 1—Preliminary

110ZEA Objects of this Part

The object of this Part is to improve suicide prevention and wellbeing outcomes for serving and ex-serving Australian Defence Force members through the provision of independent, evidence-based advice on system reform to the Australian Government.

110ZEB Simplified outline of this Part

The Defence and Veterans' Services Commissioner conducts inquiries and reports (including with evidence-based findings and recommendations) on matters relating to systemic reform to:

- (a) improve suicide prevention for serving and ex-serving Australian Defence Force members; or
- (b) improve wellbeing outcomes for serving and ex-serving Australian Defence Force members.

The Commissioner may determine that an inquiry is a special inquiry if certain requirements are met, including that to do so is in the public interest. A range of additional powers are available to

the Commissioner for the purposes of conducting special inquiries (see Division 3).

The Defence and Veterans' Services Commission assists the Commissioner in the performance of the Commissioner's functions under this Part. The Commission consists of the Commissioner and the staff of the Commission.

110ZEC This Part binds the Crown

- (1) This Part binds the Crown in each of its capacities.
- (2) However, this Part does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

110ZED This Part extends to things outside Australia

This Part extends to acts, omissions, matters and things outside Australia.

110ZEE Definitions

In this Part:

accountable authority, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Australian intelligence entity means:

- (a) the Australian Security Intelligence Organisation; or
- (b) the Australian Secret Intelligence Service; or
- (c) the Australian Signals Directorate; or
- (d) the Office of National Intelligence; or
- (e) the part of the Department known as the Australian Geospatial-Intelligence Organisation; or
- (f) the part of the Department known as the Defence Intelligence Organisation.

authorised member: see subsection 110ZGJ(2).

Commonwealth body means a Commonwealth entity or a Commonwealth company.

Commonwealth company has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Defence and Veteran Suicide Royal Commission means the Royal Commission into Defence and Veteran Suicide, issued by the Governor-General by Letters Patent on 8 July 2021 (and including any later variations of those Letters Patent).

defence member means a member of the Defence Force.

eligible Judge: see subsection 110ZLB(1).

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

entrusted person means:

- (a) the Defence and Veterans' Services Commissioner; or
- (b) a member of staff assisting the Commissioner as mentioned in section 110ZKD; or
- (c) persons assisting referred to in section 110ZKE; or
- (d) consultants engaged under section 110ZKF.

head, of an Australian intelligence entity, means:

- (a) in relation to the Australian Security Intelligence Organisation—the Director-General of Security; or
- (b) in relation to the Australian Secret Intelligence Service—the Director-General of the Australian Secret Intelligence Service; or
- (c) in relation to the Australian Signals Directorate—the Director-General of the Australian Signals Directorate; or
- (d) in relation to the part of the Department known as the Australian Geospatial-Intelligence Organisation—the Director of that part of the Department; or

- (e) in relation to the part of the Department known as the Defence Intelligence Organisation—the Director of that part of the Department; or
- (f) in relation to the Office of National Intelligence—the Director-General of National Intelligence.

Home Affairs Department means the Department administered by the Minister administering the *Australian Border Force Act 2015*.

IGIS official means:

- (a) the Inspector-General of Intelligence and Security; or
- (b) any other person covered by subsection 32(1) of the *Inspector-General of Intelligence and Security Act 1986*.

intelligence information means information:

- (a) that was acquired or prepared by or on behalf of an Australian intelligence entity in connection with its functions; or
- (b) that relates to the performance by an Australian intelligence entity of its functions; or
- (c) that identifies a person as being, or having been, a staff member (within the meaning of the *Intelligence Services Act 2001*) or agent of the Australian Secret Intelligence Service or the Australian Security Intelligence Organisation.

Example: For paragraph (a)—information provided to an Australian intelligence entity by a foreign government or an agency of a foreign government.

Judge: see subsection 110ZLB(1).

law enforcement or security agency means any of the following agencies:

- (a) the Australian Defence Force;
- (b) the Australian Federal Police;
- (c) the Australian Crime Commission;
- (d) the Home Affairs Department;
- (e) the police force of a State or Territory;
- (f) any other agency prescribed by the rules for the purposes of this definition.

official, of a Commonwealth entity, has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

operationally sensitive information means:

- (a) information about information sources or operational activities or methods available to a law enforcement or security agency; or
- (b) information about particular operations that have been, are being or are proposed to be undertaken by a law enforcement or security agency, or about proceedings relating to those operations; or
- (c) information provided by a foreign government, or by an agency of a foreign government, where that government does not consent to the public disclosure of the information.

paid work means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

personal information has the same meaning as in the *Privacy Act 1988*.

protected information means information (including personal information) made or obtained by an entrusted person for the purposes of this Part.

reasonable excuse means:

- (a) in relation to any act or omission by a witness before the Defence and Veterans' Services Commissioner—an excuse which would excuse an act or omission of a similar nature by a witness before a court of law; or
- (b) in relation to any act or omission by a person summoned as a witness before the Commissioner—an excuse which would excuse an act or omission of a similar nature by a person summoned as a witness before a court of law; or
- (c) in relation to any act or omission by a person given a notice under section 110ZGE or subsection 110ZHD(3)—an excuse which would excuse an act or omission of a similar nature by a person served with a subpoena in connection with a proceeding before a court of law.

rules means rules made under section 110ZLD.

secrecy provision means:

- (a) a provision of a law of the Commonwealth that purports to prohibit; or
- (b) anything done, under a provision of a law of the Commonwealth, to prohibit;
the communication, divulging or publication of information, the production of, or the publication of the contents of, a document, or the production of a thing.

State body means a department or authority of a State.

Territory body means a department or authority of a Territory.

use, in relation to information, includes make a record of.

veteran has the same meaning as in the *Australian Veterans' Recognition (Putting Veterans and Their Families First) Act 2019*.

Division 2—Investigations by the Defence and Veterans' Services Commissioner

110ZFA Investigation on own initiative

- (1) The Defence and Veterans' Services Commissioner may conduct research and inquire into matters relating to systemic reform to:
 - (a) improve suicide prevention for serving and ex-serving ADF members; or
 - (b) improve wellbeing outcomes for serving and ex-serving ADF members.
- (2) The Commissioner may, after conducting research and inquiry under this section, report to the Minister on the outcomes of the research and inquiry (including any recommendations).
- (3) A report given under subsection (2) must be given to the Minister, published and tabled in each House of the Parliament in accordance with any requirements of the rules.

110ZFB Inquiry into or advice on specific matter on request by Minister

- (1) The Minister may request the Defence and Veterans' Services Commissioner:
 - (a) to conduct research and inquire into, and report on, a specific matter relating to systemic reform to:
 - (i) improve suicide prevention for serving and ex-serving ADF members; or
 - (ii) improve wellbeing outcomes for serving and ex-serving ADF members; or
 - (b) to advise on a specific matter relating to systemic reform to:
 - (i) improve suicide prevention for serving and ex-serving ADF members; or
 - (ii) improve wellbeing outcomes for serving and ex-serving ADF members.
- (2) The Minister may include in such a request terms of reference (including time frames) for the report or advice.
- (3) The Commissioner must comply with such a request.
- (4) If such a request is made in writing, the request is not a legislative instrument.
- (5) The Minister may withdraw or amend such a request at any time before the Commissioner gives the report or advice to the Minister.

110ZFC Inquiries into implementation of Defence and Veteran Suicide Royal Commission recommendations

- (1) The Defence and Veterans' Services Commissioner must conduct at least 2 inquiries into the Commonwealth's implementation of the Government's response to the recommendations of the Defence and Veteran Suicide Royal Commission.
- (2) An inquiry under subsection (1) must evaluate the implementation of the Government's response including:
 - (a) the measures and actions taken by the Commonwealth to implement the response; and

- (b) the effectiveness of those measures and actions in implementing the Government's response.
- (3) Reports on an inquiry under subsection (1) must:
 - (a) be completed no later than the period prescribed by the rules for the inquiry; and
 - (b) be given to the Minister, published and tabled in each House of the Parliament in accordance with any requirements of the rules.

110ZFD Hearings

- (1) The Defence and Veterans' Services Commissioner may hold a hearing for the purposes of performing the Commissioner's functions.
- (2) A hearing is to be held in public and the procedure for a hearing may be such as the Commissioner thinks fit.
 - Note: For circumstances where hearings may not be held in public, see subsections 110ZFE(1) and (2), and 110ZGQ(6).
- (3) The Commissioner may issue written guidelines relating to the procedure for hearings.
 - Note: The rules may make provision in relation to the procedure for hearings: see section 110ZFG.
- (4) Guidelines issued under subsection (3) are not a legislative instrument.
- (5) The Commissioner is not bound by the rules of evidence.
- (6) The Commissioner must ensure that a record of a hearing is made.

110ZFE Private hearings

Disclosure of information that is personal

- (1) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private if the Defence and Veterans' Services Commissioner is satisfied that:
 - (a) information relating to:

- (i) a deceased person or the family, friends or associates of a deceased person; or
 - (ii) a defence member or veteran's lived experience with a suicide risk;
- may be disclosed at a hearing; and
- (b) the information is personal and private.

Disclosure of operationally sensitive information

- (2) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private if the Commissioner is satisfied that a person appearing at the hearing may give evidence that discloses operationally sensitive information.

Note: See also section 110ZGG, which requires a person to give notice of likely disclosure of operationally sensitive information to the Commissioner.

Commissioner must have regard to certain matters when considering whether to hold private hearings

- (3) When considering whether to hold a hearing, or part of a hearing, in private because of subsections (1) and (2), the Commissioner must have regard to:
 - (a) the potential risk of prejudice to national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*), or to the operations of a law enforcement or security agency; and
 - (b) whether holding the hearing in private would have a substantial adverse effect on the exercise or performance of the Commissioner's functions or powers; and
 - (c) if the Commissioner invites submissions—any submissions received in response; and
 - (d) the safety and security of any person; and
 - (e) whether legal professional privilege, or any other immunity, privilege or restriction may apply to the disclosure of the information; and
 - (f) any other matters the Commissioner thinks relevant.

Other circumstances

- (4) Despite subsection 110ZFD(2), a hearing, or part of a hearing, may be held in private in any other circumstances prescribed by the rules.

110ZFF Consultation in relation to certain private hearing evidence

- (1) If a witness gives evidence at a private hearing because of subsection 110ZFE(2) (disclosure of operationally sensitive information), the Defence and Veterans' Services Commissioner must, before disclosing or using any evidence the witness has given at, or in relation to, the private hearing:
- (a) consult any law enforcement or security agency to which the evidence relates and consider any information received from the agency following the consultation; and
 - (b) consider any potential risk of prejudice to national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*); and
 - (c) consider the safety and security of any person.
- (2) If a witness gives evidence at a private hearing because of subsection 110ZFE(1) or (2) (disclosure of personal or operationally sensitive information), the Commissioner must, before disclosing or using any evidence the witness has given at, or in relation to, the private hearing:
- (a) consider consulting the witness, and any other person whose interests are affected by the evidence; and
 - (b) consider any potential risk of prejudice to a person if the person is not consulted before using or disclosing information given at, or in relation to, a private hearing; and
 - (c) consider any preference the witness communicates (whether before, during or after a private hearing) to the Commissioner in relation to consultation.
- (3) The rules may make provision for or in relation to the disclosure or use of evidence given at a private hearing by a witness because of subsection 110ZFE(4).

110ZFG Other powers relating to inquiries

Subject this Part and any requirements prescribed by the rules, the Defence and Veterans' Services Commissioner may conduct research and inquire into matters under this Part as the Commissioner sees fit, including in relation to the following:

- (a) giving notice of an inquiry;
- (b) inviting submissions;
- (c) making submissions publicly available;
- (d) procedures for hearings (public or private);
- (e) providing draft reports for comment.

Division 3—Special inquiries

Subdivision A—Determining inquiry is a special inquiry

110ZGA Special inquiry

- (1) The Defence and Veterans' Services Commissioner may make a determination, in writing, that an inquiry being conducted under Division 2 is a special inquiry if:
 - (a) public notice has been given of the inquiry; and
 - (b) the Commissioner is satisfied that it is in the public interest that the powers in this Division may be exercised in relation to the inquiry; and
 - (c) any other requirements prescribed by the rules are satisfied.
- (2) The Commissioner may, at any time, revoke such a determination.
- (3) A determination under subsection (1) is in force during the period:
 - (a) beginning immediately after the determination is made; and
 - (b) ending at the earliest of the following:
 - (i) the end of the period of 2 years beginning immediately after the determination is made;
 - (ii) the end of the day on which the determination is revoked under subsection (2).

- (4) Paragraph (3)(b) does not prevent the making of another determination under subsection (1) in the same terms as the expired or revoked determination.
- (5) A determination made under subsection (1) is not a legislative instrument.

Subdivision B—Powers that can be used in relation to a special inquiry

110ZGB Application of this Subdivision

This Subdivision applies in relation to an inquiry if there is a determination in force under section 110ZGA that the inquiry is a special inquiry.

110ZGC Summons

- (1) The Defence and Veterans' Services Commissioner may, by notice in writing, summon a person to attend a hearing at a time and place specified in the notice:
 - (a) to give evidence relevant to the special inquiry; or
 - (b) to produce documents or things specified in the notice that are relevant to the special inquiry.

Note: Failure to comply with a notice is an offence: see section 110ZHA.

- (2) The notice must:
 - (a) be in writing and be signed by the Commissioner; and
 - (b) be served on the person required to attend the hearing.
- (3) A time specified in a notice must be at least 14 days after the day on which the notice is given.
- (4) However, subsection (3) does not apply if the Commissioner reasonably believes that the circumstances to which the notice relates are urgent or serious.
- (5) For the purposes of sections 110ZHA (failure to produce), 110ZHD and 110ZHE (legal professional privilege), the power of the Commissioner under this section to require a person to give evidence, or produce a document or thing, includes the power to

require the person to give evidence, or produce a document or thing, that is subject to legal professional privilege.

Note: Under section 110ZHD, legal professional privilege might still be a reasonable excuse for failing to produce the document etc.

- (6) Before giving a notice under subsection (1) to a person, in the person's capacity as someone who is or has been a coroner or an officer or employee of a coroners' court, the Commissioner must consider requesting the coroner or the coroners' court to disclose information in accordance with section 110ZGP.
- (7) If the Commissioner gives a notice under subsection (1) to an official of a Commonwealth entity, the Commissioner must give a copy of the notice to:
 - (a) if the official performs duties in, or services for, an Australian intelligence entity—the head of the Australian intelligence entity; or
 - (b) in any other case—the accountable authority of the Commonwealth entity.
- (8) If the Commissioner gives a notice under subsection (1) to an officer or employee of a State body or a Territory body, the Commissioner must give a copy of the notice to the head (however described) of the body.

110ZGD Evidence on oath or by affirmation

- (1) At a hearing for the inquiry, the Defence and Veterans' Services Commissioner may:
 - (a) require a witness to either take an oath or make an affirmation; and
 - (b) administer an oath or affirmation to the witness.

Note 1: Refusal to take an oath or make an affirmation is an offence: see section 110ZHB.

Note 2: This means that a hearing is a **judicial proceeding** for the purposes of Part III of the *Crimes Act 1914*, which creates various offences in relation to judicial proceedings.

- (2) The oath or affirmation is an oath or affirmation that the evidence the person will give will be true.

- (3) The Commissioner may allow a person attending a hearing who has been sworn, or who has made an affirmation, to give evidence by tendering a written statement and verifying it by oath or affirmation.

110ZGE Defence and Veterans' Services Commissioner may require information etc.

- (1) For the purposes of performing the Defence and Veterans' Services Commissioner's functions, the Commissioner may, by written notice, require a person:
- (a) to give the Commissioner information relevant to the special inquiry, or a statement setting out information relevant to the special inquiry, in writing referred to in the notice; or
 - (b) to produce to the Commissioner the documents or things relevant to the special inquiry that are referred to in the notice.

Note: Failure to give the information or statement, or to produce the documents or things, is an offence: see section 110ZHA.

- (2) The notice must:
- (a) be in writing; and
 - (b) specify the period within which the person must comply with the notice.
- (3) A time specified in a notice must be at least 14 days after the day on which the notice is given.
- (4) However, subsection (3) does not apply if the Commissioner reasonably believes that the circumstances to which the notice relates are urgent or serious.
- (5) For the purposes of sections 110ZHA (failure to produce), 110ZHD and 110ZHE (legal professional privilege), the power of the Commissioner under this section to require a person to give information or a statement, or produce a document or thing includes the power to require the person to give information or a statement, or produce a document or thing, that is subject to legal professional privilege.

Note: Under section 110ZHD, legal professional privilege might still be a reasonable excuse for failing to produce the document etc.

- (6) Before giving a notice under subsection (1) to a person, in the person's capacity as someone who is or has been a coroner or an officer or employee of a coroners' court, the Commissioner must consider requesting the coroner or the coroners' court to disclose information in accordance with section 110ZGP.
- (7) If the Commissioner gives a notice under subsection (1) to an official of a Commonwealth entity, the Commissioner must give a copy of the notice to:
 - (a) if the official performs duties in, or services for, an Australian intelligence entity—the head of the Australian intelligence entity; or
 - (b) in any other case—the accountable authority of the Commonwealth entity.
- (8) If the Commissioner gives a notice under subsection (1) to an officer or employee of a State body or Territory body, the Commissioner must give a copy of the notice to the head (however described) of the body.

110ZGF Notice of likely disclosure of operationally sensitive information

Notice requirement

- (1) If:
 - (a) a person either:
 - (i) intends to give evidence, or give or produce to the Defence and Veterans' Services Commissioner information or a statement, document or thing in relation to the special inquiry (including as authorised under section 110ZGN or 110ZGP); or
 - (ii) is required under section 110ZGC or 110ZGE to give evidence at a hearing, to give or produce to the Commissioner information or a statement, document or thing, in relation to the special inquiry; and
 - (b) the person considers that giving the evidence, or giving or producing the information or statement, document or thing, may involve the person disclosing operationally sensitive information;

the person must give written notice to the Commissioner before giving or producing the evidence, information or statement, document or thing.

Note: Failure to give written notice is an offence if the person holds or has held an Australian Government security clearance: see subsection 110ZHC(1).

- (2) The notice must describe the evidence, information or statement, document or thing that the person considers to be operationally sensitive information.

Call for submissions

- (3) If the Commissioner is given a notice under subsection (1), the Commissioner may invite submissions from persons or bodies (including law enforcement or security agencies) whose interests may be affected by disclosure of the information.
- (4) If the Commissioner invites submissions, the Commissioner must ensure that the information is not disclosed inappropriately in the course of inviting submissions.

110ZGG Notice of likely disclosure of intelligence information

If:

- (a) a person either:

- (i) intends to give evidence, or give or produce to the Defence and Veterans' Services Commissioner information or a statement, document or thing in relation to the special inquiry (including as authorised under section 110ZGN or 110ZGP); or
- (ii) is required under section 110ZGC or 110ZGE to give evidence at a hearing, to give or produce to the Commissioner information or a statement, document or thing, in relation to the special inquiry; and

- (b) the person considers that giving the evidence, or giving or producing the information or statement, document or thing, may involve the person disclosing intelligence information;

the person must give written notice to the Commissioner before giving or producing the evidence, information, statement, document or thing.

Note: Failure to give written notice is an offence if the person holds or has held an Australian Government security clearance: see subsection 110ZHC(2).

110ZGH Powers of Commissioner in relation to documents or other thing

The Defence and Veterans' Services Commissioner may for the purposes of the special inquiry:

- (a) inspect any document or other thing:
 - (i) produced or given to the Commissioner; or
 - (ii) produced or given under a notice under section 110ZGC or 110ZGE; and
- (b) retain the documents or other thing for so long as is reasonably necessary for the purposes of performing the Commissioner's functions; and
- (c) in the case of documents:
 - (i) produced or given to the Commissioner; or
 - (ii) produced or given under a notice under section 110ZGC or 110ZGE;make copies of any documents that contain matter that is relevant to the Commissioner's functions or powers.

110ZGJ Search warrants

- (1) The Defence and Veterans' Services Commissioner or an authorised member may apply for a search warrant under subsection (4) in relation to the special inquiry.
- (2) The Commissioner may, in writing, authorise a person, or each person in a class of persons, to be an **authorised member** for the purposes of this Part, if the person, or each person in the class of persons, is a member of the Australian Federal Police, or of the police force of a State or Territory, or is a police member (within the meaning of the *Defence Force Discipline Act 1982*).
- (3) If:
 - (a) the Commissioner, or an authorised member, has reasonable grounds for suspecting that there may be, at that time or within the next following 24 hours, on any land or on or in

- any premises, vessel, aircraft or vehicle, a thing or things of a particular kind connected with a matter into which the Commissioner is inquiring (*things of the relevant kind*); and
- (b) the Commissioner, or the authorised member, believes on reasonable grounds that, if a summons were issued for the production of the thing or things, the thing or things might be concealed, lost, mutilated or destroyed;
- the Commissioner, or the authorised member, may apply to an eligible Judge for the issue of a search warrant under subsection (4).
- (4) If an application is made under subsection (1) to an eligible Judge, the eligible Judge may, if satisfied that there are reasonable grounds for issuing the warrant, issue a search warrant authorising a member of the Australian Federal Police or of the police force of a State or Territory, or any other person named in the warrant (the *authorised person*), with such assistance as the authorised person thinks necessary, and if necessary by reasonable force:
- (a) to enter onto the land or on or into the premises, vessel, aircraft or vehicle; and
- (b) to search the land, premises vessel aircraft or vehicle for things of the relevant kind; and
- (c) to seize any things of the relevant kind found on the land or in the premises, vessel, aircraft or vehicle and deliver things so seized to the Commissioner.
- (5) A warrant issued under this section must include the following information:
- (a) a statement of the purpose for which the warrant is issued, which must include a reference to the matter into which the Commissioner is inquiring and with which the things of the relevant kind are connected;
- (b) whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;
- (c) a description of the kind of things authorised to be seized;
- (d) a date, not being later than 1 month after the date of issue of the warrant, on which the warrant ceases to have effect.
- (6) If, in the course of searching, in accordance with a warrant issued under this section, for things of a particular kind connected with a
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matter into which the Commissioner is inquiring, the person executing the warrant finds:

- (a) any thing of another kind that the person believes on reasonable grounds to be connected with that matter; or
- (b) any thing that the person believes on reasonable grounds to be connected with another matter into which the Commissioner is inquiring;

and the person believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss, mutilation or destruction, the warrant is taken to authorise the person to seize that thing.

110ZGK Application by telephone for search warrants

- (1) An application for a search warrant under subsection 110ZGJ(1) may be made by telephone if the applicant for the warrant considers it necessary to do so because of circumstances of urgency.
- (2) If an eligible Judge issues a search warrant on an application made by telephone, the eligible Judge must:
 - (a) complete and sign that warrant; and
 - (b) inform the applicant of the terms of the warrant and the date on which and the time at which it was signed; and
 - (c) forward a copy of the warrant to the applicant.
- (3) If a search warrant is issued on an application made by telephone, the Defence and Veterans' Services Commissioner or a member of the Australian Federal Police or of the police force of a State or Territory may complete a form of warrant in the terms indicated by an eligible Judge under subsection (2).
- (4) A form of warrant completed in accordance with subsection (3) is taken to be a warrant issued under section 110ZGJ.

110ZGL Witnesses subject to questioning

- (1) Any of the following may, so far as the Defence and Veterans' Services Commissioner thinks proper, examine or cross-examine a witness on a matter relevant to a hearing for the purposes of the special inquiry:

- (a) a legal practitioner assisting the Commissioner;
 - (b) any legal practitioner authorised by the Commissioner to appear before it for the purpose of representing any person;
 - (c) any person authorised by the Commissioner to appear before the Commissioner.
- (2) Subject to this Part, a witness who is examined or cross-examined has the same protection and is subject to the same liabilities as if examined by the Commissioner.

Note: For other witness protections, see section 110ZLC.

110ZGM Witness expenses and allowances

- (1) A person may, on behalf of the Commonwealth, be paid the following in respect of the giving of evidence as a witness at a hearing for the purposes of the special inquiry, in accordance with a scale prescribed by the rules:
 - (a) a reasonable amount for the person's expenses of attending at a place to give evidence;
 - (b) an allowance for the person's travelling expense and maintenance while absent from the person's usual place of residence.
- (2) In the absence of a prescribed scale, the amount or allowance the person may be paid is the amount or allowance the Commissioner considers reasonable.

110ZGN Disclosure of information to the Commissioner— Commonwealth

Authorisation to disclose

- (1) A Commonwealth body, or an individual who holds any office or appointment under a law of the Commonwealth, may, on their own initiative or at the request of the Commissioner, disclose information (including personal information) for the purpose of assisting in the performance or exercise of the Commissioner's functions or powers in for the purposes of the special inquiry.
- (2) A disclosure of information is taken not to have been made by a Commonwealth body for the purposes of subsection (1) if the

individual making the disclosure is acting beyond the individual's authority in relation to the body.

Authorisation for Commissioner to use

- (3) The Commissioner is authorised to use information disclosed under this section for the purposes of performing or exercising any of the Commissioner's functions or powers for the purposes of the special inquiry.

Authorisation not affected by State or Territory law or the general law

- (4) The authorisation in subsection (1) has effect despite anything in a law of a State or Territory, or the general law, that restricts or prohibits disclosure of information.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

110ZGP Disclosure of information to the Commissioner—States and Territories

Authorisation to disclose

- (1) Any of the following may, on their own initiative or at the request of the Commissioner, disclose information (including personal information) for the purpose of assisting in the performance or exercise of the Commissioner's functions or powers for the purposes of the special inquiry:
- (a) a State body or Territory body;
 - (b) an individual who holds any office or appointment under a law of a State or Territory;
 - (c) a coroner or a coroners' court.
- (2) A disclosure of information is taken not to have been made by a State body or Territory body for the purposes of subsection (1) if the individual making the disclosure is acting beyond the individual's authority in relation to the body.

Authorisation for Commissioner to use

- (3) The Commissioner is authorised to use information disclosed under this section for the purposes of performing or exercising any of the Commissioner's functions or powers.

Authorisation not affected by State or Territory law or the general law

- (4) The authorisation in subsection (1) has effect despite anything in a law of a State or Territory, or the general law, that restricts or prohibits disclosure of information.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

110ZGQ Arrangements for obtaining and protecting intelligence information

Arrangements

- (1) The Commissioner must take all reasonable steps to ensure that entrusted persons obtain, store, access, use and disclose intelligence information relating to an Australian intelligence entity for the purposes of a special inquiry only in accordance with an arrangement, between the Commissioner and the head of the entity, that deals with:
- (a) the manner in which entrusted persons obtain intelligence information relating to the entity; and
 - (b) the protection of intelligence information relating to the entity while in the possession of entrusted persons; and
 - (c) the disclosure by entrusted persons of intelligence information relating to the entity.
- (2) The Commissioner must take all reasonable steps to ensure that an arrangement is in force for the purposes of subsection (1) with the head of an Australian intelligence entity before obtaining intelligence information relating to the entity for the purposes of a special inquiry.
- (3) Subsections (1) and (2) apply despite any other provision of this Part.

- (4) Without limiting subsection (1), an arrangement may:
 - (a) limit the circumstances in which intelligence information may be disclosed in a report under this Division; and
 - (b) set out matters to which the Commissioner must have regard in disclosing intelligence information under section 110ZHP.
- (5) However, except as mentioned in paragraph (4)(a), an arrangement cannot prevent the exercise of the Commissioner's powers or the performance of the Commissioner's functions under any provision of this Part (including section 110ZHP).

Conduct of hearings

- (6) Despite subsection 110ZFD(2), if the Commissioner is satisfied that a person appearing at a hearing might disclose intelligence information:
 - (a) the Commissioner may, subject to paragraph (b) of this subsection, conduct the hearing in public or private; and
 - (b) the conduct of the hearing must be consistent with an arrangement entered into for the purposes of subsection (1) of this section with the Australian intelligence entity to which the information relates.

Arrangement is not a legislative instrument

- (7) If an arrangement is entered into for the purposes of subsection (1) in writing, the arrangement is not a legislative instrument.

110ZGR Application of this Part in relation to current and former IGIS officials

Despite anything else in this Part:

- (a) an entrusted person may obtain information from another person that the other person acquired as an IGIS official; and
 - (b) a person may disclose information, that the person acquired as an IGIS official, to an entrusted person;
- only in accordance with sections 34 and 34A of the *Inspector-General of Intelligence and Security Act 1986*.

Division 4—Offences

Subdivision A—Failure to attend hearing, give information or produce documents etc.

110ZHA Failure to attend hearing, give information or produce documents etc.

Failure to attend hearing

- (1) A person commits an offence if:
- (a) the person is served with a notice under section 110ZGC to attend a hearing; and
 - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

Failure to give information, or produce a document or thing

- (2) A person commits an offence if:
- (a) the person is given a notice under section 110ZGC or 110ZGE to give information or a statement, or produce a document or thing, specified in the notice; and
 - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

Reasonable excuse

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

Note: A defendant bears an evidential burden in relation to the matters in subsection (3): see subsection 13.3(3) of the *Criminal Code*.

Defence of relevance

- (4) Subsection (2) does not apply if the information, statement, document or thing is not relevant to the matters into which the Commissioner was inquiring.

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

Subsections (1) and (2) not affected by State or Territory law or the general law

- (5) Subsections (1) and (2) have effect despite anything in a law of a State or Territory, or the general law.

Note: Penalties also do not apply under secrecy provisions: see section 110ZHQ.

110ZHB Refusal to take an oath, make an affirmation or answer a question

A person commits an offence if:

- (a) the person is served with a notice under section 110ZGC to attend a hearing; and
- (b) either:
 - (i) the person refuses to be sworn or to make an affirmation at the hearing; or
 - (ii) the person refuses to answer a question at the hearing that the Defence and Veterans' Services Commissioner requires the person to answer.

Penalty: Imprisonment for 2 years.

110ZHC Failure to give written notice to the Defence and Veterans' Services Commissioner

Operationally sensitive information

- (1) A person commits an offence if:
- (a) the person is required to give a written notice to the Commissioner under section 110ZGF; and
 - (b) the person holds or has held an Australian Government security clearance (within the meaning of the *Criminal Code*) that allows, or had allowed, access to operationally sensitive information; and
 - (c) the person fails to give the notice in accordance with section 110ZGF.

Penalty: Imprisonment for 3 years.

Intelligence information

- (2) A person commits an offence if:
- (a) the person is required to give a written notice to the Defence and Veterans' Services Commissioner under section 110ZGG; and
 - (b) the person holds or has held an Australian Government security clearance (within the meaning of the *Criminal Code*) that allows, or had allowed, access to intelligence information; and
 - (c) the person fails to give the notice in accordance with section 110ZGG.

Penalty: Imprisonment for 3 years.

110ZHD Legal professional privilege

- (1) It is not a reasonable excuse for the purposes of subsection 110ZHA(3) for a person to fail to give information or a statement, or produce a document or thing, that the information, statement, document or thing is subject to legal professional privilege, unless:
- (a) a court has found the information, statement, document or thing (or the relevant part of it) to be subject to legal professional privilege; or
 - (b) a claim that the information, statement, document or thing (or the relevant part of it) is subject to legal professional privilege has been made to the Defence and Veterans' Services Commissioner:
 - (i) within the time that the Commissioner, in requiring the information or statement to be given, or the document or thing to be produced, allowed for the giving of the information or statement, or the production of the document or thing; or
 - (ii) within such further time as the Commissioner allows for the giving of the information or statement, or the production of the document or thing.
- (2) If such a claim is made, the Commissioner may decide whether to accept or reject the claim.

- (3) The Commissioner may, by written notice served on a person, require the person to produce the information, statement, document or thing for inspection for the purpose of deciding whether to accept or reject the claim.
- (4) If the information, statement, document or thing has been produced for inspection and the Commissioner decides to accept the claim, the Commissioner must:
 - (a) return the information, statement, document or thing to the person; and
 - (b) disregard, for the purposes of any report, recommendation or finding that the Commissioner makes:
 - (i) if the claim is accepted in relation to the whole of the information, statement, document or thing—the whole of the information, statement, document or thing; or
 - (ii) if the claim is accepted in relation to a part of the information, statement, document or thing—that part of the information, statement, document or thing.
- (5) If the information, statement, document or thing has been produced for inspection and the Commissioner decides to reject the claim, the Commissioner may use the information, statement, document or thing for the purposes of performing the Commissioner's function in relation to a special inquiry.

110ZHE Offences relating to claims for legal professional privilege

Offences

- (1) A person commits an offence if:
 - (a) the person has failed to give information or a statement, or produce a document or thing as required by the Commissioner under section 110ZGC; and
 - (b) the Commissioner has decided under subsection 110ZHD(2) to reject a claim that the information or statement, document or thing (or the relevant part of the information, statement, document or thing) is subject to legal professional privilege; and

- (c) the person fails to give the information or statement, or produce the document or thing as the Commissioner requires, after that decision, under section 110ZGC.

Penalty: Imprisonment for 2 years.

- (2) A person commits an offence if:
 - (a) the person is required under subsection 110ZHD(3) to give information or a statement, or produce a document or thing for inspection; and
 - (b) the person fails to comply with the notice.

Penalty: Imprisonment for 2 years.

Reasonable excuse

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

Legal professional privilege

- (4) It is not a reasonable excuse for the purposes of subsection (3) for a person to fail to give information or a statement, or produce a document or thing, that the information, statement, document or thing is subject to legal professional privilege, unless a court has found the information, statement, document or thing to be subject to legal professional privilege.

Note: A defendant bears an evidential burden in relation to the matters in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Defence of relevance

- (5) It is a defence to a prosecution for an offence against this section constituted by a failure to give information or a statement, or produce a document or thing, if the information, statement, document or thing is not relevant to the matters into which the Commissioner is inquiring.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5), see subsection 13.3(3) of the *Criminal Code*.

110ZHF Self-incrimination

- (1) An individual is not excused from giving information, evidence or a statement, or producing a document or thing, under section 110ZGC on the ground that giving the information, evidence or statement, or producing the document or thing, might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (2) Subsection (1) does not apply if:
- (a) giving the information, evidence or statement, or producing the document or thing, might tend to incriminate the individual in relation to an offence; and
 - (b) the individual has been charged with that offence; and
 - (c) the charge has not been finally dealt with by a court or otherwise disposed of.
- (3) However:
- (a) the information, evidence or statement given or document or thing produced; and
 - (b) the giving of the information, evidence or a statement, or the production of the document or thing;
- are not admissible in evidence against the individual in any criminal proceedings, other than:
- (c) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Part; or
 - (d) proceedings for an offence against Part III of the *Crimes Act 1914* that relates to this Part; or
 - (e) proceedings for an offence against this Part.
- (4) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to giving information, evidence or a statement, or producing a document or thing under section 110ZGC or 110ZGE, the individual is not excused from giving the information, evidence or statement or producing the document or thing under those provisions on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

Subdivision B—Witness protections etc.

110ZHG Dismissal etc. of witness

- (1) A person commits an offence if the person:
- (a) dismisses an employee from employment or a defence member from the Defence Force; or
 - (b) prejudices an employee in the employee's employment by the person or disciplines a defence member in their capacity as a defence member;
- for or on account of the employee or the defence member having:
- (c) appeared as a witness before the Commissioner; or
 - (d) given evidence before the Commissioner; or
 - (e) given information or a statement, or produced a document or thing, in accordance with section 110ZGC.

Penalty: 10 penalty units or imprisonment for 1 year.

- (2) Subsection (1) does not apply if the employee or defence member was dismissed, prejudiced or disciplined for some reason other than the reasons mentioned in subsection (1).

Note: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

110ZHJ Contempt of Commissioner

- (1) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct obstructs or hinders the Defence and Veterans' Services Commissioner in the performance or exercise of the Commissioner's functions or powers.

Penalty: 2 penalty units or imprisonment for 3 months.

- (2) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct would, if the Defence and Veterans' Services Commissioner were a court of record, constitute a contempt of that court.

Penalty: 2 penalty units or imprisonment for 3 months.

Subdivision C—Unauthorised publication, use or disclosure of information etc.

110ZHK Non-publication direction

- (1) The Defence and Veterans' Services Commissioner may, in writing, direct that any of the following material must not be published, produced or disclosed or must not be published, produced or disclosed except in the manner or to the persons that the Commissioner specifies:
- (a) evidence given before the Commissioner;
 - (b) the contents of a document, or a description of a thing, produced or given to the Commissioner;
 - (c) information that might enable a person who has given evidence before the Commissioner to be identified.

Note: Publication in contravention of a direction under this subsection is an offence: see section 110ZHL.

- (2) The Commissioner may, in writing, vary or revoke a direction under subsection (1).
- (3) Without limiting subsection (1), the Commissioner may direct that the material must not be published, produced, or disclosed to:
- (a) a court; or
 - (b) a tribunal, authority or person having power to require the production of documents or the answering of questions.

110ZHL Publication in contravention of non-publication direction

A person commits an offence if:

- (a) the person publishes information; and
- (b) the publication contravenes a direction under subsection 110ZHK(1).

Penalty: Imprisonment for 3 years.

110ZHM Unauthorised use or disclosure of protected information

A person commits an offence if:

- (a) the person is, or has been an entrusted person; and
- (b) the person uses or discloses information; and
- (c) the information is protected information; and
- (d) neither of the following apply:
 - (i) the use or disclosure is for the purposes of performing or exercising the Commissioner's functions or powers;
 - (ii) the information is disclosed by the Commissioner in accordance with section 110ZHN.

Note: See Part 5.6 of the *Criminal Code* for offences relating to secrecy of information.

Penalty: Imprisonment for 2 years.

110ZHN Authorisation to disclose information (other than intelligence information)

Authorisation to disclose

- (1) The Defence and Veterans' Services Commissioner may disclose information (including personal information) to an entity specified in subsection (2) if:
 - (a) the information was given to the Commissioner in accordance with a notice under section 110ZGC or 110ZGE, or in accordance with section 110ZGN or 110ZGP; and
 - (b) the Commissioner is satisfied that the information will assist the entity to perform any of its functions or exercise any of its powers; and
 - (c) in the case of an entity specified in any of paragraphs (2)(k) to (m) of this subsection—the Commissioner is satisfied that the function or power mentioned in paragraph (b) of this subsection is connected with defence member or veteran deaths by suicide; and
 - (d) in any case—the information is not intelligence information.
- (2) The entities are the following:

- (a) the Attorney-General of the Commonwealth, a State or a Territory;
- (b) the Australian Federal Police;
- (c) the police force of a State or Territory;
- (d) the Director of Public Prosecutions;
- (e) a Special Prosecutor appointed under the *Special Prosecutors Act 1982*;
- (f) a Royal Commission or a body with functions equivalent to a Royal Commission;
- (g) if the information relates, or may relate, to the contravention, or evidence of a contravention, of a law of the Commonwealth, a State or a Territory—an entity responsible for the administration or enforcement of the law;
- (h) the Australian Crime Commission;
- (i) the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*);
- (j) a coroner or a coroners' court;
- (k) any other Commonwealth body;
- (l) any other State body or Territory body;
- (m) any other individual who holds any office or appointment under a law of the Commonwealth, a State or a Territory.

Coronial inquiries

- (3) If the Commissioner believes that the disclosure of information under subsection (1) to an entity specified in any of paragraphs (2)(k) to (m) may prejudice a current or future coronial inquiry, the Commissioner must consider consulting:
 - (a) for a current coronial inquiry—the coroner conducting the inquiry; or
 - (b) for a future coronial inquiry—the head of the relevant coronial jurisdiction before disclosing the information.

State or Territory police investigations

- (4) If the Commissioner believes that the disclosure of information under subsection (1) to an entity specified in any of paragraphs (2)(k) to (m) may prejudice current or future

investigations by a police force of a State or Territory, the Commissioner must consider consulting the head (however described) of the police force of the State or Territory before disclosing the information.

Authorisation for agencies and bodies to use and disclose information

- (5) An entity to which information is disclosed under subsection (1) may use and disclose the information for the purposes for which the information was disclosed under that subsection.

Contravention of a law

- (6) A reference in paragraph (2)(g) to a contravention of a law is a reference to a contravention for which a person may be liable to:
- (a) a criminal penalty; or
 - (b) a civil or administrative penalty.

110ZHP Authorisation to disclose intelligence information

Authorisation to disclose

- (1) The Defence and Veterans' Services Commissioner may disclose intelligence information (including personal information) to an entity specified in subsection (2) if:
- (a) the information was given to the Commissioner in accordance with a notice under section 110ZGC or 110ZGE, or in accordance with section 110ZGN or 110ZGP; and
 - (b) except in the case of a disclosure to the Inspector-General of Intelligence and Security—the information relates, or may relate, to the commission, or evidence of the commission, of an offence against a law of the Commonwealth, a State or a Territory; and
 - (c) in any case—the Commissioner is satisfied that the information will assist the entity to perform any of its functions or exercise any of its powers.
- (2) The entities are the following:
- (a) the Australian Federal Police;

- (b) the police force of a State or Territory;
- (c) the Australian Crime Commission;
- (d) the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*);
- (e) the Inspector-General of Intelligence and Security;
- (f) an agency or body, or the holder of an office that is prescribed by the rules for the purposes of this paragraph.

Consultation requirement

- (3) Before disclosing intelligence information under subsection (1) to an entity other than the Inspector-General of Intelligence and Security, the Commissioner must consult the following:
 - (a) the person mentioned in subsection (4) for the entity;
 - (b) the head of the Australian intelligence entity to which the information relates.
- (4) For the purposes of paragraph (3)(a), the person for the entity is as follows:
 - (a) for the Australian Federal Police—the Commissioner of Police;
 - (b) for the police force of a State or Territory—the head (however described) of the police force of the State or Territory;
 - (c) for the Australian Crime Commission—the Chief Executive Officer of the Australian Crime Commission;
 - (d) for the National Anti-Corruption Commissioner (within the meaning of the *National Anti-Corruption Commission Act 2022*)—the National Anti-Corruption Commissioner;
 - (e) for an agency or body, or the holder of an office, that is prescribed by the rules for the purposes of paragraph (2)(f)—the person holding, or performing the duties of, the principal office in respect of the body or agency that is prescribed by the rules for the purposes of this paragraph.
- (5) For the purposes of paragraph (3)(a), the consultation must cover the protection of the intelligence information while it remains in the entity's possession.

Matters to which Commissioner must have regard in disclosing information

- (6) In disclosing intelligence information under subsection (1), the Commissioner:
- (a) must have regard to any matter set out in an arrangement entered into with the head of the Australian intelligence entity to which the information relates; and
 - (b) may have regard to any other matter the Commissioner considers relevant.

110ZHQ No criminal or civil liability under secrecy provisions

Information provided in accordance with notices

- (1) A person who is served with a notice under section 110ZGC (summons) or 110ZGE (Commissioner may require information etc.) does not commit an offence, and is not liable to any penalty, under a secrecy provision because the person:
- (a) answers a question at a hearing that the Commissioner requires the person to answer; or
 - (b) gives information or a statement that the person is required to give in accordance with the notice; or
 - (c) produces a document or thing that the person is required to produce in accordance with the notice.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1): see subsection 13.3(3) of the *Criminal Code*.

Information disclosed under section 110ZGN or 110ZGP

- (2) A person who discloses information under section 110ZGN or 110ZGP does not commit an offence, and is not liable to any penalty, under a secrecy provision because the person disclosed information in accordance with section 110ZGN or 110ZGP.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

Division 5—Defence and Veterans' Services Commissioner

110ZJA The Defence and Veterans' Services Commissioner

There is to be a Defence and Veterans' Services Commissioner.

110ZJB Functions of the Defence and Veterans' Services Commissioner

- (1) The Defence and Veterans' Services Commissioner has the following functions:
 - (a) to monitor, inquire and report on (including with evidence-based findings and recommendations) on the following:
 - (i) data and trends regarding suicide and suicidality among serving and ex-serving ADF members;
 - (ii) systemic factors relating to the Commonwealth's administration of policies, programs, systems and practices that contribute to suicide and suicidality among serving and ex-serving ADF members;
 - (iii) the state of the defence and veteran ecosystem, as it relates to the prevention of suicide and suicidality;
 - (iv) the Commonwealth's implementation of the recommendations of the Defence and Veteran Suicide Royal Commission, including progress, impact and outcomes;
 - (b) to conduct research and inquire into, and report and advise on, specific matters as requested by the Minister under section 110ZFB;
 - (c) to conduct inquiries into the Commonwealth's implementation of the Government's response to the recommendations of the Defence and Veteran Suicide Royal Commission under section 110ZFC;
 - (d) to improve supports for serving and ex-serving Australian Defence Force members;
 - (e) to collaborate with coroners to understand issues contributing to defence and veteran deaths by suicide;
 - (f) to promote understanding of suicide risks for defence members and veterans and factors that can improve the

wellbeing of defence members and veterans, including through engaging with people with lived experiences and promoting that lived experience;

(g) any other function conferred on the Commissioner by this Act or any other law of the Commonwealth.

- (2) To avoid doubt, the following are not functions of the Commissioner:
- (a) to make findings of civil or criminal wrongdoing;
 - (b) to make findings on the manner or cause of death in relation to a death of a defence member or suspected suicide;
 - (c) to monitor or inquire into a single exercise of a power, or a single performance of a function or duty.

- (3) In performing the Commissioner's functions, the Commissioner must have regard to the need to avoid prejudicing current or future criminal or civil proceedings or other contemporaneous inquiries.

Note: An example of a contemporaneous inquiry is a contemporaneous inquiry conducted by the Inspector-General ADF under section 110C of this Act.

- (4) The Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Commissioner's functions.

110ZJC Powers of the Defence and Veterans' Services Commissioner

The Defence and Veterans' Services Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Commissioner's functions under this Act or any other law of the Commonwealth.

110ZJD Independence

Subject to this Act and to other laws of the Commonwealth, the Defence and Veterans' Services Commissioner:

- (a) has complete discretion in the performance of the Commissioner's functions and the exercise of the Commissioner's powers; and

- (b) is not subject to direction by any person in relation to the performance of those functions or the exercise of those powers.

Note: The Commissioner must comply with a request by the Minister under section 110ZFB to inquire into or advise on specific matters.

110ZJE Appointment of Defence and Veterans' Services Commissioner

- (1) The Defence and Veterans' Services Commissioner is to be appointed by the Minister by written instrument.

Note: The Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) The Commissioner is to be appointed on a full-time basis.
- (3) The Commissioner holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.
- (4) Before appointing a person as the Commissioner, the Minister must be satisfied that the person has suitable qualifications, training or experience.

110ZJF Remuneration of Defence and Veterans' Services Commissioner

- (1) The Defence and Veterans' Services Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Commissioner is to be paid the remuneration that is prescribed by the rules.
- (2) The Commissioner is to be paid the allowances that are prescribed by the rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

110ZJK Rules in relation to the Defence and Veterans' Services Commissioner

The rules may make provision for, or in relation to the following:

- (a) acting appointments;
- (b) leave of absence;
- (c) engaging in paid work outside the duties of the Commissioner's office without the Minister's approval;
- (d) disclosure of interests;
- (e) resignation;
- (f) termination of appointment.

110ZJL Other terms and conditions

The Defence and Veterans' Services Commissioner holds office on the terms and conditions (if any) that are determined by the Minister in relation to matters not covered by this Act or the rules.

Division 6—Defence and Veterans' Services Commission

110ZKA Defence and Veterans' Services Commission

- (1) The Defence and Veterans' Services Commission is established by this section.
- (2) The Commission consists of:
 - (a) the Defence and Veterans' Services Commissioner;
 - (b) the staff of the Commission referred to in section 110ZKD.

Application of the Finance Law

- (3) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
 - (a) the Defence and Veterans' Services Commission is a listed entity; and
 - (b) the Defence and Veterans' Services Commissioner is the accountable authority of the Commission; and
 - (c) the following persons are officials of the Commission:
 - (i) the Defence and Veterans' Services Commissioner;
 - (ii) the staff of the Commission referred to in section 110ZKD;
 - (iii) the persons assisting referred to in section 110ZKE; and
 - (iv) consultants engaged under section 110ZKF; and

- (d) the purposes of the Defence and Veterans' Services Commission include:
 - (i) the functions of the Commission referred to in section 110ZKB; and
 - (ii) the functions of the Defence and Veterans' Services Commissioner referred to in section 110ZJB.

110ZKB Functions of the Defence and Veterans' Services Commission

The Defence and Veterans' Services Commission's function is to assist the Defence and Veterans' Services Commissioner in the performance of the Commissioner's functions under this Act or any other law of the Commonwealth.

110ZKC Powers of the Defence and Veterans' Services Commission

The Defence and Veterans' Services Commissioner has power to do all things necessary or convenient to be done for or in connection with the performance of the Defence and Veterans' Services Commissioner's functions under this Act or any other law of the Commonwealth.

110ZKD Staff

- (1) The staff of the Defence and Veterans' Services Commission are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Defence and Veterans' Services Commissioner and the staff of the Defence and Veterans' Services Commission together constitute a Statutory Agency; and
 - (b) the Defence and Veterans' Services Commissioner is the Head of that Statutory Agency.

110ZKE Persons assisting

- (1) The Commissioner may be assisted by:
 - (a) officers and employees of Agencies (within the meaning of the *Public Service Act 1999*), and of authorities of the

- Commonwealth, whose services are made available to the Commissioner in connection with the performance of any of the Commissioner's functions; and
- (b) persons whose services are made available under arrangements made under subsection (2).
- (2) The Commissioner may, on behalf of the Commonwealth, make an arrangement with the appropriate authority or officer of:
- (a) a State or Territory government; or
- (b) a State or Territory government authority;
- under which the government or authority makes officers or employees available to the Commissioner to perform services in connection with the performance of any of the Commissioner's functions.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse a State or Territory with respect to the services of a person to whom the arrangement relates.
- (4) When performing services for the Commissioner under this section, a person is subject to the directions of the Commissioner.

110ZKF Consultants

- (1) The Defence and Veterans' Services Commissioner may, on behalf of the Commonwealth, engage consultants to assist in the performance of the Defence and Veterans' Services Commission's functions.
- (2) The consultants are to be engaged on the terms and conditions that the Commissioner determines in writing.

Division 7—Other provisions

110ZLA Other matters

The rules may make provision for, or in relation, to the following:

- (a) delegation by the Defence and Veterans' Services Commissioner of powers and functions under this Part;
- (b) reporting by the Defence and Veterans' Services Commissioner or the Defence and Veterans' Services

Commission in relation to performance of functions and exercise of powers under this Part.

110ZLB Eligible judges

- (1) In this Part:

eligible Judge means a Judge in relation to whom a consent under subsection (2) and a declaration under subsection (3) are in force.

Judge means a person who is a Judge of a court created by the Parliament.

- (2) A Judge may by writing consent to be nominated by the Attorney-General under subsection (3).
- (3) The Attorney-General may by writing declare Judges in relation to whom consents are in force under subsection (2) to be eligible Judges for the purposes of this Part.

110ZLC Protection of Commissioner, legal practitioners, eligible Judges and witnesses

- (1) The Commissioner has, in the performance or exercise of functions or powers under this Part, the same protection and immunity as a Justice of the High Court.
- (2) A legal practitioner assisting the Commissioner or appearing on behalf of a person at a hearing before the Commissioner has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) An eligible Judge has, in relation to the performance or exercise of a function or power conferred on an eligible Judge by this Part, the same protection and immunity as a Justice of the High Court has in relation to proceedings in the High Court.
- (4) Subject to this Part, a person appearing as a witness at a hearing, or giving or producing information, evidence, a statement, a document or thing under section 110ZGC or 110ZGE, has the same protection as a witness in proceedings in the High Court.

110ZLD Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Part to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Part;
 - (e) directly amend the text of this Part.

110ZLE Review of the operation of this Part

- (1) The Minister must cause an independent review of the operation of this Part to be undertaken as soon as practicable after the end of the period of 36 months after the commencement of this Part.
- (2) Without limiting subsection (1), the review must consider:
 - (a) the effectiveness of the functions and powers of the Defence and Veterans' Services Commissioner and the Defence and Veterans' Services Commission to achieve the objects of this Part; and
 - (b) whether it would be appropriate to provide for the future operation of the Defence and Veterans' Services Commissioner and the Defence and Veterans' Services Commission in standalone legislation.
- (3) The persons who undertake the review must give the Minister a written report of the review within 6 months of the commencement of the review.

- (4) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.
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*[Minister's second reading speech made in—
House of Representatives on 3 July 2024
Senate on 18 November 2024]*

(82/24)

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