

EXPOSURE DRAFT

2022-2023-2024

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

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

No. , 2024

(Veterans' Affairs)

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

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

The Parliament of Australia enacts:

1 Short title

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

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

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1 column 2 of the table. Any other statement in column 2 has effect
2 according to its terms.

3

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	1 July 2026.	1 July 2026
3. Schedule 3, Part 1	The day after the end of the period of 60 days beginning on the day this Act receives the Royal Assent.	
4. Schedule 3, Part 2	1 July 2026.	1 July 2026
5. Schedules 4 to 8	1 July 2026.	1 July 2026

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

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

10 3 Schedules

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12 repealed as set out in the applicable items in the Schedule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

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

Schedule 1—Single ongoing Act main amendments

Part 1—Closing eligibility to DRCA and VEA

Military Rehabilitation and Compensation Act 2004

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

2 Section 3

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

3 Subsection 5(1)

Insert:

date of commencement means 1 July 2026.

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Schedule 1 Single ongoing Act main amendments

Part 1 Closing eligibility to DRCA and VEA

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

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

4 **4 Subsection 5(1) (subparagraph (c)(i) of the definition of**
5 ***partner*)**

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

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

8 Repeal the definition, substitute:

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

13 **6 Subsection 5(1)**

14 Insert:

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

16 **7 Subsection 5(1) (definition of *Veterans’ Affairs Minister*)**

17 Repeal the definition.

18 **8 Subsection 5(2)**

19 Repeal the subsection.

20 **9 After section 19**

21 Insert:

22 **19A De facto relationships**

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

27 (a) the financial aspects of the relationship, including:

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

- (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.

10 Section 197

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

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

- 1

11 Subsection 198(2)
- 2

Omit “*Veterans’ Entitlements Act 1986*”, substitute “VEA”.
- 3

12 Subsection 204A(2) (note 3)
- 4

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

13 Sections 221 to 224
- 6

Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
- 7

substitute “VEA”.
- 8

14 Paragraphs 234(5)(a) and 245(b)
- 9

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

15 Sections 246 to 248
- 11

Omit “*Veterans’ Entitlements Act 1986*” (wherever occurring),
- 12

substitute “VEA”.
- 13

16 Subsection 258(7)
- 14

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

17 Section 278
- 16

Omit “*Safety, Rehabilitation and Compensation (Defence-related*
- 17

Claims) Act 1988”, substitute “DRCA”.
- 18

18 Section 280A (heading)
- 19

Omit “**Safety, Rehabilitation and Compensation (Defence-related**
- 20

Claims) Act 1988”, substitute “DRCA”.
- 21

19 Subsection 280A(1)
- 22

Omit “*Safety, Rehabilitation and Compensation (Defence-related*
- 23

Claims) Act 1988”, substitute “DRCA”.
- 24

20 Subsection 280A(1) (note 1)
- 25

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

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

21 Subsection 280A(1) (note 2)

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

22 Subsection 280A(2)

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

23 Section 300 (note 2)

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

24 Sections 301 to 303

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

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

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

26 Section 423

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

27 Paragraph 424L(2)(b)

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

28 Paragraph 430(3E)(b)

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

29 Subsection 430A(2)

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

30 Subparagraph 438(a)(i)

Omit “Veterans’ Affairs”.

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

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

3 **31 Subsection 4(1)**

4 Insert:
5 *date of commencement* means 1 July 2026.

6 **32 After Part I**

7 Insert:

8 **Part IA—Operation of this Act on and after date of**
9 **commencement**
10

11 **14AA No new claims etc. on or after date of commencement**

12 Despite anything else in this Act:
13 (a) a claim may not be made under Part V on or after the date of
14 commencement; and
15 (b) an instrument may not be made under section 41B (acute
16 support package) on or after that date.

17 Note: From the date of commencement:
18 (a) claims that could previously be made under this Act will be able
19 to be made under the MRCA; and
20 (b) acute support packages that could previously be granted under
21 this Act will be able to be granted under section 268B of the
22 MRCA.

23 **33 Subsection 41B(1) (note)**

24 Omit “Note”, substitute “Note 1”.

25 **34 At the end of subsection 41B(1)**

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

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

35 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).

36 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

37 Subsection 5Q(1)

Insert:

date of commencement means 1 July 2026.

38 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

(1) Despite anything else in this Act, but subject to subsection (2):

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

(i) this Act;

(ii) a legislative instrument made under this Act; and

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

Note: From the date of commencement:

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Schedule 1 Single ongoing Act main amendments

Part 1 Closing eligibility to DRCA and VEA

- 1 (a) certain claims and applications that could previously be made
2 under this Act, or under legislative instruments made under this
3 Act, will be able to be made under the MRCA; and
4 (b) acute support packages that could previously be granted under
5 this Act will be able to be granted under section 268B of the
6 MRCA.
- 7 (2) A claim or application may be made under any of the following on
8 or after the date of commencement:
9 (a) Division 2A of Part II;
10 (b) Part III, IIIA, IIIAA or IIIAB;
11 (c) section 111, but only in respect of bereavement payment
12 under section 98AA;
13 (d) a legislative instrument made under Part III, IIIA, IIIAA or
14 IIIAB.

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

15 Repeal the notes, substitute:

16 Note: A claim may not be made on or after the date of commencement (see
17 section 12AA).
18

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

19 Add:

20 Note: An application may not be made on or after the date of
21 commencement (see section 12AA).
22

41 Section 93P (note)

23 Repeal the note, substitute:

24 Note: A claim may not be made on or after the date of commencement (see
25 section 12AA).
26

42 At the end of subsection 111(2)

27 Add:

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

43 Subsection 115S(1) (note)

32 Omit “Note”, substitute “Note 1”.
33

EXPOSURE DRAFT

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

- 1
- 2
- 3
- 4
- 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).

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Schedule 1 Single ongoing Act main amendments

Part 2 Opening MRCA to pre-2004 conditions

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):

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- (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.
- (3) Despite subsection (2), and unless another provision of this Act, or a provision of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*, provides otherwise, a person is not entitled to compensation under this Act in respect of the injury or disease if the person is receiving, or has received, any of the following in respect of the same injury or disease:
- (a) compensation under the DRCA;
- (b) a pension under Part II or IV of the VEA.

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).

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Schedule 1 Single ongoing Act main amendments

Part 2 Opening MRCA to pre-2004 conditions

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.

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

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

2 Add:
3 ; or (d) a member of a Peacekeeping Force.

4 **54 Subsection 5(1)**

5 Insert:

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

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

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

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

13 **55 Before section 6**

14 Insert:

15 **Part 2—Kinds of service to which this Act applies**
16

17 **56 Section 6 (heading)**

18 Repeal the heading, substitute:

19 **6 Defence service**

20 **57 Before subsection 6(1)**

21 Insert:

22 (1A) For the purposes of this Act, the following kinds of service are
23 *defence service*:

- 24 (a) warlike service;
25 (b) non-warlike service;
26 (c) British nuclear test defence service;
27 (d) hazardous service;

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Schedule 1 Single ongoing Act main amendments

Part 2 Opening MRCA to pre-2004 conditions

1 (e) peacetime service.

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

4 **58 Paragraph 6(1)(b)**

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

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

7 Repeal the paragraphs, substitute:

8 (c) *peacetime service* means service with the Defence Force that
9 is not any of the following:

- 10 (i) warlike service;
11 (ii) non-warlike service;
12 (iii) British nuclear test defence service;
13 (iv) hazardous service.

14 **60 After section 6**

15 Insert:

16 **6A Meanings of *peacekeeping service* and *Peacekeeping Force***

17 (1) *Peacekeeping service* means service rendered by a person with a
18 Peacekeeping Force outside Australia, and includes:

- 19 (a) any period after the person’s appointment or allocation to the
20 Peacekeeping Force during which the person was travelling
21 outside Australia for the purpose of joining the Peacekeeping
22 Force; and
23 (b) any period (not exceeding 28 days) of authorised travel by
24 the person outside Australia after the person has ceased to
25 serve with the Peacekeeping Force.

26 (2) For the purposes of subsection (1):

- 27 (a) a person who has travelled from a place in Australia to a
28 place outside Australia is taken to have commenced to travel
29 outside Australia when the person departed from the last port
30 of call in Australia; and

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

- 1 (b) a person who has travelled to Australia from a place outside
2 Australia is taken to have been travelling outside Australia
3 until the person arrived at the first port of call in Australia.
- 4 (3) A Peacekeeping Force described in column 1 of an item of the
5 following table is a ***Peacekeeping Force*** for the purposes of this
6 Act on and from the initial date specified in column 2 of the item.
7

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
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

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Item	Column 1 Description of Peacekeeping Force	Column 2 Initial date as a Peacekeeping Force
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
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.

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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

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British nuclear test defence service relating to work on contaminated things		
Item	Period in which involvement occurred	Area where thing was contaminated
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:

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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:

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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/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).

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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:

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

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

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

26 ***eligible civilian*** means a person:

- 27 (a) who was killed, or detained by the enemy, during World War
28 2; and
29 (b) who was, at the time the person was killed or first detained:
30 (i) a British subject; and
31 (ii) a resident, but not an indigenous inhabitant, of the
32 Territory of Papua or the Territory of New Guinea; and
33 (c) who was not, at that time:
34 (i) rendering service as a member of the Defence Force; or
35 (ii) employed by the Commonwealth on a special mission
36 outside Australia.

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1 **enemy** means:

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

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

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

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

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

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

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

- 30 (a) enlisted or re-engaged in, or was appointed or re-appointed
31 to, the Defence Force for continuous full-time operational
32 service for a term of not more than 2 years; or
33 (b) was appointed for continuous full-time operational service
34 with a unit of the Defence Force for a term of not more than
35 2 years;

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

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

3 ***period of hostilities*** means:

- 4 (a) World War 1 from its commencement on 4 August 1914 to
5 11 November 1918 (both included); or
6 (b) World War 2 from its commencement on 3 September 1939
7 to 29 October 1945 (both included); or
8 (c) the period of hostilities in respect of Korea from 27 June
9 1950 to 19 April 1956 (both included); or
10 (d) the period of hostilities in respect of Malaya from 29 June
11 1950 to 31 August 1957 (both included); or
12 (e) the period of hostilities in respect of war-like operations in
13 operational areas from 31 July 1962 to 11 January 1973 (both
14 included).

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

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

20 ***World War 1*** means:

- 21 (a) the war that commenced on 4 August 1914; or
22 (b) any other war in which the Crown became engaged after
23 4 August 1914 and before 11 November 1918.

24 ***World War 2*** means:

- 25 (a) the war that commenced on 3 September 1939; or
26 (b) any other war in which the Crown became engaged after
27 3 September 1939 and before 3 September 1945.

28 ***Allotted for duty***

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

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- 1 (a) in the case of duty that was carried out in an operational area
2 described in item 1, 2, 3, 6, 7, 8, 9 or 10 of the table in
3 section 451—to a person, or unit of the Defence Force, that is
4 allotted for duty in the area (whether retrospectively or
5 otherwise) by written instrument issued by the Defence Force
6 for use by the Commission in determining a person’s
7 eligibility for entitlements under this Act; or
8 (b) in the case of duty that was carried out in an operational area
9 described in item 4, 5, 11, 12, 13, 14, 15, 16 or 17 of the table
10 in section 451—to a person, or unit of the Defence Force,
11 that is allotted for duty in the area (whether retrospectively or
12 otherwise) by written instrument signed by the Vice Chief of
13 the Defence Force for use by the Commission in determining
14 a person’s eligibility for entitlements under this Act; or
15 (c) to a person, or unit of the Defence Force, that is, by written
16 instrument signed by the Defence Minister, taken to have
17 been allotted for duty in an operational area described in
18 item 6 or 10 of the table in section 451.

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

21 *Army Medical Corps Nursing Service*

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

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

- 33 (5) The Minister may, in writing, determine any of the following:

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- 1 (a) that a person, or a person included in a class of persons, was
2 rendering continuous full-time operational service while
3 rendering service of a kind specified in the determination;
4 (b) that a person, or a person included in a class of persons, was
5 a member of a specified unit of the Defence Force while
6 rendering service of a kind specified in the determination.
- 7 (6) A determination under subsection (5) is not a legislative
8 instrument.

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

- 10 (7) For the purposes of this Chapter:
11 (a) World War 1 is taken to have ended on 1 September 1921;
12 and
13 (b) World War 2 is taken to have ended on 28 April 1952.
- 14 Note 1: 1 September 1921 is the date fixed by Proclamation under the
15 *Termination of the Present War (Definition) Act 1919*.
- 16 Note 2: 28 April 1952 is the date on which the Treaty of Peace with Japan
17 came into force.

18 *References to coordinates*

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

22 **Part 2—Application of this Act to operational** 23 **service** 24

25 **443 This Act applies to operational service as if it were warlike** 26 **service/non-warlike service**

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

- 29 (a) the operational service were warlike service/non-warlike
30 service; and

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(b) the person who is taken to have been rendering the operational service were a member who had rendered warlike service/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	(a) continuous full-time operational service outside Australia during World War 1 or World War 2; or (b) continuous full-time operational service for a period of at least 3 months in that part of the Northern Territory that is north of the parallel 14°30'S (including any of the islands adjoining the Northern Territory) between 19 February 1942 and 12 November 1943 (both dates inclusive); or (c) continuous full-time operational service during World War 1 or World War 2 rendered within Australia immediately before, or immediately after, a period of continuous full-time operational service of the kind referred to in paragraph (a) or (b); or (d) continuous full-time operational service rendered within Australia during World War 2 in such circumstances that the service should, in the opinion of the

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

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

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

- (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

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Cut-off date		
Item	Member	Date
		on the completion of the 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;

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

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

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

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

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

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

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

15 (b) if the member was outside Australia on the relevant day—on
16 that day;

17 and ending at the end of:

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

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

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

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

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

35 (b) returned to Australia on emergency or other leave granted on
36 compassionate grounds; or

37 (c) returned to Australia on duty; or

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

12 **447 Operational service—other post-World War 2 service**

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

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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.

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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:

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- (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.

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Division 2—Operational areas

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451 Meaning of *operational area*

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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

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

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Operational areas

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

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

Operational areas		
Item	Area	Period
	northern shore of Borneo at high-water mark with the boundary between Kalimantan and Sarawak; (b) then proceeding generally south-easterly, easterly and northerly along that boundary to its junction with the boundary between Kalimantan and Sabah; (c) then proceeding generally easterly along that boundary to its intersection with the eastern shore of Borneo at high-water mark; (d) then proceeding in a straight line easterly to the intersection of the western shore of the island of Sebatik at high-water mark with the boundary between that part of that island that forms part of Sabah and that part of that island that forms part of Kalimantan; (e) then proceeding generally easterly along that boundary to its intersection with the eastern shore of the island of Sebatik at high-water mark; (f) then proceeding in a straight line easterly to a point 80.5 kilometres east (true) of the intersection of the eastern shore of Borneo at high-water mark with the boundary between Kalimantan and Sabah; (g) then proceeding generally northerly and south-westerly parallel to and at a distance of 80.5 kilometres from the eastern and northern shores, respectively, of Borneo at high-water mark to a point 80.5 kilometres north (true) of the point of commencement; (h) then proceeding in a straight line southerly to the point of commencement	
9	The territories of Malaysia, Brunei and Singapore and the waters adjacent to those	The period from and including 17 August 1964

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Operational areas

Item	Area	Period
	countries	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: (a) commencing at the intersection of the boundary between Cambodia and Vietnam (Southern Zone) with the shore of Vietnam (Southern Zone) at high-water mark; (b) then proceeding in a straight line to a point 185.2 kilometres west (true) of that intersection; (c) then proceeding along an imaginary line parallel to, and at a distance of 185.2 kilometres from, the shore of Vietnam at high-water mark to its intersection with the parallel 21°30'N; (d) then proceeding along that parallel westerly to its intersection with the shore of Vietnam at high-water mark; (e) then following the shore of Vietnam at high-water mark to the point of commencement	The period from and including 31 July 1962 to and including 11 January 1973
11	The area comprising the United Nations Mandated Territory of Namibia and the area of land extending 400 kilometres outwards from the borders of Namibia into the adjoining countries of Angola, Zambia, Zimbabwe, Botswana and South Africa (including Walvis Bay)	The period from and including 18 February 1989 to and including 10 April 1990
12	The area comprising the following countries and sea areas: (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	The period from and including 2 August 1990 to and including 9 June 1991

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

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Schedule 1 Single ongoing Act main amendments

Part 2 Opening MRCA to pre-2004 conditions

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.

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

1 **Division 4—Needs assessment**

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

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

4 Add:

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

EXPOSURE DRAFT

Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

Part 3—Other amendments

Division 1—Permanent impairment

Military Rehabilitation and Compensation Act 2004

72 Paragraph 68(2)(b)

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

73 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.

74 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:

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- 1 (a) the date on which a claim was made under section 319 for
2 acceptance of liability for the additional service injuries or
3 diseases; and
4 (b) the date on which both of the following were first satisfied,
5 as estimated by a medical practitioner who has examined the
6 person:
7 (i) the additional impairment suffered by the person as a
8 result of the additional injuries or diseases became
9 likely to continue indefinitely;
10 (ii) each of the person's additional injuries or diseases
11 stabilised.
- 12 (5) For the purposes of subsection (3), the date determined for
13 additional compensation under subsection (2) must be the later of:
14 (a) the date on which the Commission was notified of the
15 deterioration in the person's compensable condition; and
16 (b) the date on which both of the following were first satisfied,
17 as estimated by a medical practitioner who has examined the
18 person:
19 (i) the additional impairment suffered by the person as a
20 result of the deterioration in the person's compensable
21 condition became likely to continue indefinitely;
22 (ii) the person's compensable condition stabilised.
- 23 *Reference to person who has been paid compensation under this*
24 *Part*
- 25 (6) In this section, a reference to a person who has been paid
26 compensation under this Part includes a reference to a person who
27 has been paid:
28 (a) compensation under Division 4 of Part II of the DRCA in
29 respect of an injury or disease; or
30 (b) a pension under Part II or IV of the VEA in respect of an
31 injury or disease, at the rate specified in subsection 22(4) of
32 that Act.

75 Subsection 77(1)

Omit "the later of".

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

1 **76 Paragraphs 77(1)(a) and (b)**

2 Repeal the paragraphs, substitute:

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

11 **77 Subsection 77(2)**

12 Omit “the later of”.

13 **78 Paragraphs 77(2)(a) and (b)**

14 Repeal the paragraphs, substitute:

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

23 **79 Subsection 77(3)**

24 Omit “the later of”.

25 **80 Paragraphs 77(3)(a) and (b)**

26 Repeal the paragraphs, substitute:

- 27 (a) if the date on which the person became entitled to
28 compensation under that subsection in respect of the
29 deterioration in the injury or disease is the date mentioned in
30 paragraph 71(5)(a)—that date; or
31 (b) if the date on which the person became entitled to
32 compensation under that subsection in respect of the
33 deterioration in the injury or disease is the date mentioned in

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paragraph 71(5)(b)—the first day of the calendar month
during which that date occurs.

Division 2—Liability restrictions on tobacco use

Military Rehabilitation and Compensation Act 2004

81 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 3—Medical event on service

Military Rehabilitation and Compensation Act 2004

82 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;

83 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.

84 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;

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Part 3 Other amendments

1 **85 At the end of subsection 28(1)**

2 Add:

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

5 **86 Subsection 338(1)**

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

9 **87 Subsection 339(1)**

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

13 **Division 4—Posthumous permanent impairment**
14 **payments**

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

16 **88 Subsection 78(7)**

17 Repeal the subsection, substitute:

18 *Choice may be made by legal personal representative*

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

- 23 (a) the deceased person made the claim for compensation before
24 the person’s death; and
25 (b) the deceased person did not make a choice under
26 subsection (1) in respect of the weekly amount before the
27 person’s death.

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

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- 1 (8) The choice under subsection (7) must be made in writing and must
2 be given to the Commission within 6 months after the date on
3 which the legal personal representative is given the notice under
4 section 76.
- 5 (9) For the purposes of working out the amount of the lump sum if a
6 choice is made under subsection (7), subsection (5) applies as if:
7 (a) the appropriate percentage were 100%; and
8 (b) the weekly amount converted to a lump sum were worked out
9 by reference to the person's age at the date of the person's
10 death; and
11 (c) the weekly amount converted to a lump sum excluded any
12 compensation payable in respect of the effect of a service
13 injury or disease on a person's lifestyle.

89 Subsection 79(1)

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

90 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).

91 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 5—Overpayments and debts

Military Rehabilitation and Compensation Act 2004

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

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

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1 **93 At the end of subsection 415(4)**

2 Add “or the DRCA”.

3 **94 Paragraph 416(1)(a)**

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

5 **95 Subsections 428(1) and 429(1)**

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

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

9 **96 Section 60 (definition of *determination*)**

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

11 **97 Sections 114 to 114D**

12 Repeal the sections.

13 **Division 6—Payment to solicitor’s trust account**

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

15 **98 Subsection 430(3D)**

16 Repeal the subsection, substitute:

17 *Nomination of accounts*

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

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Division 7—Common law damages

Military Rehabilitation and Compensation Act 2004

99 Subsection 389(5)

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

Division 8—Information sharing

Military Rehabilitation and Compensation Act 2004

100 Subsection 5(1)

Insert:

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

101 Section 405 (heading)

Repeal the heading, substitute:

405 Power of Commission to obtain information from claimant

102 Subsection 406(1)

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

103 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

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- 1Commission to perform its functions or duties or exercise its
- 2powers.
- 3(2) To avoid doubt, if information is disclosed in accordance with this
- 4section, the disclosure is taken, for the purposes of the Australian
- 5Privacy Principles, to be authorised by this Act.
- 6(3) This section applies despite any other law of the Commonwealth or
- 7any rule of common law.

407B Use of information by Commission

9The Commission may use or disclose information obtained under

10section 407A if the use or disclosure is for the purposes of the

11Commission performing its functions or duties, or exercising its

12powers.

104 Subsection 409(2)

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

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

14Repeal the items substitute:

15

16

17

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

106 Paragraph 409(2A)(a)

- 18Repeal the paragraph, substitute:
- 19
- 20(a) any of the following apply:
- 21(i) a person is entitled to treatment under Chapter 6 of this
- 22Act;
- 23(ii) a person is entitled to compensation for medical
- 24treatment under the DRCA;
- 25(iii) a person is entitled to treatment under Part V of the
- 26VEA; and

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

Omit “Scheme Launch Transition”.

108 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

109 Sections 151, 151AA and 151A

Repeal the sections.

Division 9—Offsetting

Military Rehabilitation and Compensation Act 2004

110 Section 386 (paragraph beginning “This Chapter”)

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

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

1 **111 Section 386 (paragraph beginning “This Chapter”)**

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

3 **112 Subsection 388(5)**

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

6 **113 Paragraph 388(5)(a)**

7 Repeal the paragraph, substitute:

8 (a) an amount equal to the total of the following:

- 9 (i) all amounts of compensation paid to the person under
10 this Act in respect of the service death before the
11 recovery of damages (except MRCA supplement under
12 section 245 and compensation for dependants under
13 section 242, 253 or 255);
14 (ii) all amounts of compensation paid to the person under
15 the DRCA in respect of the service death before the
16 recovery of damages;
17 (iii) all amounts of pension paid to the person under Part II
18 or IV of the VEA in respect of the service death before
19 the recovery of damages; and

20 **114 Subsection 388(6)**

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

23 **115 Paragraph 389(1)(a)**

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

25 **116 Paragraph 389(4)(b)**

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

27 **117 Paragraph 390(1)(a)**

28 Repeal the paragraph, substitute:

29 (a) any of the following apply:

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- 1 (i) compensation is payable under this Act in respect of a
- 2 service injury, disease or death of a person;
- 3 (ii) compensation is, or has been, payable under the DRCA
- 4 in respect of an injury, disease or death of a person;
- 5 (iii) a pension is, or has been, payable under Part II or IV of
- 6 the VEA in respect of an injury, disease or death of a
- 7 person; and

8 **118 Paragraphs 391(1)(a) and 392(1)(a)**

9 Repeal the paragraphs, substitute:

10 (a) any of the following apply:

- 11 (i) compensation is payable under this Act in respect of a
- 12 service injury, disease or death of a person (the *cause of*
- 13 *action*);
- 14 (ii) compensation is payable under this Act in respect of the
- 15 loss of, or damage to, a medical aid used by a person
- 16 (the *cause of action*);
- 17 (iii) compensation is, or has been, payable under the DRCA
- 18 in respect of an injury, disease or death of a person (the
- 19 *cause of action*);
- 20 (iv) compensation is, or has been, payable under the DRCA
- 21 in respect of the loss of, or damage to, property used by
- 22 a person (the *cause of action*);
- 23 (v) a pension is, or has been, payable under Part II or IV of
- 24 the VEA in respect of an injury, disease or death of a
- 25 person (the *cause of action*); and

26 **119 Paragraph 397(1)(b)**

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

28 **120 Paragraph 397(1)(b)**

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

30 **121 Paragraph 397(1)(b)**

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

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

1 **122 Subsection 397(5)**

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

3 **123 Subsection 397(5)**

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

6 **124 Paragraph 398(2)(a)**

7 Repeal the paragraph, substitute:

8 (a) an amount equal to the total of:

9 (i) if the claim relates to a cause of action mentioned in
10 subparagraph 392(1)(a)(i) or (ii)—all amounts of
11 compensation paid to the plaintiff under this Act before
12 the payment of the damages (except MRCA supplement
13 under section 221 or 245 and compensation for
14 dependants under section 242, 253 or 255) in respect of
15 the cause of action; or

16 (ii) if the claim relates to a cause of action mentioned in
17 subparagraph 392(1)(a)(iii) or (iv)—all amounts of
18 compensation paid to, or for the benefit of, the plaintiff
19 under the DRCA before the payment of the damages in
20 respect of the cause of action; or

21 (iii) if the claim relates to a cause of action mentioned in
22 subparagraph 392(1)(a)(v)—all amounts of pension paid
23 to the plaintiff under Part II or IV of the VEA before the
24 payment of the damages in respect of the cause of
25 action; and

26 **125 Paragraph 398(3)(b)**

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

29 **126 Paragraph 398(3)(b)**

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

31 **127 Division 3 of Part 3 of Chapter 10 (heading)**

32 Omit “under this Act”.

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Single ongoing Act main amendments **Schedule 1**

Other amendments **Part 3**

128 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

129 Section 401 (heading)

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

130 Paragraph 401(1)(a)

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

131 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

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

- 1 (ii) if the claim relates to a cause of action mentioned in
2 subparagraph 399(a)(iii) or (iv)—all amounts of
3 compensation paid to, or for the benefit of, the person
4 under the DRCA before the payment of the damages in
5 respect of the cause of action; or
6 (iii) if the claim relates to a cause of action mentioned in
7 subparagraph 399(a)(v)—all amounts of pension paid to
8 the person under Part II or IV of the VEA before the
9 payment of the damages in respect of the cause of
10 action; and

11 **132 Subsection 401(3)**

12 Repeal the subsection, substitute:

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

22 **133 Section 402 (heading)**

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

24 **134 Subsection 402(1)**

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

26 **135 Subsection 402(1)**

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

30 **136 Subsection 402(2)**

31 Repeal the subsection, substitute:

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Single ongoing Act main amendments **Schedule 1**

Other amendments **Part 3**

(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.

137 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

138 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

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

- 1 section 221 or 245 and compensation for dependants
2 under section 242, 253 or 255);
3 (ii) the total amount of compensation paid to the plaintiff
4 under the DRCA in respect of the injury, loss or
5 damage;
6 (iii) the total amount of pension paid to the plaintiff under
7 Part II or IV of the VEA in respect of the injury, disease
8 or death.

9 Division 10—Rehabilitation

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

12 139 Subsection 4(1)

13 Repeal the following definitions:

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

16 140 Subsection 4(1)

17 Insert:

18 *transferred DRCA rehabilitation program* means a rehabilitation
19 program under this Act that:

- 20 (a) on and after the date of commencement, is taken to be an
21 approved rehabilitation program for the purposes of the
22 MRCA because of section 97 of the CTPA; and
23 (b) has not ceased under section 53 of the MRCA.

24 141 Subparagraphs 6(1)(f)(iii) and (g)(iii)

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

27 142 Part III

28 Repeal the Part.

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Single ongoing Act main amendments **Schedule 1**
Other amendments **Part 3**

1 **143 Section 60 (definition of *determination*)**

2 Omit “36, 37 or 39”.

3 **144 Section 60 (definition of *reviewable decision*)**

4 Repeal the definition.

5 **145 Sections 146 and 148**

6 Repeal the sections.

7 **146 Subsection 160(1A)**

8 Repeal the subsection.

9 ***Veterans’ Entitlements Act 1986***

10 **147 Subsection 5Q(1)**

11 Insert:

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

13 **148 Subsection 5Q(1) (definition of *Veterans’ Vocational***
14 ***Rehabilitation Scheme*)**

15 Repeal the definition.

16 **149 Subsection 24(5A)**

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

20 **150 Subsection 24A(2)**

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

24 **151 Paragraph 37AAA(b)**

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

EXPOSURE DRAFT

Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

1 **152 Subsection 115A(1)**

2 Insert:

3 *transferred VEA rehabilitation program* means a rehabilitation
4 program under this Act that:

- 5 (a) on and after the date of commencement, is taken to be an
6 approved rehabilitation program for the purposes of the
7 MRCA because of section 97 of the CTPA; and
8 (b) has not ceased under section 53 of the MRCA.

9 **153 Subsection 115A(1) (definition of *unaffected pension***
10 ***rate*)**

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

14 **154 Section 115B**

15 Repeal the section.

16 **155 Subsections 115C(1), 115D(1), 115D(1A)**

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

20 **156 Subsection 115D(7) (definition of *initial period*)**

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

23 **157 Subsection 115D(7) (definition of *pension rate on***
24 ***commencement*)**

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

27 **158 Subsection 115G(1)**

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

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Single ongoing Act main amendments **Schedule 1**

Other amendments **Part 3**

159 Subsections 115H(1) and (2)

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

160 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”.

161 Paragraph 115H(4)(b)

Before “rehabilitation”, insert “VEA”.

162 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”.

163 Paragraph 115H(5)(b)

Before “rehabilitation”, insert “VEA”.

164 Subsection 115H(6)

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

165 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.

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Schedule 1 Single ongoing Act main amendments

Part 3 Other amendments

1 **166 Subsection 115L(1)**

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

5 **167 Paragraph 115L(3)(c)**

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

8 **168 Paragraph 199(da)**

9 Repeal the paragraph.

10 **Division 11—Motor Vehicle Compensation Scheme**

11 ***Military Rehabilitation and Compensation Act 2004***

12 **169 After paragraph 212(1)(b)**

13 Insert:

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

16 **170 After subsection 212(1)**

17 Insert:

18 (1A) Paragraph (1)(a) does not apply in respect of a person:

19 (a) who is, or has been, paid compensation under the DRCA in
20 respect of an injury or disease (the *original condition*); or

21 (b) who is, or has been, paid a pension under Part II or IV of the
22 VEA in respect of an injury or disease (the *original*
23 *condition*);

24 unless:

25 (c) the Commission has accepted liability for another injury or
26 disease of the person (other than because of the operation of
27 section 24A of this Act); or

28 (d) the Commission is satisfied that:

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- 1
- 2
- 3
- 4
- 5
- (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.

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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

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

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

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

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

4 Add:

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

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

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

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

25 **268AB Funeral compensation for certain other deceased members**

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

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

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

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

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

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

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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.

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- (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:

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- 1 (a) the person who made the claim for compensation; or
2 (b) if that person so directs:
3 (i) the person who carried out the funeral; or
4 (ii) any other person who incurred the cost of the funeral.
5 Note 1: A special rule applies if there is a trustee under section 432.
6 Note 2: Compensation under section 268AA is payable to the estate of a
7 deceased member (see section 268AA).
8 (2) A payment under section 268AB or 268AC to a person who carried
9 out the funeral discharges any liability of any other person for the
10 cost of the funeral to the extent of the payment.

11 **8 Subsection 320(1) (note)**

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

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

15 **9 Subsection 13(1) (definition of *relevant amount*)**

16 Omit “paragraph 18(4)(a) or”.

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

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

19 **11 Section 18**

20 Repeal the section.

21 **12 Section 60 (definition of *determination*)**

22 Omit “18,”.

23 **13 Subsections 124(8) and (9)**

24 Omit “or section 18”.

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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) compensation under Division 3 of Part II of the DRCA; or

(iv) a pension under Part II of the VEA as a person to whom section 23, 24 or 25 of that Act applies; or

(v) a veteran payment made under an instrument made under section 45SB of the VEA;

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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) compensation under Division 3 of Part II of the DRCA; or
 - (iv) a pension under Part II of the VEA as a person to whom section 23, 24 or 25 of that Act applies; or
 - (v) 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:

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

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

9 ***Military Rehabilitation and Compensation Act 2004***

10 **25 At the end of subsections 214(1) and 217(1)**

11 Add:

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

14 **Division 4—Victoria Cross allowance and decoration** 15 **allowance**

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

17 **26 Section 3**

18 Omit “, a Victoria Cross allowance”.

19 **27 Subsection 5(1)**

20 Insert:

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

22 **28 Section 65 (at the end of the paragraph beginning “This** 23 **Chapter”)**

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

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Part 1 Amendments relating to allowances etc.

1 **29 Section 65 (paragraph beginning “Part 7 provides”)**

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

4 **30 Section 211 (paragraph beginning “This Part provides”)**

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

6 **31 Section 211 (at the end of the paragraph beginning “This
7 Part provides”)**

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

10 **32 At the end of section 211**

11 Add:

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

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

17 **33 At the end of Part 7 of Chapter 4**

18 Add:

19 **Division 6—Victoria Cross allowance**

20 **230A Eligibility for Victoria Cross allowance**

- 21 (1) The Commonwealth is liable to pay an allowance, called Victoria
22 Cross allowance, to a person in respect of an allowance period if:
23 (a) before the start of the period, the person has been awarded
24 the Victoria Cross or the Victoria Cross of Australia; and
25 (b) at the start of the period:
26 (i) the person is living; and
27 (ii) the award has not been rescinded.

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1 (2) In this section:

2 *allowance period* means a period of 12 months starting on
3 20 September.

4 **230B Amount of Victoria Cross allowance**

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

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

7 **Division 7—Decoration allowance**

8 **230C Decoration allowance**

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

12 (2) Without limiting subsection (1), an instrument under that
13 subsection may provide for the following:

- 14 (a) the circumstances in which the Commonwealth is liable to
15 pay decoration allowance;
16 (b) the decorations that are eligible decorations;
17 (c) the amount, or a method for working out the amount, of
18 decoration allowance;
19 (d) indexation of the amount of decoration allowance;
20 (e) the persons to whom decoration allowance is payable.

21 **34 At the end of Part 1 of Chapter 11**

22 Add:

23 **404A Indexation of Victoria Cross allowance**

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

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

- (2) The amount worked out under subsection (1) is to be rounded to the nearest whole dollar (rounding 50 cents upwards).

- (3) The ***indexation factor*** for an allowance period 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 last June quarter before the reference quarter.

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 period.

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- 1
- Veterans’ Entitlements Act 1986**
- 2
- 35 Paragraph 5H(8)(faa)**
- 3
- Omit “section 102”, substitute “an instrument made under section 230C
- 4
- of the MRCA”.
- 5
- 36 Paragraph 5H(8)(faa)**
- 6
- Omit “section 103”, substitute “section 230A of the MRCA”.
- 7
- 37 Paragraph 52Z(3A)(f)**
- 8
- Omit “section 102”, substitute “an instrument made under section 230C
- 9
- of the MRCA”.
- 10
- 38 Paragraph 52Z(3A)(f)**
- 11
- Omit “section 103”, substitute “section 230A of the MRCA”.
- 12
- 39 Paragraph 96(2)(f)**
- 13
- Omit “subparagraph 102(1)(b)(ii) and”.
- 14
- 40 Sections 102 and 103**
- 15
- Repeal the sections.
- 16
- 41 Paragraph 111(1)(d)**
- 17
- Repeal the paragraph.
- 18
- 42 Paragraphs 115(1)(c) and (d)**
- 19
- Repeal the paragraphs.
- 20
- 43 Subsection 121(7) (definition of *pension*)**
- 21
- Omit “Victoria Cross allowance under section 103 or”.
- 22
- 44 Subsection 177(6)**
- 23
- Omit “, 102, 103”.
- 24
- 45 Section 198FA**
- 25
- Repeal the section.

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Part 1 Amendments relating to allowances etc.

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

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

3 **46 Subsection 5(1) (after paragraph (d) of the definition of**
4 ***compensation*)**

5 Insert:

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

8 **47 After Chapter 5**

9 Insert:

10 **Chapter 5AA—Compensation relating to**
11 **prisoners of war**

12 **Part 1—Preliminary**
13

14 **268AF Simplified outline of this Chapter**

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

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

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

23 **268AG Definitions**

24 (1) In this Chapter:

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

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

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- 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.

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Part 1 Amendments relating to allowances etc.

Relevant military forces, designated war period and compensation eligibility date			
Item	Column 1 Relevant military forces	Column 2 Designated war period	Column 3 Compensation eligibility date
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:

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

- 1 (a) the person is a former member; and
- 2 (b) the person was interned by relevant military forces at any
- 3 time during the designated war period for the relevant
- 4 military forces; and
- 5 (c) the person was alive on the compensation eligibility date for
- 6 the relevant military forces and designated war period; and
- 7 (d) a claim for compensation in respect of the person has been
- 8 made under section 319.

9 *Partners of deceased members*

- 10 (2) The Commonwealth is liable to pay compensation to a person in
- 11 respect of a deceased member if:
- 12 (a) the deceased member was interned by relevant military
- 13 forces at any time during the designated war period for the
- 14 relevant military forces; and
- 15 (b) the deceased member died before the compensation
- 16 eligibility date for the relevant military forces and designated
- 17 war period; and
- 18 (c) the person was a partner of the deceased member
- 19 immediately before the member's death; and
- 20 (d) the person was alive at the start of the compensation
- 21 eligibility date for the relevant military forces and designated
- 22 war period; and
- 23 (e) a claim for compensation in respect of the deceased member
- 24 has been made under section 319.

25 *Civilians*

- 26 (3) The Commonwealth is liable to pay compensation to a person in
- 27 the person's own right as a civilian if:
- 28 (a) the person was interned by the relevant military forces
- 29 covered by item 1 or 3 of the table in section 268AH at any
- 30 time during the designated war period for the relevant
- 31 military forces; and
- 32 (b) the person was domiciled in Australia immediately before the
- 33 civilian's internment; and

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Part 1 Amendments relating to allowances etc.

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

6 *Partners of deceased civilians*

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

25 *Dependants (other than partners and children) of deceased* 26 *members*

- 27 (5) The Commonwealth is liable to pay compensation to a person in
28 respect of a deceased member if:
29 (a) the deceased member was interned by the relevant military
30 forces covered by item 3 of the table in section 268AH at any
31 time during the designated war period for the relevant
32 military forces; and
33 (b) the deceased member died before the compensation
34 eligibility date for the relevant military forces and designated
35 war period; and

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- 1 (c) the person was a dependant (within the meaning of the
- 2 VEA), but not a partner or a child, of the deceased member
- 3 immediately before the member's death; and
- 4 (d) the person was alive at the start of the compensation
- 5 eligibility date for the relevant military forces and designated
- 6 war period; and
- 7 (e) a claim for compensation in respect of the deceased member
- 8 has been made under section 319.

9 *One payment only*

- 10 (6) The Commonwealth is not liable to pay compensation under
- 11 subsection (1), (2), (3), (4) or (5) in respect of a person if:
- 12 (a) compensation under any of those subsections has previously
- 13 been paid in respect of the person; or
- 14 (b) a payment under any of the following has previously been
- 15 made in respect of the person:
- 16 (i) the *Compensation (Japanese Internment) Act 2001*;
- 17 (ii) Schedule 5 to the *Social Security and Veterans' Affairs*
- 18 *Legislation Amendment (One-off Payments and Other*
- 19 *2007 Budget Measures) Act 2007*;
- 20 (iii) Part 2 of the *Veterans' Entitlements (Clarke Review) Act*
- 21 *2004*;
- 22 (iv) the *Veterans' Entitlements (Compensation—Japanese*
- 23 *Internment) Regulations 2001*.

24 **268AK Amount of compensation**

25 The amount of compensation payable under section 268AJ is

26 \$25,000.

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Part 1 Amendments relating to allowances etc.

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.

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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 404.

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 subsection 404(1)

Add:
; (n) section 268AN.

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);

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Part 1 Amendments relating to allowances etc.

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

Omit “VIB.”.

54 After 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.

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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

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

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

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Part 1 Amendments relating to allowances etc.

1 *Extended meaning of child*

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

10 *Certain expressions have same meaning as in VEA*

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

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

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

29 *Variation or revocation*

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

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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:

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Part 1 Amendments relating to allowances etc.

- 1 (a) if the Commission is satisfied that the person falls within a
2 determined class—that the person is included in that
3 determined class; or
4 (b) otherwise—that the person is not included in a determined
5 class.

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

8 **67 Section 258 (at the end of the heading)**

9 Add “and other children”.

10 **68 After paragraph 258(1)(b)**

- 11 Insert:
12 ; and (c) a VEA eligible child; and
13 (d) a VEA eligible grandchild.

14 **69 After subsection 258(1)**

- 15 Insert:
16 (1A) Paragraphs (1)(a) and (b) do not apply in respect of a member or
17 former member who is, or has been, paid compensation under the
18 DRCA in respect of an injury or disease (the *original condition*)
19 unless:
20 (a) the Commission has accepted liability for another injury or
21 disease of the member or former member (other than because
22 of the operation of section 24A of this Act); or
23 (b) the Commission is satisfied that:
24 (i) the member, or former member, has suffered additional
25 impairment as result of another injury or disease or as a
26 result of a deterioration in the original condition; and
27 (ii) the increase in the member’s, or former member’s,
28 overall impairment constitutes at least 5 impairment
29 points.

EXPOSURE DRAFT

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

70 Subsection 258(2)

After “person”, insert “, VEA eligible child or VEA eligible grandchild”.

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*);

73 Paragraph 345(2)(e)

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

Veterans' Entitlements Act 1986

74 Paragraph 5H(8)(fa)

Repeal the paragraph.

75 Paragraph 5H(8)(zx)

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

76 Subsection 5Q(1) (definition of *Veterans' Children Education Scheme*)

Repeal the definition.

77 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).

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 1 Amendments relating to allowances etc.

1 **78 Sections 67W and 67ZV**

2 Repeal the sections.

3 **79 Paragraph 70(10A)(e)**

4 Repeal the paragraph, substitute:

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

8 **80 Part VII**

9 Repeal the Part.

10 **81 Subsection 128A(2)**

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

13 **82 Subsection 175(5)**

14 Repeal the subsection.

15 **83 Paragraph 197(2)(c)**

16 Omit “or Part VII”.

17 **Division 7—Additional compensation for children of**
18 **severely impaired veterans**

19 ***Military Rehabilitation and Compensation Act 2004***

20 **84 Subsection 80(1)**

21 Repeal the subsection, substitute:

- 22 (1) This section applies to a person (the *impaired person*) who has
23 been paid, or is entitled to be paid, compensation under this Part if:
24 (a) either or both of the following apply:
25 (i) the Commission has accepted liability for one or more
26 injuries or diseases of the person (other than because of
27 the operation of section 24A of this Act);

EXPOSURE DRAFT

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

- 1 (ii) the person is covered by subsection (1A) of this section;
2 and
3 (b) the Commission has determined that the degree of
4 impairment suffered by the person as a result of one or more
5 service injuries or diseases constitutes at least 80 impairment
6 points.
- 7 (1A) A person is covered by this subsection if:
8 (a) the person is, or has been, paid:
9 (i) compensation under the DRCA in respect of an injury
10 or disease (the *original condition*); or
11 (ii) a pension under Part II or IV of the VEA in respect of
12 an injury or disease (the *original condition*), at the rate
13 specified in subsection 22(4) of that Act; and
14 (b) the Commission is satisfied that:
15 (i) the person has suffered additional impairment as result
16 of another injury or disease or as a result of a
17 deterioration in the original condition; and
18 (ii) the increase in the person's overall impairment
19 constitutes at least 5 impairment points.

85 Subsection 80(2)

20 Omit "to pay the impaired person", substitute "to pay".

86 After section 80

23 Insert:

80A Whom the additional amount is payable to

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

- 27 (a) if the impaired person has primary responsibility for the daily
28 care of the eligible young person or child—the impaired
29 person; or
30 (b) otherwise—the person who has primary responsibility for the
31 daily care of the eligible young person or child.

EXPOSURE DRAFT

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- Division 8—Special assistance
- Military Rehabilitation and Compensation Act 2004*
- 87 Subsection 424(1)
- Omit “(1)”.
- 88 Subsection 424(2)
- Repeal the subsection.
- Division 9—Repeals
- Compensation (Japanese Internment) Act 2001*
- 89 The whole of the Act
- Repeal the Act.

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Amendments relating to treatment **Part 2**

Part 2—Amendments relating to treatment

Division 1—Travel for treatment arrangements

Military Rehabilitation and Compensation Act 2004

90 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.

91 Subparagraph 290(1)(b)(iii)

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

92 Subparagraph 290(1)(b)(iv)

Repeal the subparagraph.

93 Subparagraph 290(2)(c)(iii)

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

94 Subparagraph 290(2)(c)(iv)

Repeal the subparagraph.

95 After section 291

Insert:

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 2 Amendments relating to treatment

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.

96 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).

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Amendments relating to treatment **Part 2**

1 **97 After paragraph 415(1)(b)**

2 Insert:

3 (ba) any amount by which an advance payment (under the scheme
4 referred to in section 291A) in respect of compensation a
5 person is expected to become entitled to under section 290 or
6 291 exceeds the amount of compensation that the person
7 becomes entitled to under section 290 or 291; or

8 **98 After paragraph 423(caa)**

9 Insert:

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

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

14 **99 Subsections 16(6) to (9)**

15 Repeal the subsections.

16 **100 Subsection 144B(6)**

17 Repeal the subsection.

18 ***Veterans' Entitlements Act 1986***

19 **101 Section 110**

20 Repeal the section.

21 **102 Paragraph 111(1)(g)**

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

23 **103 Paragraph 111(1)(h)**

24 Repeal the paragraph.

25 **104 Subsection 112(3)**

26 Repeal the subsection.

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 2 Amendments relating to treatment

1 **105 Paragraph 112(4)(b)**

2 Omit “or”.

3 **106 Paragraph 112(4)(c)**

4 Repeal the paragraph.

5 **107 Subsection 112(4)**

6 Omit “, (2) or (3)”, substitute “or (2)”.

7 **Division 2—Treatment arrangements**

8 ***Military Rehabilitation and Compensation Act 2004***

9 **108 Section 278**

10 Omit:

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

15 substitute:

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

19 The Commission can arrange for treatment under this Part in
20 accordance with arrangements it has with hospitals and doctors etc.
21 or in accordance with a determination it makes under Division 3A
22 or 4 of this Part.

23 **109 Paragraphs 279(a) and 280(b)**

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

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Amendments relating to treatment **Part 2**

1 **110 Subsection 281(1)**

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

4 **111 Subsection 281(2)**

5 Omit “However, if”, substitute “If”.

6 **112 At the end of section 281**

7 Add:

- 8 (3) If the person is, or has been, paid compensation under the DRCA
9 in respect of an injury or disease (the *original condition*), then the
10 person is only entitled to treatment under subsection (1) if:
11 (a) the Commission has accepted liability for another injury or
12 disease of the person (other than because of the operation of
13 section 24A); or
14 (b) the Commission is satisfied that:
15 (i) the person has suffered additional impairment as a result
16 of another injury or disease or as a result of a
17 deterioration in the original condition; and
18 (ii) the increase in the person’s overall impairment
19 constitutes at least 5 impairment points.

20 **113 At the end of section 284**

21 Add:

22 *Exclusion for certain deceased members*

- 23 (3) Subsections (1) and (2) do not apply if:
24 (a) the deceased member died before the date of commencement;
25 and
26 (b) before the deceased member died, the member was paid
27 compensation under the DRCA.

28 **114 After Division 3 of Part 3 of Chapter 6**

29 Insert:

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 2 Amendments relating to treatment

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.

115 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.

116 Subsection 287(2)

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

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Amendments relating to treatment **Part 2**

1 **117 At the end of Division 4 of Part 3 of Chapter 6**

2 Add:

3 **287B Provision of services under the Veteran Suicide Prevention**
4 **pilot**

- 5 (1) A person is eligible to be provided with treatment under this Part,
6 being treatment that is the provision of services under the program
7 established by the Commonwealth and known as the Veteran
8 Suicide Prevention pilot, if the person is included in a class of
9 persons determined in an instrument under subsection (2).
- 10 (2) The Commission may, by legislative instrument, determine a class
11 of persons for the purposes of subsection (1).
- 12 (3) Despite subsection 14(2) of the *Legislation Act 2003*, an instrument
13 under subsection (2) of this section may make provision in relation
14 to a matter by applying, adopting or incorporating, with or without
15 modification, any matter contained in an instrument or other
16 writing as in force or existing from time to time.

17 **287C Provision of counselling services and psychiatric assessment**

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

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements
Part 2 Amendments relating to treatment

- 1
- Veterans’ Entitlements Act 1986***
- 2
- 118 Subsection 85(1) (note)**
- 3
- Omit “sections 85A and 85B”, substitute “section 85A”.
- 4
- 119 Subsection 85(2) (note 2)**
- 5
- Omit “sections 85A and 85B”, substitute “section 85A”.
- 6
- 120 Section 85B**
- 7
- Repeal the section.

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Presumptive liability **Part 3**

Part 3—Presumptive liability

Military Rehabilitation and Compensation Act 2004

121 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.”.

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

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

123 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)).

124 After paragraph 27(b)

Insert:

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

125 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

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 3 Presumptive liability

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

9 *Diseases taken to be attributable to defence service*

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

20 *Determination by the Commission*

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

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Presumptive liability **Part 3**

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.

126 Section 324

Before “If a claim”, insert “(1)”.

127 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.

128 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.”.

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 3 Presumptive liability

1 **129 Section 332 (paragraph beginning “The more beneficial”)**

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

3 **130 Section 333**

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

5 **131 At the end of section 333**

6 Add:

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

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

15 **132 Subsection 335(1) (before the note)**

16 Insert:

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

18 **133 Subsection 335(1)(note)**

19 Omit “Note:”, substitute “Note 2:”.

20 **134 Subsection 335(3) (before the note)**

21 Insert:

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

23 **135 Subsection 335(3)(note)**

24 Omit “Note:”, substitute “Note 2:”.

25 **136 At the end of section 335**

26 Add:

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Single ongoing Act enhancements **Schedule 2**
Presumptive liability **Part 3**

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.

137 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".

138 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.

139 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.

140 After section 340

Insert:

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Schedule 2 Single ongoing Act enhancements

Part 3 Presumptive liability

340A Current 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 in relation to a claim under section 319; and
- (b) at the time of the making of the decision on the reconsideration or review, there is in force a determination under subsection 27A(3) (the ***current presumption determination***) in respect of:
 - (i) the kind of injury sustained by the person in respect of whom the claim is made; or
 - (ii) the kind of disease contracted by the person in respect of whom the claim is made; and
- (c) the presumption in subsection 27A(1) or (2) is relied on for the purposes of making the decision on the reconsideration or review.

(2) The Commission, the Board or the Tribunal is to apply the current presumption determination when making its decision on the reconsideration or review.

(3) To avoid doubt, it is declared that no right, privilege, obligation or liability is acquired, accrued or incurred that would permit the Commission, the Board or the Tribunal, in making a decision on the reconsideration or review, to apply any determination under subsection 27A(3) that is no longer in force.

141 Subsection 341(2)

Omit “section 340”, substitute “sections 340 and 340A”.

142 Before paragraph 345(2)(a)

Insert:

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

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Single ongoing Act enhancements **Schedule 2**
Additional disablement amount **Part 4**

Part 4—Additional disablement amount

Military Rehabilitation and Compensation Act 2004

143 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

144 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;

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

After “209A”, insert “, 220D”.

146 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.

147 Section 65 (paragraph beginning “Part 7”)

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

148 After paragraph 199(1)(b)

Insert:

(ba) either:

(i) the person is not pension age or older; or

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Schedule 2 Single ongoing Act enhancements

Part 4 Additional disablement amount

- 1 (ii) the person is pension age or older but section 121
2 applies to the person;

3 **149 Section 211**

4 Before:

5

MRCA supplement is provided under Division 4.

6 Insert:

7

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

10 **150 After Division 3 of Part 7 of Chapter 4**

11 Insert:

12 **Division 3A—Additional Disablement Amount**

13 **220A Eligibility for Additional Disablement Amount**

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

- 16 (a) the Commission has accepted liability for one or more
17 service injuries or diseases of the person; and
18 (b) the person is not receiving any of the following:
19 (i) compensation for incapacity under Part 3 or 4 of this
20 Chapter;
21 (ii) a Special Rate Disability Pension;
22 (iii) compensation for incapacity under section 19, 20, 21,
23 21A, 22 or 31 of the DRCA;
24 (iv) a pension under Part II of the VEA as a veteran to
25 whom subsection 22(4), or section 23, 24, 25 or 27, of
26 that Act applies; and
27 (c) the person is pension age or older; and

EXPOSURE DRAFT

Single ongoing Act enhancements **Schedule 2**
Additional disablement amount **Part 4**

- 1 (d) the Commission has determined under Part 2 of this Chapter
2 that an impairment suffered by the person as a result of one
3 or more service injuries or diseases constitutes 70 or more
4 impairment points and the effect of the injuries or diseases on
5 the person's lifestyle constitutes 6 or more impairment
6 points.

7 **220B Amount of Additional Disablement Amount**

- 8 The maximum weekly amount of Additional Disablement Amount
9 that is payable under section 220A is \$933.20.

10 **220C Offsets**

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

14 *Permanent impairment compensation*

- 15 (2) There is a reduction that is made by reference to amounts payable
16 or paid to the person under Part 2 of this Chapter (permanent
17 impairment). However, a payment received for eligible young
18 persons, financial advice, legal advice or energy supplement under
19 that Part does not reduce the maximum weekly amount of
20 Additional Disablement Amount that could be payable to the
21 person.

- 22 (3) The maximum weekly amount of an Additional Disablement
23 Amount that could be payable to a person is reduced by the sum of:
24 (a) any weekly amounts that are being paid to the person under
25 Part 2 of this Chapter; and
26 (b) if the person has chosen to convert all or part of one or more
27 weekly amounts that were payable to the person under that
28 Part to lump sums—those weekly amounts or those parts of
29 those weekly amounts.

- 30 (4) Subsection (3) applies to a person to whom section 389 or 402
31 applies as if the person were being paid the weekly amounts under

EXPOSURE DRAFT

Schedule 2 Single ongoing Act enhancements

Part 4 Additional disablement amount

1 Part 2 of this Chapter that the person would be paid if that section
2 did not apply to the person.

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

8 *Commonwealth superannuation*

9 (5) There is a reduction if the person:

- 10 (a) has retired voluntarily, or has been compulsorily retired, from
11 the person's work; and
12 (b) receives either or both a pension or lump sum under a
13 Commonwealth superannuation scheme as a result of the
14 retirement.

15 (6) The amount of the reduction under subsection (5) is 60% of the
16 reduction that would apply to the person under section 134, 135 or
17 136 if the person were receiving compensation worked out under
18 Division 2 of Part 4 of this Chapter.

19 *Relationship with subsection 415(4)*

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

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

26 **220D Energy supplement for Additional Disablement Amount**

27 (1) The Commonwealth is liable to pay an energy supplement to a
28 person for a day if:

- 29 (a) an Additional Disablement Amount:
30 (i) is payable to the person for the day; or
31 (ii) would be payable to the person for the day apart from
32 section 220C and paragraph 398(3)(b); and
33 (b) the person resides in Australia on the day; and

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Single ongoing Act enhancements **Schedule 2**
Additional disablement amount **Part 4**

- 1 (c) on the day the person either:
2 (i) is in Australia; or
3 (ii) is temporarily absent from Australia and has been so for
4 a continuous period not exceeding 6 weeks.

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

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

8 **151 Subparagraph 242(1)(a)(iii)**

9 Omit "and".

10 **152 At the end of paragraph 242(1)(a)**

11 Add:

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

14 **153 Subparagraph 255(1)(c)(iii)**

15 Omit "and".

16 **154 At the end of paragraph 255(1)(c)**

17 Add:

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

20 **155 After subparagraph 258(1)(a)(i)**

21 Insert:

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

26 **156 After paragraph 404(1)(g)**

27 Insert:

- 28 (ga) section 220B;

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Schedule 2 Single ongoing Act enhancements
Part 4 Additional disablement amount

1 ***Veterans' Entitlements Act 1986***

2 **157 After paragraph 5H(8)(zs)**

3 Insert:

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

6 (zsb) if subsection 220C(5) of the MRCA applies to a person—an
7 amount per fortnight, worked out under section 5IA of this
8 Act, that would, apart from this paragraph, be income of the
9 person;

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

13 **158 Paragraph 5H(8)(zzg) (note)**

14 After “(zr)”, insert “, (zsb)”.

15 **159 After section 5I**

16 Insert:

17 **5IA Additional Disablement Amount reduction amount**

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

20
$$\frac{\text{Additional Disablement Amount}}{\text{reduction amount}} \times \frac{10}{6}$$

21 where:

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

26 **160 After paragraph 52Z(3A)(i)**

27 Insert:

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

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Single ongoing Act enhancements **Schedule 2**
Additional disablement amount **Part 4**

1 (ib) if subsection 220C(5) of the MRCA applies to a person—an
2 amount per fortnight, worked out under section 5IA of this
3 Act;

4 **161 Subsection 52Z(3A) (after note 1)**

5 Insert:

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

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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”.

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

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

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 (c) section 115S of the *Veterans' Entitlements Act 1986*.

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

4 Add:

5 ; or (d) a decision by the Principal Member under subsection
6 353D(4), (7) or (9) to dismiss an application for review.

7 **8 Section 345B**

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

11 **9 Before paragraph 345B(a)**

12 Insert:

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

15 **10 Part 4 of Chapter 8**

16 Repeal the Part, substitute:

17 **Part 4—Review by the Board**

18 **Division 1—Preliminary**

19 **352 Definitions**

20 In this Part:

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

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

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

26 (a) a medical practitioner; or

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 (b) a hospital, or similar institution, in which the person received
2 medical treatment;
3 about a medical condition of the person and reasonably used in
4 support of the application.

5 *review* means a review by the Board under this Part.

6 **Division 2—Applications for review**

7 **352A Applications for review**

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

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

16 **352B Application requirements**

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

24 **352C Notifying Commission of application**

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

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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

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- 1 (b) if a further investigation is made in consequence of
2 comments given by the applicant—as soon as practicable
3 after the completion of that further investigation; or
4 (c) in any other case—as soon as practicable after the expiration
5 of the period or extended period referred to in subsection (3).

6 **352E Ongoing requirement for lodging material documents with**
7 **Board**

- 8 If:
9 (a) an application for review is made to the Board; and
10 (b) before the Board determines the review:
11 (i) a party to the review obtains possession of a document;
12 and
13 (ii) the document is relevant to the review; and
14 (iii) a copy of the document has not already been lodged
15 with the Board;
16 the party must, subject to any directions given under
17 subsection 359CL(2), lodge a copy of the document with the Board
18 as soon as practicable after obtaining possession.

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

20 **352F Principal Member or Senior Member to preside at hearing**

- 21 (1) If the Principal Member is included in the Board members
22 constituting the Board for the purpose of a review, the Principal
23 Member is to preside at any hearing of the review.
24 (2) If the Principal Member is not included in the Board members
25 constituting the Board for the purpose of a review, the Senior
26 Member who is included in those Board members is to preside at
27 any hearing of the review.
28 Note: Section 359CJ deals with the constitution of the Board for the
29 purposes of a review.

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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

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- 1 (ii) if the party wishes to appear, whether the party intends
2 to appear on the hearing in person, or be represented as
3 mentioned in section 352G.
- 4 (2) If either party to a review informs the Principal Member that the
5 party wishes to appear on the hearing of the review, the Principal
6 Member must:
- 7 (a) cause a date, time and place to be fixed for the hearing of the
8 review; and
- 9 (b) cause notice of the date, time and place so fixed to be served
10 on each party to the review.
- 11 (3) The Principal Member may defer fixing a date, time and place for
12 the hearing of a review until the parties to the review have
13 informed the Principal Member that they are ready to proceed at a
14 hearing.
- 15 (4) If a party to a review does not inform the Principal Member, within
16 the time specified in the notice served on the party under
17 subsection (1), that the party wishes to appear on the hearing of the
18 review, the review may be heard and determined in the absence of
19 that party.

352J Procedure of Board

Directions hearings

- 21 (1) A Board member may hold a directions hearing in relation to a
22 review.
23

Directions before hearing commences

- 24 (2) Before the hearing of a review has commenced, any of the
25 following persons may give directions in relation to the procedure
26 to be followed in connection with the review:
27
- 28 (a) a Board member;
29 (b) the National Registrar;
30 (c) a Registrar;
31 (d) a Deputy Registrar;
32 (e) a Conference Registrar.

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- 1 (3) Without limiting subsection (2), a direction under that subsection
2 may:
3 (a) require any person who is a party to the review to provide
4 further information in relation to the review; or
5 (b) require the Commission to provide a statement of the
6 grounds on which the application for review will be resisted
7 at the hearing of the review; or
8 (c) require any person who is a party to the review to provide a
9 statement of matters or contentions upon which reliance is
10 intended to be placed at the hearing of the review.

11 *Directions by Principal Member*

- 12 (4) The Principal Member:
13 (a) may give general directions as to the procedure of the Board
14 with respect to reviews before it, including reviews the
15 hearings of which have not been commenced; and
16 (b) may give directions as to the procedure of the Board with
17 respect to a particular review before the Board, either before
18 or after the hearing of the review has commenced.
- 19 (5) The power of the Principal Member under subsection (4) includes
20 the power to give directions:
21 (a) as to the manner of communication of documents, including
22 electronic documents, that are required or permitted to be
23 communicated to the Board; and
24 (b) as to the time at which such documents are to be taken to
25 have been so communicated.
- 26 (6) Without limiting the documents to which subsection (5) applies,
27 those documents include:
28 (a) documents, comments and supplementary reports forwarded
29 to the Principal Member under subsection 352D(4); and
30 (b) notices given to the Principal Member by a party to a review
31 for the purposes of section 352H; and
32 (c) documents produced to the Board under section 352Q for the
33 purposes of the hearing of a review; and

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- 1 (d) further documents and reports of investigations or
2 examinations forwarded to the Board as a consequence of a
3 request made under subsection 352R(1); and
4 (e) documents withdrawing or discontinuing applications for
5 review communicated to the Board under
6 subsection 353D(2).

7 *Direction by presiding member*

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

13 *Requests by Principal Member*

- 14 (8) The Principal Member may, in relation to a review, request the
15 Commission:
16 (a) to obtain, and give to the Principal Member, further
17 documents; or
18 (b) to arrange for the making of any investigation or medical
19 examination and to give to the Principal Member a report of
20 the investigation or examination.

21 *Limits on powers*

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

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

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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 359BB.

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.

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

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.
- (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)

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Schedule 3 Review pathway

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- 1 and all the powers of the presiding member under
2 subsection (2); and
3 (b) for the purposes of the exercise of those powers by the
4 authorised person, this Part has effect as if a reference to the
5 Board, or to the presiding member, in relation to the review
6 included a reference to the authorised person.

7 **352Q Board may summon persons to give evidence or produce** 8 **documents**

- 9 (1) If the presiding member for a review has reasonable grounds to
10 believe that a person has information, or a document or thing,
11 relevant to the review, the presiding member may, in writing,
12 summon the person to do either or both of the following on the
13 day, and at the time and place, specified in the summons:
14 (a) appear at a hearing of the review to give evidence;
15 (b) produce any document or other thing specified in the
16 summons.
17 (2) The day specified in the summons must be at least 14 days after the
18 day the summons is given to the person.

19 **352R Board may request documents etc. from Commission**

- 20 (1) The Board may, at any time, request the Commission:
21 (a) to obtain, and forward to the Board, further documents
22 relating to a review; or
23 (b) to arrange for the making of any investigation, or any
24 medical examination, that the Board thinks necessary with
25 respect to a review, and to forward to the Board a report of
26 that investigation or examination.
27 (2) If a request is made under subsection (1), the Board must adjourn
28 any hearing of the review to which the request relates.

29 **352S Information may be made available to parties**

- 30 (1) If, after relevant documents relating to a review have been
31 forwarded to the Principal Member in accordance with

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 subsection 352D(4) and before the commencement of the hearing
2 of the review, a party to the review gives any information to the
3 Board for the purposes of the review, the Board must make that
4 information available to each other party to the review.

- 5 (2) However, if the Board is of the opinion that:
- 6 (a) any information under the control of the Board is of a
7 confidential nature; or
 - 8 (b) it might be prejudicial to the physical or mental health or
9 well-being of the applicant to communicate any such
10 information to the applicant;
- 11 the Board may refrain from making it available to the applicant,
12 but may make it available to a person representing the applicant.
- 13 (3) Subsection (1) does not apply to information given by a party to a
14 review who is not the Commission unless the Board is of the
15 opinion that the information contains, or foreshadows the
16 presentation of, evidence or a submission that has not been
17 considered by the Commission in connection with the review.

18 **352T Board not bound by technicalities etc.**

- 19 (1) The Board, in conducting a review, in hearing a review or in
20 making a decision on a review of an original determination:
- 21 (a) is not bound to act in a formal manner and is not bound by
22 any rules of evidence, but may inform itself on any matter in
23 such manner as it thinks just; and
 - 24 (b) must act according to substantial justice and the substantial
25 merits of the case, without regard to legal form and
26 technicalities; and
 - 27 (c) without limiting paragraphs (a) and (b), must take into
28 account any difficulties that, for any reason, lie in the way of
29 ascertaining the existence of any fact, matter, cause or
30 circumstance, including any reason attributable to:
 - 31 (i) the effects of the passage of time, including the effect of
32 the passage of time on the availability of witnesses; and
 - 33 (ii) the absence of, or a deficiency in, relevant official
34 records, including an absence or deficiency resulting
35 from the fact that an occurrence that happened during

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1 the defence service of a member was not reported to the
2 appropriate authorities.

- 3 (2) The Commission may make available to the Board:
4 (a) any Statements of Principles applied by the Commission; and
5 (b) such other material as the Commission considers may be of
6 assistance to the Board in the exercise of its powers or the
7 performance of its functions under this Act.
- 8 (3) Nothing in this section authorises the Commission to direct the
9 Board with respect to its consideration of a particular review.

10 **352U Board may remit matters to Commission for further** 11 **consideration**

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

15 *Role of Commission*

- 16 (2) If an original determination is remitted to the Commission, the
17 Commission must reconsider the determination and must:
18 (a) confirm the determination; or
19 (b) vary the determination; or
20 (c) revoke the determination and make a new determination in
21 substitution for the determination revoked.
- 22 (3) If the Commission confirms the determination, the review resumes.
- 23 (4) If the Commission varies the determination:
24 (a) the application for review is taken to be an application for
25 review of the determination as varied; and
26 (b) the person who made the application may:
27 (i) proceed with the application for review of the
28 determination as varied; or
29 (ii) withdraw the application.
- 30 (5) If the Commission revokes the determination and makes a new
31 determination in substitution for the determination revoked:
-

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- 1 (a) the application is taken to be an application for review of the
2 new determination; and
3 (b) the person who made the application may:
4 (i) proceed with the application for review of the new
5 determination; or
6 (ii) withdraw the application.

7 **Division 4—Alternative dispute resolution processes**

8 **352V Referral of review for alternative dispute resolution process**

- 9 (1) If an application is made to the Board for review of an original
10 determination, the Principal Member may, in writing:
11 (a) direct the holding of a conference of the parties to the review,
12 or their representatives, in relation to the review, any part of
13 the review or any matter arising out of the review; or
14 (b) direct that the review, any part of the review or any matter
15 arising out of the review, be referred for a particular
16 alternative dispute resolution process (other than
17 conferencing).
- 18 (2) The Principal Member may, in writing, direct the holding of
19 conferences of the parties to a review or their representatives in the
20 case of applications made to the Board for review of original
21 determinations of a kind specified in the direction.
- 22 (3) The Principal Member may, in writing, direct that reviews be
23 referred for a particular alternative dispute resolution process
24 (other than conferencing) in the case of applications made to the
25 Board for review of original determinations of a kind specified in
26 the direction.
- 27 (4) A direction may be given under paragraph (1)(a) or (b):
28 (a) whether or not a direction has previously been given under
29 paragraph (1)(a) or (b) in relation to the review; and
30 (b) whether or not a direction under subsection (2) or (3) has
31 applied.
- 32 (5) If a direction under this section is applicable to:

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- 1 (a) a review; or
2 (b) a part of a review; or
3 (c) a matter arising out of a review;
4 each party must act in good faith in relation to the conduct of the
5 alternative dispute resolution process concerned.

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

8 **352W Directions by Principal Member**

- 9 (1) The Principal Member may give written directions about
10 alternative dispute resolution processes.
- 11 (2) Directions under subsection (1) may relate to the following:
12 (a) the procedure to be followed in the conduct of an alternative
13 dispute resolution process;
14 (b) the person who is to conduct an alternative dispute resolution
15 process;
16 (c) the procedure to be followed when an alternative dispute
17 resolution process ends.
- 18 (3) Subsection (2) does not limit subsection (1).
- 19 (4) A person is not entitled to conduct an alternative dispute resolution
20 process unless the person is:
21 (a) a Board member; or
22 (b) the National Registrar, a Registrar, a Deputy Registrar or a
23 Conference Registrar; or
24 (c) a person engaged under section 353A.
- 25 (5) The National Registrar, a Registrar or a Deputy Registrar, in
26 conducting an alternative dispute resolution process, does so in the
27 capacity of a Conference Registrar.

28 **352X Agreement about the terms of a decision etc.**

- 29 (1) If:
30 (a) in the course of an alternative dispute resolution process
31 under this Division, agreement is reached between the parties

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- 1 to a review or their representatives as to the terms of a
2 decision of the Board:
3 (i) in the review; or
4 (ii) in relation to a part of the review; or
5 (iii) in relation to a matter arising out of the review;
6 that would be acceptable to the parties; and
7 (b) the terms of the agreement are reduced to writing, signed by
8 or on behalf of the parties and lodged with the Board; and
9 (c) 7 days pass after lodgement, and none of the parties has
10 notified the Board in writing that the party wishes to
11 withdraw from the agreement; and
12 (d) the Board is satisfied that a decision in the terms of the
13 agreement or consistent with those terms would be within the
14 powers of the Board;
15 the Board may, if it appears to it to be appropriate to do so, act in
16 accordance with whichever of subsection (2) or (3) is relevant in
17 the particular case.
- 18 (2) If the agreement reached is an agreement as to the terms of a
19 decision of the Board in the review, the Board may, without
20 holding a hearing of the review, make a decision in accordance
21 with those terms.
- 22 (3) If the agreement relates to:
23 (a) a part of the review; or
24 (b) a matter arising out of the review;
25 the Board may, in its decision on the review, give effect to the
26 terms of the agreement without dealing at the hearing of the review
27 with the part of the review, or the matter arising out of the review,
28 to which the agreement relates.
- 29 *Variation or revocation of decision*
- 30 (4) The Board may vary or revoke so much of a decision as it made in
31 accordance with subsection (2) or (3) if:
32 (a) the parties, or their representatives, reach agreement on the
33 variation or revocation; and

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

8 **352Y Evidence not admissible**

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

16 *Exceptions*

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

30 **352Z Eligibility of person conducting alternative dispute resolution** 31 **process to sit as a member of the Board**

32 If:

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- 1 (a) an alternative dispute resolution process under this Division
2 in relation to a review is conducted by a Board member; and
3 (b) a party to the review notifies the Board before the hearing
4 that the party objects to that Board member participating in
5 the hearing;
6 that Board member is not entitled to be a member of the Board as
7 constituted for the purposes of the review.

8 **353 Participation by telephone etc.**

- 9 The person conducting an alternative dispute resolution process
10 under this Division may allow a person to participate by:
11 (a) telephone; or
12 (b) closed-circuit television; or
13 (c) any other means of communication.

14 **353A Engagement of persons to conduct alternative dispute** 15 **resolution processes**

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

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

25 **353B Decision of Board**

- 26 (1) On review of an original determination, the Board must have
27 regard to:
28 (a) the evidence that was before the Commission when the
29 determination was made; and

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

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

31 *Notice of decision*

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

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Reasons

- (2) The Board must give reasons either orally or in writing for its decision under section 353B.
- (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 353B, and any written statement of its reasons for the decision, with the records of the case.

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353D 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 353; 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.

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- 1 (6) The Principal Member must, before exercising a power under
2 subsection (4), be satisfied that appropriate notice was given to the
3 applicant for the review of the time and place of the directions
4 hearing, the alternative dispute resolution process or the hearing of
5 the review.

6 *Dismissal if original determination not reviewable*

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

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

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

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

28 *Notice requirements*

- 29 (10) If the Principal Member dismisses an application under
30 subsection (4), (7) or (9), the Principal Member must:
31 (a) notify each party to the review of the dismissal; and
32 (b) the notice must include a statement to the effect that, if the
33 person is dissatisfied with the decision:

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- 1 (i) application may, subject to the *Administrative Appeals*
2 *Tribunal Act 1975*, be made to the Tribunal under Part 5
3 of this Chapter for review of the decision; and
4 (ii) except where subsection 28(4) of the *Administrative*
5 *Appeals Tribunal Act 1975* applies, the person may
6 request a statement under section 28 of that Act.
- 7 (11) A failure to comply with subparagraph (10)(b)(ii) does not affect
8 the validity of the decision.

9 **353E Consequence of dismissal of application**

10 If an application is dismissed under section 353D, the review to
11 which the application relates is taken to be concluded unless the
12 application is reinstated under section 353F.

13 **353F Circumstances in which application may be reinstated**

- 14 (1) If the Principal Member dismisses an application under subsection
15 353D(4):
16 (a) the applicant may, within 28 days after receiving notification
17 of the dismissal, apply to the Principal Member for
18 reinstatement of the application; and
19 (b) if the Principal Member considers it appropriate to do so, the
20 Principal Member may reinstate the application and give
21 such directions as appear to the Principal Member to be
22 appropriate in the circumstances.
- 23 (2) If it appears to the Principal Member that an application has been
24 dismissed under section 353D in error, the Principal Member may,
25 on the application of a party to the review or on the Principal
26 Member's own initiative, reinstate the application and give such
27 directions as appear to the Principal Member to be appropriate in
28 the circumstances.

29 **353G Date of operation of decision by Board**

- 30 (1) The Board must specify in its decision on a review of an original
31 determination the date from which its decision is to operate.

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- 1 (2) Subsection (1) does not apply if the Board affirms the original
2 determination under review.

3 **353H Correction of errors in decisions or statements of reasons**

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

22 **Division 6—Offences**

23 **353J Offence—failure of witness to attend**

- 24 (1) A person commits an offence if:
25 (a) the person has been served with a summons under section
26 352Q to appear at a hearing; and
27 (b) the person:
28 (i) fails to appear as required by the summons; or
29 (ii) fails to appear and report from day to day; and
30 (c) has not been excused or released by the Board from further
31 attendance.

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

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

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

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

7 **353K Offence—failure to take an oath, make an affirmation or** 8 **answer a question etc.**

9 (1) A person commits an offence if:

10 (a) the person is required under section 352P to take an oath or
11 make an affirmation; and

12 (b) the person fails to comply with the requirement.

13 Penalty: Imprisonment for 6 months or 10 penalty units, or both.

14 (2) A person commits an offence if:

15 (a) the person appears as a witness before the Board; and

16 (b) the Board member presiding at the proceeding has required
17 the person to answer a question; and

18 (c) the person fails to answer the question.

19 Penalty: Imprisonment for 6 months or 10 penalty units, or both.

20 (3) A person commits an offence if:

21 (a) the person has been served with a summons under section
22 352Q; and

23 (b) the summons required the person to produce a document; and

24 (c) the person fails to comply with the requirement.

25 Penalty: Imprisonment for 6 months or 10 penalty units, or both.

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

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

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

353L 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 20 penalty units, or both.

353M 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.

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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

353N 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.

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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.

353P 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

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

353Q Travelling expenses for obtaining medical evidence

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

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- 1 (4) Travelling expenses are not payable unless:
2 (a) the person who has incurred the expenses; or
3 (b) any person approved by that person or by the Commission;
4 applies in writing to the Commission for payment under
5 subsection (5).
- 6 (5) The application for payment must:
7 (a) be in accordance with a form approved by the Commission;
8 and
9 (b) be made within:
10 (i) 12 months after the completion of the travel; or
11 (ii) if the Commission thinks that there are exceptional
12 circumstances that justify extending that period—such
13 further period as the Commission allows; and
14 (c) be lodged at a place approved by the Commission under
15 subsection 323(2).
- 16 (6) An application for payment lodged at a place approved by the
17 Commission under subsection 323(2) is taken to have been made
18 on a day determined under that subsection.
- 19 (7) The Commonwealth is to pay the travelling expenses to which a
20 person is entitled under this section.

21 **353R Other travelling expenses**

22 *Applicant attending hearing*

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

27 *Attendant accompanying applicant*

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

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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.

353S Applications for other travelling expenses

- (1) If a person who has travelled in Australia is entitled to be paid travelling expenses under section 353R 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

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

28 **353T Advance of travelling expenses for obtaining medical evidence**

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

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1 the Commission may authorise the payment of that advance to the
2 person.

3 (2) If:

- 4 (a) a person has received an advance on account of any
5 travelling expenses that the person is likely to incur; and
6 (b) the person:
7 (i) does not incur those travelling expenses; or
8 (ii) incurs travelling expenses that are less than the amount
9 of the advance;

10 the person is liable to repay to the Commonwealth:

- 11 (c) the amount of the advance; or
12 (d) the difference between the amount of the advance and the
13 amount of the travelling expenses;
14 as the case requires.

15 **353U Fees for witnesses**

16 (1) A person, other than the applicant, summoned to appear as a
17 witness at a hearing before the Board is entitled to be paid, in
18 respect of the person's attendance, fees, and allowances for
19 expenses, fixed by or in accordance with the regulations in respect
20 of the attendance.

21 (2) Subject to subsection (3), the fees and allowances are to be paid:

- 22 (a) in a case where the witness was summoned at the request of
23 the applicant—by the applicant; or
24 (b) in any other case—by the Commonwealth.

25 (3) The Board may, in its discretion, order that the fees and allowances
26 of a witness referred to in paragraph (2)(a) are to be paid, in whole
27 or in part, by the Commonwealth.

28 **353V Instruments that are not legislative instruments**

29 The following are not legislative instruments:

- 30 (a) a direction under subsection 352J(2), (4) or (7) that is given
31 in writing (procedure of Board);

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- 1 (b) a direction under subsection 352N(2) that is given in writing
2 (hearing to be in private except in special circumstances);
3 (c) a direction under section 352V (referral of review for
4 alternative dispute resolution process);
5 (d) a direction under section 352W (directions by Principal
6 Member).

7 **11 Paragraph 357(6B)(c)**

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

10 **12 After Chapter 8**

11 Insert:

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

13 **Part 1—Simplified outline of this Chapter**
14

15 **359A Simplified outline of this Chapter**

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

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

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

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

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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 Application of the finance law

A Board member is not an official of the Department for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*).

359BB 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.

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 **Part 3—Administration**

2 **Division 1—Membership**

3 **359C Appointment of members**

4 *Appointment by Governor-General*

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

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

- 9 (2) The Board must, at all times, have among its members persons
10 selected from lists submitted to the Minister in accordance with
11 subsection (3).

- 12 (3) The Minister may, from time to time, request organisations
13 representing veterans throughout Australia to submit to the
14 Minister lists of names of persons from which the organisation
15 concerned recommends that a selection be made of persons to
16 serve as Services members of the Board.

17 *Period of appointment*

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

20 *Basis of appointment*

- 21 (5) The Principal Member is to be appointed on a full-time basis.
22 (6) A Board member other than the Principal Member may be
23 appointed on a full-time basis or on a part-time basis.

24 **359CA Acting appointments**

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

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) during a vacancy in the office of a Board member (whether
2 or not an appointment has previously been made to the
3 office); or
4 (b) during any period, or during all periods, when the Board
5 member:
6 (i) in the case of a full-time Board member—is absent from
7 duty or from Australia; or
8 (ii) in the case of a full-time or part-time Board member—
9 is, for any reason, unable to perform the duties of the
10 office.

11 Note: For rules that apply to acting appointments, see sections 33AB and
12 33A of the *Acts Interpretation Act 1901*.

13 **359CB Remuneration**

- 14 (1) A Board member is to be paid the remuneration that is determined
15 by the Remuneration Tribunal. If no determination of that
16 remuneration by the Tribunal is in operation, the Board member is
17 to be paid the remuneration that is prescribed by the regulations.
18 (2) A Board member is to be paid the allowances that are prescribed
19 by the regulations.
20 (3) This section has effect subject to the *Remuneration Tribunal Act*
21 *1973*.

22 **359CC Leave of absence**

- 23 (1) A full-time Board member has the recreation leave entitlements
24 that are determined by the Remuneration Tribunal.
25 (2) The Minister may grant a full-time Board member leave of
26 absence, other than recreation leave, on the terms and conditions as
27 to remuneration or otherwise that the Minister determines.

28 **359CD Other paid work**

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

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

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

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (ii) engages, except with the Minister's approval, in paid
2 work outside the duties of the member's office (see
3 section 359CD); or
4 (c) the Board member fails, without reasonable excuse, to
5 comply with section 359CI (disclosure of interests).

6 **359CH Suspension of Board members**

- 7 (1) The Minister may suspend the appointment of a Board member:
8 (a) for misbehaviour; or
9 (b) if the Board member is unable to perform the duties of the
10 Board member's office because of physical or mental
11 incapacity.
12 (2) If the Minister suspends the appointment of a Board member, the
13 Governor-General may, on the recommendation of the Minister:
14 (a) terminate the appointment of the Board member under
15 section 359CG; or
16 (b) direct that the suspension of the Board member continue for
17 such further period as the Governor-General specifies; or
18 (c) direct that the suspension of the Board member terminate.
19 (3) The suspension of the appointment of a Board member does not
20 affect any entitlement of the Board member to be paid
21 remuneration and allowances.

22 **359CI Disclosure of interests**

- 23 (1) This section applies in relation to a Board member who is one of
24 the Board members who constitute, or are deemed to constitute, the
25 Board for the purposes of a review by the Board under Part 4 of
26 Chapter 8.
27 (2) If the Board member has or acquires an interest, pecuniary or
28 otherwise, that could conflict with the proper performance of the
29 Board member's functions in relation to the review, the Board
30 member must disclose the interest to the applicant in the review
31 and to the Commission.

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

- 1 (3) The disclosure must be made as soon as possible after the relevant
2 facts have come to the Board member's knowledge.
- 3 (4) The Board member must not take part in the review, or exercise
4 any powers in relation to the review, unless the applicant in the
5 review, and the Commission, consent to the Board member doing
6 so.
- 7 (5) If the Principal Member becomes aware that the Board member has
8 or acquires an interest, pecuniary or otherwise, that could conflict
9 with the proper performance of the Board member's functions in
10 relation to the review:
- 11 (a) if the Principal Member considers that the Board member
12 should not take part, or should not continue to take part, in
13 the review—the Principal Member must give a direction to
14 the Board member accordingly; or
- 15 (b) in any other case—the Principal Member must cause the
16 interest of the Board member to be disclosed to the applicant
17 in the review and to the Commission.

Division 2—Procedures of the Board

359CJ Constitution of Board for exercise of powers

- 19
- 20 (1) Subject to subsections (2) and (3), for the purposes of a review by
21 the Board under Part 4 of Chapter 8, the Board must be constituted
22 by:
- 23 (a) the Principal Member or a Senior Member; and
24 (b) a Services member; and
25 (c) one other Board member.
- 26 (2) The Board may, for the purposes of a particular review, be
27 constituted by:
- 28 (a) the Principal Member; and
29 (b) a Senior Member; and
30 (c) a Services member.
- 31 (3) The Board may, for the purposes of a particular review, or of a
32 review included in a particular class of reviews, be constituted by:

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (a) the Principal Member or a Senior Member; or
2 (b) one Board member, not being the Principal Member or a
3 Senior Member;
4 only.

5 **359CK Management of administrative affairs of Board**

- 6 (1) The Principal Member is responsible for managing the
7 administrative affairs of the Board.
- 8 (2) In the management of the administrative affairs of the Board, the
9 Principal Member is assisted by the National Registrar.
- 10 (3) The National Registrar has power to do all things necessary or
11 convenient to be done for the purpose of assisting the Principal
12 Member.
- 13 (4) In particular, the National Registrar may act on behalf of the
14 Principal Member in relation to the administrative affairs of the
15 Board.
- 16 (5) The Principal Member may give the National Registrar written
17 directions regarding the exercise of the National Registrar's powers
18 under this Act.

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

21 **359CL Arrangement of business of Board**

- 22 (1) The Principal Member is responsible for ensuring the expeditious
23 and efficient discharge of the business of the Board.
- 24 (2) Without limiting subsection (1), the Principal Member may give
25 written directions as to:
- 26 (a) the operations of the Board generally; and
27 (b) the operations of the Board at a particular place; and
28 (c) the procedure of the Board generally; and
29 (d) the procedure of the Board at a particular place; and
30 (e) the conduct of reviews by the Board under Part 4 of
31 Chapter 8; and

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- (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).

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359CM Board members to constitute Board for purposes of a review

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- (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).

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

- 1 the purpose of hearing the review before the re-allocation took
2 place.
- 3 (5) If a review re-allocated as mentioned in subsection (1), or deemed
4 to have been re-allocated under subsection (3), had been
5 commenced, but had not been completed, before the re-allocation
6 took place, the Board as constituted for the purpose of that review
7 by virtue of that re-allocation may, in the review before it, have
8 regard to any record of the review before the Board as previously
9 constituted.

10 **Part 4—Other matters**

11

12 **359D Staff**

- 13 (1) Any staff required to assist the Board are to be persons engaged
14 under the *Public Service Act 1999* and made available for the
15 purpose by the Secretary.
- 16 (2) Without limiting subsection (1), the staff required to assist the
17 Board may include one or more of the following:
- 18 (a) a National Registrar;
19 (b) Registrars;
20 (c) Deputy Registrars;
21 (d) Conference Registrars.

22 **359DA Delegation by Principal Member**

- 23 (1) The Principal Member may, in writing, delegate all or any of the
24 Principal Member's functions or powers under this Act to:
- 25 (a) a Senior Member; or
26 (b) an acting Senior Member.
- 27 (2) The Principal Member may, in writing, delegate all or any of the
28 Principal Member's functions or powers under the following
29 provisions to the National Registrar:
- 30 (a) section 352H (notice of hearing etc.);
31 (b) section 352J (procedure of Board);

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

- 1 (c) section 353D (dismissal of applications);
2 (d) section 353F (circumstances in which application may be
3 reinstated);
4 (e) section 359CL (arrangement of business of Board);
5 (f) section 359CM (Board members to constitute Board for
6 purposes of a review);
7 (g) section 359CN (Board member ceasing to be Board member
8 etc.).

9 (3) The Principal Member may, in writing, delegate all or any of the
10 Principal Member's functions or powers under subsection 352J(8)
11 (requests by Principal Member), section 353D (dismissal of
12 applications) or section 353F (circumstances in which application
13 may be reinstated) to:

- 14 (a) a Registrar; or
15 (b) a Deputy Registrar; or
16 (c) a Conference Registrar.

17 (4) In performing a delegated function or exercising a delegated
18 power, the delegate must comply with any written directions of the
19 Principal Member.

20 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
21 provisions relating to delegations.

22 **359DB Annual report**

23 The Principal Member must, as soon as practicable after the end of
24 each financial year, prepare and give to the Minister, for
25 presentation to the Parliament, a report on the Board's activities
26 during the financial year.

27 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
28 contains extra rules about annual reports.

29 **359DC Oath or affirmation of office**

30 (1) A person who is appointed or re-appointed as a Board member, or
31 to act as a Board member, must take an oath or make an
32 affirmation, in the applicable form set out in the following table,
33 before discharging the duties of the office.

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1

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

3 (2) The oath must be taken, or the affirmation must be made, before a
4 justice of the peace or a commissioner for taking affidavits.

5 **359DD Instruments that are not legislative instruments**

- 6 The following are not legislative instruments:
- 7 (a) a direction under subsection 359CK(5) (management of
- 8 administrative affairs of Board);
- 9 (b) a direction under subsection 359CL(2) (arrangement of
- 10 business of Board);
- 11 (c) a direction under section 359CM (Board members to
- 12 constitute Board for purposes of a review).

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Schedule 3 Review pathway
Part 1 Amendments commencing 60 days after Royal Assent

1 **13 Paragraph 423(ca)**

2 Omit “section 353 because of the application of subsections 132(5), (6),
3 (9), (10), (11), (11A), (11B) and (11C) of the *Veterans’ Entitlements*
4 *Act 1986*”, substitute “sections 353Q, 353R, 353T and 353U”.

5 **14 Section 437A**

6 Before “The Minister”, insert “(1)”.

7 **15 Section 437A**

8 Omit “his or her functions or powers under this Act”, substitute “the
9 Minister’s functions or powers under this Act (other than section
10 359CA or 359CC)”.

11 **16 At the end of section 437A**

12 Add:

13 (2) The Minister may, by writing, delegate all or any of the Minister’s
14 powers under section 359CA or 359CC to the Principal Member of
15 the Board.

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

18 **17 Subsection 3A(3) (note)**

19 Omit “Part VI”, substitute “section 62 (reconsideration and review of
20 determinations etc.)”.

21 **18 Subsection 3A(4)**

22 Omit “Part VI (about reconsideration and review of determinations)”,
23 substitute “section 62 (reconsideration and review of determinations
24 etc.)”.

25 **19 Subsection 4(1)**

26 Insert:

27 ***Board*** has the same meaning as in the MRCA.

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

20 Subsection 4(1) (definition of *proceeding under Part VI*)

Repeal the definition.

21 Subsection 4(12)

Repeal the subsection.

22 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).

23 Subsection 41B(1) (note)

Omit “(see section 60A)”, substitute “under Part 4 of Chapter 8 of the MRCA (see section 345B of that Act)”.

24 Subsection 60(1)

Omit “(1)”.

25 Subsection 60(1) (definition of *decision*)

Repeal the definition.

26 Subsection 60(1) (definition of *reviewable decision*)

Omit “or section 62”.

27 Subsection 60(2)

Repeal the subsection.

28 Section 60A

Repeal the section.

29 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)”.

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

30 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 353R(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

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 applies in relation to the determination made by the Board on
2 review as if:

3 (a) the Board's determination on review were a reviewable
4 determination; and

5 (b) a person in respect of whom the DRCA determination was
6 made were the claimant.

7 Note: This means that the Board's determination on review of a DRCA
8 determination may be reviewed by the Administrative Appeals
9 Tribunal under Part 5 of Chapter 8 of the MRCA.

10 **31 Subsection 111(5)**

11 Repeal the subsection.

12 **32 Sections 129 and 129A**

13 Repeal the sections, substitute:

14 **129A Reconsideration and review of certain determinations under** 15 **1971 Act**

16 Part IV of this Act applies in relation to a determination under the
17 1971 Act that had effect immediately before the commencing day
18 as if:

19 (a) the person in respect of whom the determination was made
20 were a claimant under this Act; and

21 (b) the determination were a determination by the MRCC within
22 the meaning of Part VI of this Act.

23 **33 Subsection 151A(1B)**

24 Omit "reconsideration or review under Part VI", substitute
25 "reconsideration under section 347 of the MRCA, or the review under
26 Part 4 of Chapter 8 of the MRCA,".

27 ***Veterans' Entitlements Act 1986***

28 **34 Subsection 5Q(1) (definition of *Board*)**

29 Repeal the definition, substitute:

30 ***Board*** has the same meaning as in the MRCA.

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 **35 Subsection 5T(1) (note)**

2 Omit “the Veterans’ Review Board,”.

3 **36 Subsection 5T(1) (note)**

4 Omit “IX,”.

5 **37 Paragraph 22(5)(c)**

6 Omit “subsection 31(6)”, substitute “section 31”.

7 **38 Division 6 of Part II**

8 Repeal the Division, substitute:

9 **Division 6—Reconsideration of decisions by Commission**

10 **31 Commission may initiate reconsideration of decisions**

11 (1) This section applies in relation to any decision of the Commission
12 in respect of the following claims or applications (including a
13 decision under section 20 or 21 but not a decision under
14 subsection 19A(1)):

- 15 (a) a claim for a pension under section 14;
16 (b) an application for a pension, or for an increased pension,
17 under section 15;
18 (c) an application for attendant allowance under section 98.

19 (2) Section 347 of the MRCA applies in relation to the decision as if:

- 20 (a) the decision were an original determination made by the
21 Commission; and
22 (b) a reference in that section to the Commission were a
23 reference to the Repatriation Commission.

24 Note: This means that the Commission may, on its own initiative, reconsider
25 the decision.

26 (3) If a determination (the ***reconsideration determination***) is made
27 under subsection 347(3) of the MRCA because of the operation of
28 subsection (2) of this section, section 346 of the MRCA applies in
29 relation to the reconsideration determination as if:

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

- 1 (a) the reconsideration determination were an original
2 determination made by the Commission; and
3 (b) a person in respect of whom the reconsideration
4 determination was made were the claimant; and
5 (c) a reference in that section to the Commission were a
6 reference to the Repatriation Commission.

7 Note: This means that the Commission must give notice of the
8 reconsideration determination.

9 **39 Subsection 32(1)**

10 Omit “its review under section 31”, substitute “its reconsideration under
11 section 31”.

12 **40 Subparagraph 32(1)(c)(ii)**

13 Repeal the subparagraph, substitute:

- 14 (ii) in the case of a reconsideration under section 31—a
15 person likely to be affected by the reconsideration or the
16 Secretary;

17 **41 Paragraph 32(1)(c)**

18 Omit “or the review”, substitute “or the reconsideration”.

19 **42 Subparagraph 32(1)(d)(ii)**

20 Repeal the subparagraph, substitute:

- 21 (ii) in the case of a reconsideration under section 31—the
22 person likely to be affected by the reconsideration;

23 **43 Paragraph 32(1)(d)**

24 Omit “of the review”, substitute “of the reconsideration”.

25 **44 Paragraph 32(1)(d)**

26 Omit “or the review”, substitute “or the reconsideration”.

27 **45 Paragraph 32(2)(b)**

28 Repeal the paragraph, substitute:

- 29 (b) for the purpose of a reconsideration under section 31—a
30 person likely to be affected by the reconsideration;

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 **46 Paragraph 32(5)(b)**

2 Omit “review under section 31”, substitute “reconsideration under
3 section 31”.

4 **47 Subsection 32(9)**

5 Omit “review”, substitute “reconsideration”.

6 **48 Paragraphs 34(1)(c) to (e)**

7 Repeal the paragraphs.

8 **49 Paragraph 34(2)(b)**

9 Omit “, (c), (d) or (e)”.

10 **50 Subsection 115S(1) (note)**

11 Omit “135A”, substitute “345B of the MRCA”.

12 **51 Paragraph 119(1)(c)**

13 Omit “review”, substitute “reconsideration”.

14 **52 Paragraph 119(1)(d)**

15 Repeal the paragraph.

16 **53 Subsection 126(4)**

17 Omit “section 135 or 175”, substitute “section 175 of this Act or Part 4
18 or 5 of Chapter 8 of the MRCA (because of the operation of section 134
19 of this Act)”.

20 **54 Subparagraphs 129A(1)(a)(ii) and (d)(ii)**

21 Repeal the subparagraphs.

22 **55 Paragraphs 132(1)(b) to (d)**

23 Omit “review”, substitute “reconsideration”.

24 **56 Subsection 132(2)**

25 Omit “review”, substitute “reconsideration”.

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 **57 Subsections 132(5) and (6)**

2 Repeal the subsections.

3 **58 Subsection 132(9)**

4 Repeal the subsection, substitute:

5 (9) If:

6 (a) a claim for a pension:

7 (i) is made on behalf of the claimant by a person who is a
8 dependant of the claimant or who is approved under
9 paragraph 16(b), (c) or (d) to make the claim on behalf
10 of the claimant; or

11 (ii) is prosecuted by a person who is the legal personal
12 representative of the claimant, or by a person approved
13 under section 126, following the death of the claimant;
14 and

15 (b) that person travels within Australia with the approval of the
16 Commission for the purpose of an investigation, by the
17 Department or the Commission, of the claim;

18 the person is, subject to such conditions as are prescribed, entitled
19 to be paid such travelling expenses in connection with that travel as
20 are prescribed.

21 **59 Subsection 132(11A)**

22 Repeal the subsection, substitute:

23 (11A) An application must be lodged at an office of the Department in
24 Australia in accordance with section 5T.

25 **60 Subsection 132(11B)**

26 Repeal the subsection.

27 **61 Subsection 132(12)**

28 Omit “or 135”.

29 **62 Section 132A**

30 Repeal the section.

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 **63 Part IX (heading)**

2 Repeal the heading, substitute:

3 **Part IX—Review of decisions by Board**

5 **64 Division 1 of Part IX (heading)**

6 Repeal the heading.

7 **65 Subsection 133(1)**

8 Omit “(1)”.

9 **66 Subsection 133(1)**

10 Repeal the following definitions:

- 11 (a) definition of *alternative dispute resolution processes*;
- 12 (b) definition of *applicant*;
- 13 (c) definition of *application*;
- 14 (d) definition of *Conference Registrar*.

15 **67 Subsection 133(1)**

16 Insert:

17 *decision* means:

- 18 (a) any decision of the Commission in respect of the following
- 19 claims or applications (including a decision under section 20
- 20 or 21 but not a decision under subsection 19A(1)):
 - 21 (i) a claim for a pension under section 14;
 - 22 (ii) an application for a pension, or for an increased
 - 23 pension, under section 15;
 - 24 (iii) an application for attendant allowance under section 98;
 - 25 or
- 26 (b) a determination made by the Commission under
- 27 subsection 347(3) of the MRCA because of the operation of
- 28 subsection 31(2) of this Act.

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

68 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*.

69 Subsection 133(2)

Repeal the subsection.

70 Section 133A

Repeal the section.

71 Division 2 of Part IX

Repeal the Division.

72 Division 3 of Part IX (heading)

Repeal the heading.

73 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

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 (d) a reference in that Part to subsection 323(2) were a reference
2 to section 5T of this Act; and

3 (e) paragraph 353R(3)(a) of that Part referred to a claim for a
4 pension made by a person mentioned in paragraph 132(9)(a)
5 of this Act.

6 Note: This means that a decision may be reviewed by the Board under Part 4
7 of Chapter 8 of the MRCA.

8 (2) Subject to Part X of this Act, if the Board reviews a decision (the
9 **VEA decision**) under Part 4 of Chapter 8 of the MRCA, Part 5 of
10 that Chapter applies in relation to the determination made by the
11 Board on review as if:

12 (a) the Board's determination on review were a reviewable
13 determination; and

14 (b) a person in respect of whom the VEA decision was made
15 were the claimant; and

16 (c) a reference in that Part to the Commission were a reference to
17 the Repatriation Commission.

18 Note: This means that the Board's determination on review of a VEA
19 decision may be reviewed by the Administrative Appeals Tribunal
20 under Part 5 of Chapter 8 of the MRCA.

21 **74 Section 135 (heading)**

22 Repeal the heading, substitute:

23 **135 Application for review—timing requirements**

24 **75 Subsections 135(1) to (4)**

25 Repeal the subsections.

26 **76 Subsections 135(5) and (5A)**

27 Omit “subsection (1), (2) or (3)”, substitute “Part 4 of Chapter 8 of the
28 MRCA”.

29 **77 Subsections 135(6) and (7)**

30 Repeal the subsections.

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 **78 Section 135A**

2 Repeal the section.

3 **79 Section 136 (heading)**

4 Repeal the heading, substitute:

5 **136 Application for review—who may make an application**

6 **80 Subsection 136(1)**

7 Repeal the subsection.

8 **81 Subsection 136(2)**

9 Omit “under subsection (1)”, substitute “for review under Part 4 of
10 Chapter 8 of the MRCA”.

11 **82 Subsection 136(3)**

12 Omit “under subsection (1) of this section”, substitute “for review under
13 Part 4 of Chapter 8 of the MRCA”.

14 **83 Subsection 136(4)**

15 Repeal the subsection.

16 **84 Sections 137 to 140A**

17 Repeal the sections, substitute:

18 **137 Variation of pension assessment pending completion of review**

19 If:

- 20 (a) a request has been made under subsection 352R(1) of the
21 MRCA (Board may request documents etc. from
22 Commission) in relation to a review; and
23 (b) the review is of a decision with respect to a pension
24 assessment;

25 the Board may vary the pension assessment pending the
26 completion of the review, having regard to the records and
27 evidence on which the Commission reached that decision.

EXPOSURE DRAFT

Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

1 **85 Divisions 4 and 4A of Part IX**

2 Repeal the Divisions.

3 **86 Division 5 of Part IX (heading)**

4 Repeal the heading.

5 **87 Sections 146 to 153**

6 Repeal the sections.

7 **88 Sections 155 and 155A**

8 Repeal the sections.

9 **89 Division 6 of Part IX (heading)**

10 Repeal the heading.

11 **90 Subsection 156(1)**

12 Omit “under this Part”.

13 **91 Subparagraph 157(2)(a)(ii)**

14 Omit “at an office of the Department in Australia”, substitute “by the
15 Board”.

16 **92 Paragraph 157(2)(b)**

17 Repeal the paragraph, substitute:

18 (b) if the substituted decision, or the varied decision, as the case
19 may be, is a decision of a kind specified in subsection (3)—
20 the Board must remit the matter to the Commission to fix the
21 date from which the Board’s decision is to operate, being the
22 date of the first available pension pay-day occurring after the
23 date on which a copy of the Board’s decision is given to the
24 Commission under section 353C of the MRCA;

25 **93 Subsection 157(4A)**

26 Omit “subparagraph 139(3)(c)(iii)”, substitute “subparagraph
27 353B(4)(c)(iii) of the MRCA”.

EXPOSURE DRAFT

Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 **94 Divisions 7 and 8 of Part IX**

2 Repeal the Divisions.

3 **95 At the end of subsection 174(1)**

4 Add:

5 Note: See subsection 134(2) for decisions of the Board that are reviewable
6 by the Administrative Appeals Tribunal.

7 **96 Subsections 175(1), (1AA) and (3)**

8 Repeal the subsections.

9 **97 Subsection 176(2)**

10 Repeal the subsection.

11 **98 Subsection 176(3)**

12 Repeal the subsection, substitute:

13 (3) Section 28 of the *Administrative Appeals Tribunal Act 1975* does
14 not apply to or in relation to a person whose interests are affected
15 by a reviewable decision if:

- 16 (a) the decision is of a kind referred to in subsection 175(2),
17 (2A), (2D) or (4); and
18 (b) the person has been served with a copy of that decision, and
19 with the statement related to that decision, in accordance with
20 section 57E, 64F, 118ZX or 140 of this Act, whichever was
21 applicable.

22 **99 Subsection 176(7)**

23 Repeal the subsection.

24 **100 Subsection 177(2)**

25 Omit “made under subsection 175(1)”.

26 **101 Subparagraphs 177(2)(b)(i) and (ii)**

27 Omit “under subsection 175(1)”, substitute “for review by the
28 Tribunal”.

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

102 Subsection 177(3)

Omit “176(7), (8)”, substitute “176(8)”.

103 Subsection 178(1)

Omit “reviewable”.

104 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.

105 Subsections 215(4) to (6)

Repeal the subsections.

106 Schedule 4

Repeal the Schedule.

Division 2—Application and transitional provisions

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

107 Subsection 4(1)

Insert:

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

108 After Part 4

Insert:

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

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.

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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.
- (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 the same terms and conditions as applied to the person immediately before that day.
- (3) This section does not prevent those terms and conditions being varied on or after the review pathway commencement day.

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

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 (b) on the same terms and conditions as applied to the person
2 immediately before that day.

3 (3) This section does not prevent those terms and conditions being
4 varied on or after the review pathway commencement day.

5 **31 Leave of absence**

- 6 (1) This section applies to a leave of absence if:
7 (a) the leave of absence was granted under section 162 of the old
8 VEA before the review pathway commencement day; and
9 (b) the period of leave is, or includes, that day.
- 10 (2) On and after the review pathway commencement day, the leave of
11 absence is taken to have been granted under section 359CC of the
12 MRCA.

13 **32 Staff**

- 14 (1) This section applies to a person who, immediately before the
15 review pathway commencement day, was engaged and made
16 available to assist the Board under section 172 of the old VEA.
- 17 (2) The person is taken, on and after the review pathway
18 commencement day, to be engaged and made available to assist the
19 Board under section 359D of the MRCA.
- 20 (3) The repeal of section 172 of the old VEA does not affect the
21 continuity of employment of the person.

22 **33 Delegations by Principal Member**

23 A delegation under section 166 of the old VEA that is in force
24 immediately before the review pathway commencement day
25 continues in force (and may be dealt with) on and after that day as
26 if the delegation had been made under section 359DA of the
27 MRCA.

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Schedule 3 Review pathway

Part 1 Amendments commencing 60 days after Royal Assent

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.

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Review pathway **Schedule 3**
Amendments commencing 60 days after Royal Assent **Part 1**

1 **Division 4—Other matters**

2 **36 Effect of things done by, or in relation to, the Board**

3 A thing done by, or in relation to, the Board under a law of the
4 Commonwealth before the review pathway commencement day is
5 not affected by the amendments made by Part 1 of Schedule 3 to
6 the Simplification Act.

7 **37 Reviews in progress**

- 8 (1) This section applies if a review by the Board is pending
9 immediately before the review pathway commencement day.
- 10 (2) The Board must, as far as possible, continue the review under the
11 new law.
- 12 (3) Anything done in, or in relation to, the review before the review
13 pathway commencement day continues to have effect for the
14 purposes of, or in relation to, the review (as the case requires) on
15 and after that day.
- 16 (4) Anything done in, or in relation to, the review before the review
17 pathway commencement day that was valid under, or done in
18 accordance with, the old law is taken to be valid under, or to have
19 been done in accordance with, the new law for the purposes of the
20 review on and after the review pathway commencement day.

21 **38 Continued effect of certain instruments**

- 22 (1) If:
- 23 (a) before the review pathway commencement day, an
24 instrument was made under, or for the purposes of, a
25 provision of the old VEA mentioned in column 1 of an item
26 of the following table; and
- 27 (b) immediately before the review pathway commencement day,
28 the instrument is in force;
- 29 the instrument continues to have effect, on and after the review
30 pathway commencement day, as if it had been made under the
31 provision of the MRCA mentioned in column 2 of the item.

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Schedule 3 Review pathway
Part 1 Amendments commencing 60 days after Royal Assent

Continued effect of certain instruments		
Item	Column 1	Column 2
	Provision of the old VEA	Provision of the MRCA
1	subsection 132(5)	subsection 353R(1)
2	subsection 132(6)	subsection 353R(2)
3	subsection 132(9)	subsection 353R(3)
4	paragraph 155(7)(b)	subsection 353D(8)
5	paragraph 170A(3)(b)	paragraph 353P(3)(b)
6	subsection 170B(2)	subsection 353Q(2)
7	subsection 171(1)	subsection 353U(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).

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Review pathway **Schedule 3**
Amendments commencing later **Part 2**

1 **Part 2—Amendments commencing later**

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

3 **109 Subsection 345(1) (paragraph (b) of the definition of**
4 ***acute support package instrument*)**

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

7 **110 Subsection 345(1) (paragraph (c) of the definition of**
8 ***acute support package instrument*)**

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

10 **111 Section 345B**

11 Omit “or the Repatriation Commission”.

12 **112 Section 352A (paragraph (a) of the note)**

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

15 **113 Section 352A (paragraph (b) of the note)**

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

17 **114 Subsection 359B(1)**

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

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

21 **115 Subsection 62(3)**

22 Omit “, a reconsideration determination and a reviewable decision”,
23 substitute “and a reconsideration determination”.

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Schedule 3 Review pathway

Part 2 Amendments commencing later

1 **116 Paragraphs 62(3)(a) and (b)**

2 Omit “, reconsideration determination or reviewable decision”,
3 substitute “or reconsideration determination”.

4 **117 Subsection 62(3) (note)**

5 Omit “, a reconsideration determination and a reviewable decision”,
6 substitute “and a reconsideration determination”.

7 **118 Subsection 62(4)**

8 Omit “, reconsideration determination or reviewable decision”,
9 substitute “or reconsideration determination”.

10 ***Veterans’ Entitlements Act 1986***

11 **119 Subsection 31(2)**

12 Repeal the subsection, substitute:

13 (2) Section 347 of the MRCA applies in relation to the decision as if
14 the decision were an original determination made by the
15 Commission.

16 Note: This means that the Commission may, on its own initiative, reconsider
17 the decision.

18 **120 Paragraph 31(3)(b)**

19 Omit “claimant; and”, substitute “claimant.”.

20 **121 Paragraph 31(3)(c)**

21 Repeal the paragraph.

22 **122 Paragraph 134(1)(c)**

23 Repeal the paragraph.

24 **123 Paragraph 134(2)(b)**

25 Omit “claimant; and”, substitute “claimant.”.

26 **124 Paragraph 134(2)(c)**

27 Repeal the paragraph.

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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:

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Schedule 4 Merging commissions

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”.

1 **20 Subsections 268(1), 288G(1) and 296(1) (note)**
2 Omit “a trustee is appointed”, substitute “there is a trustee”.

3 **21 Section 299 (note)**
4 Omit “a trustee is appointed”, substitute “there is a trustee”.

5 **22 Subsections 303(1), (5) and (6) (note)**
6 Omit “a trustee is appointed”, substitute “there is a trustee”.

7 **23 Chapter 9**
8 Repeal the Chapter, substitute:
9 **Chapter 9—Repatriation Commission**

10 **Part 1—Simplified outline of this Chapter**
11

12 **360A Simplified outline of this Chapter**

13 The Repatriation Commission is continued in existence under 14 Part 2 of this Chapter. Part 2 also sets out the Commission’s 15 functions and powers. The Commission’s functions and powers 16 include the functions and powers of the former Military 17 Rehabilitation and Compensation Commission. 18 Part 3 deals with the administration of the Commission, and 19 includes provisions relating to Commissioners, acting 20 Commissioners and meetings of the Commission. 21 Part 4 deals with staff, contractors, delegations of the Commission 22 and the Commission’s annual report. 23 Part 7 of the <i>Acts Interpretation Act 1901</i> also has provisions that 24 are relevant to Commissioners and acting Commissioners.

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Schedule 4 Merging commissions

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 Act.

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 powers:

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Schedule 4 Merging commissions

- 1 (a) the power to enter into contracts;
2 (b) the power to erect buildings and structures and carry out
3 works;
4 (c) the power to do anything incidental to any of its functions.

5 **Part 3—Administration**

6 **Division 1—Membership etc.**

7 **360C Membership**

- 8 (1) The Commission consists of the following:
9 (a) the President of the Commission;
10 (b) one Commissioner who meets the requirements in
11 subsection (3);
12 (c) one Commissioner who meets the requirements in
13 subsection (5);
14 (d) one Commissioner who meets the requirements
15 subsection (6);
16 (e) one Commissioner who meets the requirements in
17 subsection (7);
18 (f) one Commissioner who meets the requirements in
19 subsection (8);
20 (g) up to 3 other Commissioners.
- 21 (2) The President of the Commission must be the Secretary.
- 22 *Repatriation Commissioner*
- 23 (3) A person meets the requirements of this subsection if the Minister
24 is satisfied that the person has been selected from lists submitted to
25 the Minister in accordance with subsection (4).
- 26 (4) The Minister may, from time to time, request organisations
27 representing veterans to submit to the Minister lists of names of
28 persons from which the organisation concerned recommends that a
29 selection be made of a person to serve as the Repatriation
30 Commissioner.

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Veteran Family Advocate Commissioner

- (5) A person meets the requirements of this subsection if the Minister is satisfied the person will represent families of veterans.

Commissioner representing Comcare

- (6) A person meets the requirements of this subsection if:
- (a) the person is nominated by the SRC Minister; and
 - (b) the person is:
 - (i) the Chief Executive Officer of Comcare; or
 - (ii) a person described in subsection 89E(1) of the *Safety, Rehabilitation and Compensation Act 1988*; or
 - (iii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the SRC Minister.

Commissioner representing the Commonwealth Superannuation Corporation

- (7) A person meets the requirements of this subsection if:
- (a) the person is nominated by the Minister administering the *Governance of Australian Government Superannuation Schemes Act 2011*; and
 - (b) the person is:
 - (i) a director of the Commonwealth Superannuation Corporation; or
 - (ii) a person engaged under the *Public Service Act 1999* and performing duties in the Department administered by the Minister mentioned in paragraph (a).

Commissioner nominated by the Defence Minister

- (8) A person meets the requirements of this subsection if:
- (a) the person is nominated by the Defence Minister; and
 - (b) either of the following apply:
 - (i) the person is a Permanent Forces member;
 - (ii) the person is engaged under the *Public Service Act 1999* and performing duties in the Defence Department.

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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:

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- 1 (a) during a vacancy in the office of an appointed Commissioner
2 (whether or not an appointment has previously been made to
3 the office); or
4 (b) during any period, or during all periods, when an appointed
5 Commissioner:
6 (i) is absent from duty; or
7 (ii) is suspended under section 360CJ; or
8 (iii) is, for any reason, unable to perform the duties of the
9 office.

10 Note: For rules that apply to acting appointments, see sections 33AB and
11 33A of the *Acts Interpretation Act 1901*.

- 12 (3) The Minister must not:
13 (a) appoint a person to act as a Commissioner mentioned in
14 paragraph 360C(1)(b) unless the person meets the
15 requirements in subsection 360C(3); or
16 (b) appoint a person to act as a Commissioner mentioned in
17 paragraph 360C(1)(c) unless the person meets the
18 requirements in subsection 360C(5); or
19 (c) appoint a person to act as a Commissioner mentioned in
20 paragraph 360C(1)(d) unless the person meets the
21 requirements in subsection 360C(6); or
22 (d) appoint a person to act as a Commissioner mentioned in
23 paragraph 360C(1)(e) unless the person meets the
24 requirements in subsection 360C(7); or
25 (e) appoint a person to act as a Commissioner mentioned in
26 paragraph 360C(1)(f) unless the person meets the
27 requirements in subsection 360C(8).

28 **360CD Remuneration**

29 *President*

- 30 (1) The President is not to be paid remuneration or allowances in the
31 capacity of President.
32 (2) However, for the purpose of the payment of allowances to the
33 President, the President's duties as Secretary are taken to include
34 the President's duties as President.

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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

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- 1 (ii) is absent, except on leave of absence, for 14 consecutive
2 days or for 28 days in any 12 months; or
3 (c) the Commissioner fails, without reasonable excuse, to
4 comply with the Commissioner's obligations under:
5 (i) section 360CK (disclosure of interests); or
6 (ii) section 29 of the *Public Governance, Performance and*
7 *Accountability Act 2013* (which deals with the duty to
8 disclose interests) or rules made for the purposes of that
9 section.

10 **360CJ Suspension of appointment**

- 11 (1) The Minister may suspend an appointed Commissioner from
12 office:
13 (a) for misbehaviour; or
14 (b) if the Commissioner is unable to perform the duties of the
15 Commissioner's office because of physical or mental
16 incapacity.
- 17 (2) If the Minister suspends the appointment of a Commissioner, the
18 Governor-General may, on the recommendation of the Minister:
19 (a) terminate the appointment of the Commissioner under
20 section 360CI; or
21 (b) direct that the suspension of the Commissioner continue for
22 such further period as the Governor-General specifies; or
23 (c) direct that the suspension of the Commissioner terminate.
- 24 (3) The suspension of a Commissioner from office under this section
25 does not affect any entitlement of the Commissioner to be paid
26 remuneration and allowances.

27 **360CK Commissioner to disclose any interest in claims etc.**

- 28 (1) This section applies to a Commissioner performing functions in
29 relation to the following matters:
30 (a) a claim for acceptance of liability or for compensation that
31 the Commission is considering or is to consider;
32 (b) a claim for acceptance of liability or for compensation that
33 the Commission is reviewing or is to review;

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- 1 (c) a decision relating to:
2 (i) acceptance of liability or for compensation; or
3 (ii) a claim for acceptance of liability or for compensation;
4 that the Commission is reviewing, is to review or is
5 considering whether to review;
6 (d) a claim or application for a pension that the Commission is
7 considering or is to consider;
8 (e) a pension that the Commission is reviewing or is to review;
9 (f) a decision relating to:
10 (i) a pension; or
11 (ii) a claim or application for a pension;
12 that the Commission is reviewing or is to review.

13 Note: This section does not apply to persons (other than Commissioners) to
14 whom the Commission has delegated functions and powers under
15 section 360DB. However other disclosure requirements may apply to
16 such persons (for example, under the *Public Service Act 1999* or in
17 contractual terms and conditions).

- 18 (2) If the Commissioner has or acquires an interest, pecuniary or
19 otherwise, that could conflict with the proper performance of the
20 Commissioner's functions in relation to a matter mentioned in
21 subsection (1), the Commissioner must disclose the interest to:
22 (a) the person making the claim, the applicant or the person
23 receiving the pension (as the case requires); and
24 (b) the Minister.
- 25 (3) The disclosure must be made as soon as possible after the relevant
26 facts have come to the Commissioner's knowledge.
- 27 (4) The Commissioner must not take part in the Commission's
28 consideration or review of the matter, unless both of the following
29 consent to the Commissioner doing so:
30 (a) the person making the claim, the applicant or the person
31 receiving the pension (as the case requires);
32 (b) the Minister.
- 33 (5) If the Minister becomes aware that the Commissioner has or
34 acquires an interest, pecuniary or otherwise, that could conflict

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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.

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- 1 (2) If the President is not present at a meeting, the Commissioners
2 present must appoint one of themselves to preside.

3 360CN Quorum

- 4 (1) At a meeting of the Commission, a quorum is constituted by a
5 majority of Commissioners.
- 6 (2) However, if:
- 7 (a) a Commissioner is required by:
- 8 (i) section 360CK (disclosure of interests); or
- 9 (ii) a direction given by the Minister under section 360CK;
10 or
- 11 (iii) rules made for the purposes of section 29 of the *Public*
12 *Governance, Performance and Accountability Act 2013*;
13 not to be present during the deliberations, or to take part in
14 any decision, of the Commission with respect to a particular
15 matter; and
- 16 (b) when the Commissioner leaves the meeting concerned there
17 is no longer a quorum present;
- 18 the remaining Commissioners at the meeting constitute a quorum
19 for the purpose of any deliberation or decision at that meeting with
20 respect to that matter.

21 360CO Voting at meetings

- 22 (1) A question arising at a meeting of the Commission is to be
23 determined by a majority of the votes of the Commissioners
24 present and voting.
- 25 (2) The person presiding at a meeting of the Commission has a
26 deliberative vote and, if the votes are equal, a casting vote.

27 360CP Conduct of meetings

28 The Commission may, subject to this Division, regulate
29 proceedings at its meetings as it considers appropriate.

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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.

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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

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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

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1 (b) for the purposes of such an arrangement, transfer the trust
2 funds to the other person;
3 but the making of such an arrangement, or the transferring of the
4 trust funds, does not relieve the Commission of any duties or
5 liabilities as trustee.

6 (7) The regulations may make provision for and in relation to the
7 investment of money vested in the Commission as trustee pending
8 application in accordance with the trust or for the purpose of
9 deriving income for application in accordance with the trust.

10 (8) In this section:

11 *trust funds*, in relation to a trust of which the Commission is the
12 trustee, means money vested in the Commission as trustee.

13 **27 Section 430A (heading)**

14 Omit “and disclosure”.

15 **28 Subsection 430A(1)**

16 Omit “member of the Commission”, substitute “Commissioner”.

17 **29 Subsection 430A(3)**

18 Repeal the subsection.

19 **30 Subsection 430A(4)**

20 Repeal the subsection, substitute:

21 *Interaction with Privacy Act 1988*

22 (4) For the purposes of the *Privacy Act 1988*, the use of the details of
23 an account in accordance with subsection (1) or (2) is taken to be a
24 use that is authorised by this Act.

25 **31 Section 432**

26 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

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1 (b) revokes the assumption by the Commission of the office of
2 trustee and does not exercise its powers under
3 paragraph (5)(a);
4 the trust is terminated.

32 Subsection 433(1)

5 Repeal the subsection, substitute:

6
7 (1) If a trustee is appointed, or the Commission assumes the office of
8 trustee, under section 432 in respect of payments of compensation
9 and other benefits mentioned in paragraph 432(1)(a), the payments
10 are payable to the trustee.

33 Paragraph 433(3)(a)

11 After “compensation”, insert “or other benefit”.

34 Subsection 434(1)

12 Repeal the subsection, substitute:

13
14 (1) This section applies if:
15 (a) a trustee appointed under section 432 is the Commonwealth
16 or an APS employee; or
17 (b) the Commission assumes the office of trustee under
18 section 432.
19

35 Subsection 434(3)

20 Omit “under this Act”, substitute “or other benefits mentioned in
21 paragraph 432(1)(a)”.

36 Subsection 434(5)

22 After “compensation”, insert “or other benefits mentioned in
23 paragraph 432(1)(a)”.

37 Paragraph 434(6)(a)

24 After “compensation”, insert “or other benefits”.

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- 38 Subsection 435(1)**

After “compensation”, insert “or other benefits mentioned in paragraph 432(1)(a)”.

39 Subsection 435(1)

Omit “employee of the Australian Public Service”, substitute “APS employee”.

40 Subsection 435(2)

After “compensation”, insert “or other benefit”.

41 Paragraph 437A(1)(a)

Omit “Commission member”, substitute “Commissioner”.

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

42 Subsection 4(1)

Insert:

Commission has the same meaning as in the MRCA.

43 Subsection 4(1) (definition of MRCC)

Repeal the definition.

44 Section 110

Repeal the section.

45 Subsection 115(2)

Omit “Repatriation”.

46 Section 140

Omit “Military Rehabilitation and Compensation”.

47 The whole of the Act

Omit every occurrence of “MRCC”, substitute “Commission”.

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Schedule 4 Merging commissions

1 ***Veterans' Entitlements Act 1986***

2 **48 Section 5 (paragraph beginning “Sections 5A to”)**

3 Omit “5A”, substitute “5B”.

4 **49 Section 5A**

5 Repeal the section.

6 **50 Subsection 5Q(1)**

7 Repeal the following definitions:

- 8 (a) definition of *acting commissioner*;
9 (b) definition of *Acting Deputy President*;
10 (c) definition of *Acting President*.

11 **51 Subsection 5Q(1) (definition of *Commission*)**

12 Omit “: see section 5A”, substitute “has the same meaning as in the
13 MRCA”.

14 **52 Subsection 5Q(1) (definition of *commissioner*)**

15 Repeal the definition.

16 **53 Subsection 5Q(1)**

17 Insert:

18 *Commissioner* has the same meaning as in the MRCA.

19 **54 Subsection 5Q(1)**

20 Repeal the following definitions:

- 21 (a) definition of *Deputy President*;
22 (b) definition of *Military Rehabilitation and Compensation*
23 *Commission*;
24 (c) definition of *President*.

25 **55 Subsection 5Q(1A)**

26 Omit “Parts VIII, XI and XIA,”, substitute “Part VIII”.

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56 Subparagraph 38(1BA)(b)(iii)

Omit “Military Rehabilitation and Compensation”.

57 Paragraph 45SB(1)(g)

Omit “Military Rehabilitation and Compensation”.

58 Section 58C

Omit “and sections 202 to 202B”, substitute “of this Act and sections 432 to 435 of the MRCA”.

59 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.

60 Section 106 (note)

Omit “Military Rehabilitation and Compensation”.

61 Subsection 122AA(1)

Omit “commissioner of the Commission”, substitute “Commissioner”.

62 Subsections 122AA(2), (3) and (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.

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- 63 Section 131 (paragraph (c) of the definition of *receiving Commonwealth body*)**

Repeal the paragraph.

64 Part XI

Repeal the Part.

65 Sections 200 to 202B

Repeal the sections.

66 Subsection 203(4)

Omit “, or the Military Rehabilitation and Compensation Commission,”.

67 Subsection 212(1)

Omit “(1)”.

68 Paragraph 212(1)(a)

Omit “commissioner”, substitute “Commissioner”.

69 Subsection 212(4)

Repeal the subsection.

70 Sections 213 and 215

Repeal the sections.

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Repatriation Medical Authority and Specialist Medical Review Council **Schedule 5**

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.

EXPOSURE DRAFT

Schedule 5 Repatriation Medical Authority and Specialist Medical Review Council

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”.

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Repatriation Medical Authority and Specialist Medical Review Council **Schedule 5**

1 **12 Subsection 338(2)**

2 Omit “If the Repatriation Medical Authority has given notice under
3 section 196G of the *Veterans’ Entitlements Act 1986*”, substitute “If the
4 Authority has given notice under section 370CJ”.

5 **13 Paragraph 338(2)(c)**

6 Omit “subsection 196B(2) of that Act”, substitute “section 370CB”.

7 **14 Paragraph 338(3)(a)**

8 Omit “subsection 196B(2) or (11) of the *Veterans’ Entitlements Act*
9 *1986*”, substitute “section 370CB or subsection 370CN(1)”.

10 **15 Subsection 338(4)**

11 Omit “Repatriation Medical Authority has neither determined a
12 Statement of Principles under subsection 196B(2) of the *Veterans’*
13 *Entitlements Act 1986*”, substitute “Authority has neither determined a
14 Statement of Principles under section 370CB”.

15 **16 Subsection 339(2)**

16 Omit “Repatriation Medical Authority has given notice under
17 section 196G of the *Veterans’ Entitlements Act 1986*”, substitute
18 “Authority has given notice under section 370CJ”.

19 **17 Paragraph 339(2)(c)**

20 Omit “subsection 196B(3) of that Act”, substitute “section 370CC”.

21 **18 Subparagraph 339(3)(b)(i)**

22 Omit “subsection 196B(3) or (12) of the *Veterans’ Entitlements Act*
23 *1986*”, substitute “section 370CC or subsection 370CN(3)”.

24 **19 Subsection 339(4)**

25 Omit “Repatriation Medical Authority has neither determined a
26 Statement of Principles under subsection 196B(3) of the *Veterans’*
27 *Entitlements Act 1986*”, substitute “Authority has neither determined a
28 Statement of Principles under section 370CC”.

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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

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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.

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370BA Application of the *Public Governance, Performance and Accountability Act 2013* to the Authority

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of *Department of State* in section 8 of that Act, the Authority is not a 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:

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- 1 (i) but for the rendering of that service by the person; or
2 (ii) but for changes in the person's environment consequent
3 upon the person having rendered that service; or
4 (e) in the case of a factor causing, or contributing to, a disease—
5 it would not have occurred:
6 (i) but for the rendering of that service by the person; or
7 (ii) but for changes in the person's environment consequent
8 upon the person having rendered that service; or
9 (f) in the case of a factor causing, or contributing to, the death of
10 a person—it was due to an accident that would not have
11 occurred, or to a disease that would not have been contracted:
12 (i) but for the rendering of that service by the person; or
13 (ii) but for changes in the person's environment consequent
14 upon the person having rendered that service; or
15 (g) it resulted from an accident that occurred while the person
16 was travelling, while rendering that service but otherwise
17 than in the course of duty, on a journey:
18 (i) to a place for the purpose of performing duty; or
19 (ii) away from a place of duty upon having ceased to
20 perform duty.

21 **370CA Meaning of *sound medical-scientific evidence***

22 Information about a particular kind of injury, disease or death is
23 taken to be *sound medical-scientific evidence* if:

- 24 (a) the information:
25 (i) is consistent with material relating to medical science
26 that has been published in a medical or scientific
27 publication and has been, in the opinion of the
28 Authority, subjected to a peer review process; or
29 (ii) in accordance with generally accepted medical practice,
30 would serve as the basis for the diagnosis and
31 management of a medical condition; and
32 (b) in the case of information about how that kind of injury,
33 disease or death may be caused—meets the applicable
34 criteria for assessing causation currently applied in the field
35 of epidemiology.

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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: Warlike service/Non-warlike service includes operational 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:

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- 1 (a) peacetime service;
2 (b) service to which a claim mentioned in subsection 120B(1) of
3 the VEA relates;
4 the Authority must, by legislative instrument, determine a
5 Statement of Principles in respect of that kind of injury, disease or
6 death.
- 7 Note 1: The Authority is required to make and amend a Statement of
8 Principles in certain circumstances: see section 370CG.
- 9 Note 2: The Authority must also make a Statement of Principles for
10 determining claims using the balance of probabilities standard of
11 proof when directed by the Review Council: see subsection 370CN(3).
- 12 (2) The Statement of Principles must set out:
13 (a) the factors that must exist; and
14 (b) which of those factors must be related to service rendered by
15 a person;
16 before it can be said that, on the balance of probabilities, an injury,
17 disease or death of that kind is connected with the circumstances of
18 that service.

Division 3—Investigations by the Authority

Subdivision A—When investigations must be carried out

370CD Initial investigation

- 22 If the Authority:
23 (a) receives a request under section 370CH to carry out an
24 investigation in respect of a particular kind of injury, disease
25 or death; or
26 (b) of its own initiative, decides that a particular kind of injury,
27 disease or death ought to be investigated to find out whether
28 a Statement of Principles may be determined in respect of it;
29 the Authority must carry out an investigation to obtain information
30 that would enable the Authority to establish:
31 (c) how the injury may be suffered or sustained, the disease may
32 be contracted or the death may occur; and

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- 1 (d) the extent (if any) to which the injury, disease or death may
2 be a service injury, a service disease or a service death.

3 Note 1: After carrying out an investigation under this section, the Authority
4 must either make a Statement of Principles, or make a declaration
5 stating it does not propose to make a Statement of Principles: see
6 section 370CG.

7 Note 2: This section does not mean that the Authority must carry out an
8 investigation before it can determine a Statement of Principles under
9 section 370CB or 370CC.

10 **370CE Subsequent investigation**

11 (1) If the Authority:

12 (a) receives a request under section 370CH to review:

13 (i) some or all of the contents of a Statement of Principles;
14 or

15 (ii) a decision of the Authority not to make a Statement of
16 Principles in respect of a particular kind of injury,
17 disease or death; or

18 (b) thinks that there are grounds for such a review; or

19 (c) is directed by the Review Council under
20 subsection 380CA(2) to carry out an investigation in respect
21 of a particular kind of injury, disease or death;

22 the Authority must carry out an investigation to find out if there is
23 new information available about:

24 (d) how the injury may be suffered or sustained, the disease may
25 be contracted or the death may occur; or

26 (e) the extent (if any) to which the injury, disease or death may
27 be a service injury, a service disease or a service death.

28 Note: The Authority is not required to carry out an investigation in certain
29 circumstances: see section 370CF.

30 (2) If the investigation:

31 (a) relates to a request under section 370CH to review some of
32 the contents of a Statement of Principles; or

33 (b) is one to which paragraph (1)(b) applies and that relates to
34 some of the contents of a Statement of Principles; or

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(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

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- 1 (b) the Authority considers that the request does not identify
2 sufficient relevant information:
3 (i) to support the grounds on which the review is sought; or
4 (ii) to otherwise justify the review; or
5 (c) the request is vexatious or frivolous.
- 6 (3) If the Authority decides under subsection (1) or (2) not to carry out
7 an investigation, it must inform the person or organisation in
8 writing of the decision, stating the reasons for it.

Subdivision B—Action following investigation

370CG Action following investigation

11 *Decision to determine etc. a Statement of Principles*

- 12 (1) If, after carrying out an investigation under section 370CD, the
13 Authority is of the view that there is sound medical-scientific
14 evidence on which it can rely to determine a Statement of
15 Principles under section 370CB or 370CC in respect of a kind of
16 injury, disease or death, the Authority must do so as soon as
17 practicable.
- 18 (2) If, after carrying out an investigation under section 370CE, the
19 Authority is of the view that there is a new body of sound
20 medical-scientific evidence that, together with sound
21 medical-scientific evidence previously considered by the
22 Authority, justifies the determination, or amendment, of a
23 Statement of Principles under section 370CB or 370CC in respect
24 of a kind of injury, disease or death that can be related to service
25 rendered by a person, the Authority must do one or more of the
26 following as the case requires:
27 (a) determine a Statement of Principles under section 370CB or
28 370CC in respect of that kind of injury, disease or death;
29 (b) amend an existing Statement of Principles in respect of that
30 kind of injury, disease or death;
31 (c) revoke an existing Statement of Principles, and determine a
32 new Statement of Principles under section 370CB or 370CC,
33 in respect of that kind of injury, disease or death.

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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.

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- 1 (6) If the decision is made following a request from a person or
2 organisation under section 370CH, the Authority must also notify
3 the person or organisation in writing of its decision.

4 Subdivision C—Requests for investigation or review

5 370CH Request for investigation or review

- 6 (1) Any of the following may request the Authority to carry out an
7 investigation or review of a kind mentioned in subsection (2):
8 (a) the Commission;
9 (b) a person eligible to make a claim for compensation under
10 section 319;
11 (c) an organisation representing veterans, Australian mariners or
12 members of the Forces (all within the meaning of the VEA);
13 (d) an organisation representing members or their dependants.
- 14 (2) For the purposes of subsection (1), the kinds of investigation or
15 review are as follows:
16 (a) an investigation under section 370CD in respect of a
17 particular kind of injury, disease or death;
18 (b) a review of a decision of the Authority not to make a
19 Statement of Principles in respect of a particular kind of
20 injury, disease or death following an investigation under
21 section 370CD;
22 (c) a review of some or all of the contents of a Statement of
23 Principles.
- 24 (3) A request under subsection (1) must be made:
25 (a) in a form approved by the Authority; and
26 (b) in a manner approved by the Chair of the Authority.
- 27 (4) If the request is a request for a review of a kind mentioned in
28 paragraph (2)(b) or (c), the request must also:
29 (a) state the grounds on which the review is sought; and
30 (b) identify any information relied on to support those grounds.

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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

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1 (b) must be made at least 28 days before the date of the first
2 meeting of the Authority.

3 (3) A failure to comply with paragraph (2)(a) does not affect the
4 validity of the notifiable instrument.

5 **370CK Powers of Authority with respect to investigations**

6 (1) The Authority may not, for the purposes of an investigation, carry
7 out any new research work (including any test or experiment).

8 (2) The Authority may, for the purposes of an investigation, ask the
9 Secretary:

10 (a) to forward to the Authority any information:

11 (i) in the possession of the Secretary; or

12 (ii) that the Secretary may obtain;

13 relating to the kind of injury, disease or death under
14 investigation; or

15 (b) to carry out research (including any test or experiment) to
16 obtain, confirm, or disprove, specific information about that
17 kind of injury, disease or death and forward a report to the
18 Authority.

19 (3) In forming any view during the investigation, the Authority:

20 (a) may rely only on sound medical-scientific evidence:

21 (i) that has been submitted to it; or

22 (ii) that it has obtained on its own initiative or from the
23 Secretary (under subsection (2)) or from a consultant;
24 and

25 (b) must consider and evaluate all the evidence so made
26 available to it.

27 **370CL Submissions to the Authority**

28 (1) If the Authority is carrying out an investigation under
29 section 370CD or 370CE, any person or organisation referred to in
30 any of paragraphs 370CH(1)(a) to (d) may make a submission in
31 writing to the Authority on any matter (other than a legal matter)
32 relevant to the investigation.

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- 1 (2) A person having expertise in a field relevant to the investigation
2 may make a submission in writing to the Authority on any matter
3 (other than a legal matter) within the person's expertise that is
4 relevant to the investigation.
- 5 (3) If an individual, the Commission or an organisation has made a
6 written submission, the individual or the individual's
7 representative, or a representative of the Commission or of the
8 organisation may, subject to subsection (4), appear before the
9 Authority to make an oral submission complementing the written
10 submission. The oral submission may not cover any legal matter.
- 11 (4) A person or organisation may not be represented before the
12 Authority by a legal practitioner.

Division 4—Matters relating to reviews by the Review Council

370CM Authority to send information to Review Council

- 16 The Authority must, within 28 days after being notified that the
17 Review Council has been asked to review:
- 18 (a) a Statement of Principles; or
19 (b) a decision of the Authority not to determine a Statement of
20 Principles in respect of a particular kind of injury, disease or
21 death; or
22 (c) a decision of the Authority not to amend a Statement of
23 Principles in respect of a particular kind of injury, disease or
24 death; or
25 (d) a decision of the Authority under subsection 370CF(1) not to
26 carry out an investigation in respect of a particular kind of
27 injury, disease or death;
- 28 send to the Review Council a copy of all the information that was
29 available to the Authority when it:
- 30 (e) determined, amended, or last amended, the Statement of
31 Principles; or
32 (f) decided, or last decided, not to determine, or not to amend, a
33 Statement of Principles in respect of that kind of injury,
34 disease or death; or

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1 (g) decided not to carry out the investigation.

2 **370CN Action following review by Review Council**

3 *Determining a Statement of Principles where directed by the*
4 *Review Council—reasonable hypothesis*

5 (1) If, after reviewing a decision of the Authority not to determine a
6 Statement of Principles under section 370CB in respect of a
7 particular kind of injury, disease or death, the Review Council
8 directs the Authority under subsection 380C(4) to determine such a
9 Statement of Principles, the Authority must, by legislative
10 instrument, determine a Statement of Principles in respect of that
11 kind of injury, disease or death.

12 (2) The Statement of Principles must set out, in accordance with the
13 direction of the Review Council:
14 (a) the factors that must as a minimum exist; and
15 (b) which of those factors must be related to service rendered by
16 a person;
17 before it can be said that a reasonable hypothesis has been raised
18 connecting an injury, disease or death of that kind with the
19 circumstances of that service.

20 *Determining a Statement of Principles where directed by the*
21 *Review Council—balance of probabilities*

22 (3) If, after reviewing a decision of the Authority not to determine a
23 Statement of Principles under section 370CC in respect of a
24 particular kind of injury, disease or death, the Review Council
25 directs the Authority under subsection 380C(4) to determine such a
26 Statement of Principles, the Authority must, by legislative
27 instrument, determine a Statement of Principles in respect of that
28 kind of injury, disease or death.

29 (4) The Statement of Principles must set out, in accordance with the
30 direction of the Review Council:
31 (a) the factors that must exist; and
32 (b) which of those factors must be related to service rendered by
33 a person;

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1 before it can be said that, on the balance of probabilities, an injury,
2 disease or death of that kind is connected with the circumstances of
3 that service.

4 *Amending a Statement of Principles where directed by the Review*
5 *Council*

- 6 (5) If, under subsection 380C(4), the Review Council directs the
7 Authority to amend a Statement of Principles in respect of a kind
8 of injury, disease or death, the Authority must do so in accordance
9 with the directions of the Review Council.

10 *Requirements where Statement of Principles made or amended*
11 *under this section*

- 12 (6) A Statement of Principles as determined or amended under this
13 section:
14 (a) is taken to have commenced on the day on which the Review
15 Council made the notifiable instrument under
16 subsection 380C(4) directing the Authority to do so; and
17 (b) must specify that day.
- 18 (7) Subsection 12(2) (retrospective application of legislative
19 instruments) of the *Legislation Act 2003* does not apply in relation
20 to the Statement of Principles determined or amended under this
21 section.

22 **Part 4—Administration**

23 **Division 1—Membership etc.**

24 **370D Membership**

25 The Authority consists of the Chair of the Authority and 4 other
26 members.

27 **370DA Appointment of Authority members**

- 28 (1) The Authority members are to be appointed by the Minister by
29 written instrument.

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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).

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1 (3) This section has effect subject to the *Remuneration Tribunal Act*
2 *1973*.

3 (4) The Minister may, by legislative instrument, prescribe:

4 (a) remuneration for the purposes of subsection (1); and

5 (b) allowances for the purposes of subsection (2).

6 **370DE Other terms and conditions**

7 An Authority member holds office on the terms and conditions (if
8 any) in relation to matters not covered by this Act that are
9 determined by the Minister.

10 **370DF Resignation**

11 (1) An Authority member may resign the Authority member's
12 appointment by giving the Minister a written resignation.

13 (2) The resignation takes effect on the day it is received by the
14 Minister or, if a later day is specified in the resignation, on that
15 later day.

16 **370DG Termination of appointment**

17 The Minister may terminate the appointment of an Authority
18 member:

19 (a) for misbehaviour; or

20 (b) if the Authority member is unable to perform the duties of
21 the Authority member's office because of physical or mental
22 incapacity; or

23 (c) if the Authority member:

24 (i) becomes bankrupt; or

25 (ii) applies to take the benefit of any law for the relief of
26 bankrupt or insolvent debtors; or

27 (iii) compounds with the Authority member's creditors; or

28 (iv) makes an assignment of the Authority member's
29 remuneration for the benefit of the Authority member's
30 creditors; or

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- 1 (d) the Authority member fails, without reasonable excuse, to
2 comply with section 29 of the *Public Governance,*
3 *Performance and Accountability Act 2013* (which deals with
4 the duty to disclose interests) or rules made for the purposes
5 of that section.

6 **Division 2—Procedures of the Authority**

7 **370DH Convening meetings**

- 8 (1) The Authority must hold such meetings as are necessary for the
9 efficient performance of its functions.
10 (2) The Chair of the Authority may convene a meeting at any time.

11 **370DI Presiding at meetings**

- 12 (1) The Chair of the Authority must preside at all meetings at which
13 the Chair is present.
14 (2) If the Chair is not present at a meeting, the Authority members
15 present must appoint one of themselves to preside.

16 **370DJ Quorum**

- 17 (1) At a meeting of the Authority, a quorum is constituted by 3
18 Authority members.
19 (2) However, if:
20 (a) an Authority member is required by rules made for the
21 purposes of section 29 of the *Public Governance,*
22 *Performance and Accountability Act 2013* not to be present
23 during the deliberations, or to take part in any decision, of the
24 Authority with respect to a particular matter; and
25 (b) when the Authority member leaves the meeting concerned
26 there is no longer a quorum present;
27 the remaining Authority members constitute a quorum for the
28 purposes of any deliberation or decision at that meeting with
29 respect to that matter.

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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 person presiding at a meeting 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.

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- 1 (2) The Authority must not engage a consultant without the approval
2 of the Minister.

3 370EB Delegation by Chair of the Authority

- 4 (1) The Chair of the Authority may, in writing, delegate the Chair's
5 power under subsection 370DH(2) to:
6 (a) an Authority member; or
7 (b) a member of the staff assisting the Authority.

8 Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain
9 provisions relating to delegations.

- 10 (2) In performing a delegated power, the delegate must comply with
11 any written directions of the Chair.

12 370EC Annual report

13 The Authority must, as soon as practicable after the end of each
14 financial year, prepare and give to the Minister, for presentation to
15 the Parliament, a report on the Authority's activities during the
16 financial year.

17 Note: See also section 34C of the *Acts Interpretation Act 1901*, which
18 contains extra rules about annual reports.

19 Chapter 9B—Specialist Medical Review 20 Council

21 Part 1—Simplified outline of this Chapter 22

23 380A Simplified outline of this Chapter

24 The Specialist Medical Review Council is continued in existence
25 under Part 2 of this Chapter.

26 Part 2 also sets out the Review Council's functions. The Review
27 Council's main function is to review decisions of the Authority in
28 relation to Statements of Principles.

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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

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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:

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- 1 (d) determined, amended, or last amended, the Statement of
2 Principles; or
3 (e) decided, or last decided, not to determine, or not to amend, a
4 Statement of Principles;
5 in respect of that kind of injury, disease or death.
- 6 (2) If the Review Council has been asked to review some or all of the
7 contents of a Statement of Principles, the Review Council may
8 carry out a review under subsection (1) only if:
9 (a) the period within which the Statement of Principles may be
10 disallowed under section 42 of the *Legislation Act 2003* has
11 ended; and
12 (b) the Statement of Principles has not been disallowed.
- 13 (3) If:
14 (a) the Review Council has been asked to review some or all of
15 the contents of a Statement of Principles in respect of a
16 particular kind of injury, disease or death; and
17 (b) there is another Statement of Principles in force in respect of
18 that kind of injury, disease or death, but the Review Council
19 has not been asked to review some or all of the contents of
20 that other Statement of Principles;
21 then the Review Council must also review that other Statement of
22 Principles by reviewing the information subsection (1) requires it
23 to review in reviewing the Statement of Principles it has been
24 asked to review.
- 25 *Outcome of review*
- 26 (4) If, after carrying out the review, the Review Council is of the view
27 that there is sound medical-scientific evidence on which the
28 Authority could have relied:
29 (a) to amend either or both of the Statements of Principles in
30 force in respect of that kind of injury, disease or death; or
31 (b) to determine a Statement of Principles in respect of that kind
32 of injury, disease or death;
33 the Review Council must, by notifiable instrument, make a
34 declaration stating its views, setting out the evidence in support
35 and:
-

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- 1 (c) directing the Authority to amend either or both of the
2 Statements of Principles, or determine a Statement of
3 Principles (as the case may be), in accordance with the
4 directions given by the Review Council; or
5 (d) remitting the matter for reconsideration by the Authority in
6 accordance with any directions or recommendations of the
7 Review Council.
- 8 (5) If, after carrying out the review, the Review Council is of the view:
9 (a) that there is no sound medical-scientific evidence that
10 justifies the making of a Statement of Principles, or an
11 amendment of either or both of the Statements of Principles,
12 in respect of that kind of injury, disease or death; or
13 (b) that the sound medical-scientific evidence available to the
14 Authority is insufficient to justify the making of a Statement
15 of Principles, or an amendment of either or both of the
16 Statements of Principles, in respect of that kind of injury,
17 disease or death;
18 the Review Council must, by notifiable instrument, make a
19 declaration to that effect giving the reasons for its decision. The
20 Review Council may include in the declaration any
21 recommendation that it considers fit to make about any future
22 investigation that the Authority may carry out in respect of that
23 kind of injury, disease or death.
- 24 *Notification of outcome of review*
- 25 (6) The Review Council must give a copy of the notifiable instrument
26 made under subsection (4) or (5) to:
27 (a) the person or organisation that asked for the review; and
28 (b) the Commission (if it is not the person referred to in
29 paragraph (a)); and
30 (c) the Authority.

380CA Review of decision not to carry out investigation

- 32 (1) If the Review Council is asked under section 380CC to review a
33 decision of the Authority under subsection 370CF(1) not to carry

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- 1 out an investigation in respect of a particular kind of injury, disease
2 or death, the Review Council must consider:
- 3 (a) the reasons given by the Authority for making the decision;
4 and
- 5 (b) the information on which the Authority relied in making that
6 decision; and
- 7 (c) the grounds on which the request for the review was made
8 and any submission made in support of those grounds.
- 9 (2) If, after considering the matters referred to in paragraphs (1)(a), (b)
10 and (c), the Review Council is of the view that:
- 11 (a) there appears to be a new body of sound medical-scientific
12 evidence in respect of that kind of injury, disease or death
13 that has not been previously considered by the Authority; and
- 14 (b) that new body of evidence, together with the sound
15 medical-scientific evidence available to the Authority, could
16 justify the making of a Statement of Principles, or an
17 amendment of the Statement of Principles already
18 determined, in respect of that kind of injury, disease or death;
- 19 the Review Council must, by notifiable instrument, make a
20 declaration to that effect giving the reasons for its decision and
21 directing the Authority to carry out an investigation under
22 subsection 370CE in respect of that kind of injury, disease or
23 death. The Review Council may include in the declaration any
24 recommendation or direction that the Review Council considers fit
25 to make about the carrying out of the investigation.
- 26 (3) If, after considering the matters referred to in paragraphs (1)(a), (b)
27 and (c), the Review Council is not of the view referred to in
28 subsection (2) in respect of that kind of injury, disease or death, the
29 Review Council must, by notifiable instrument, make a
30 declaration:
- 31 (a) affirming the decision of the Authority not to carry out the
32 investigation; and
- 33 (b) giving the reasons for its decision.
- 34 The Review Council may include in the declaration any
35 recommendation that it considers fit to make about any future
36 investigation that the Authority may carry out in respect of that
37 kind of injury, disease or death.
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- 1 (4) The Review Council must give a copy of the notifiable instrument
2 made under subsection (2) or (3) to:
3 (a) the person or organisation that asked for the review; and
4 (b) the Commission (if it is not the person referred to in
5 paragraph (a)); and
6 (c) the Authority.

7 **Division 2—Requests for review**

8 **380CB Request for review of contents of Statement of Principles**

- 9 (1) Subject to subsection (2), any of the following:
10 (a) the Commission;
11 (b) a person eligible to make a claim for compensation under
12 section 319;
13 (c) an organisation representing veterans, Australian mariners or
14 members of the Forces (all within the meaning of the VEA);
15 (d) an organisation representing members or their dependants;
16 may ask the Review Council to review:
17 (e) some or all of the contents of a Statement of Principles; or
18 (f) a decision of the Authority not to make, or not to amend, a
19 Statement of Principles in respect of a particular kind of
20 injury, disease or death.
- 21 (2) The request must be made:
22 (a) in the case of a request to review some or all of the contents
23 of a Statement of Principles—within 3 months after the
24 Statement of Principles was made, amended or last amended;
25 or
26 (b) in any other case—within 3 months after the decision of the
27 Authority.
- 28 (3) A request must:
29 (a) state the grounds on which the review is sought; and
30 (b) be made in a manner approved by the Convener of the
31 Review Council.

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- (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:

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- 1 (a) a decision of the Authority not to make, or not to amend, a
2 Statement of Principles in respect of a particular kind of
3 injury, disease or death; or
4 (b) some or all of the contents of a Statement of Principles in
5 respect of a particular kind of injury, disease or death;
6 the Review Council must, by notifiable instrument:
7 (c) give notice stating that the Review Council intends to carry
8 out a review of the information available to the Authority
9 about that kind of injury, disease or death; and
10 (d) invite persons or organisations authorised under
11 subsection 380CE(1) to do so to make written submissions to
12 the Review Council.
- 13 (2) The notifiable instrument under subsection (1):
14 (a) must specify the date by which all submissions must have
15 been received by the Review Council; and
16 (b) must be made at least 28 days before the date of the first
17 meeting of the Review Council for the purposes of the
18 review.
- 19 (3) A failure to comply with paragraph (2)(a) does not affect the
20 validity of the notifiable instrument.

21 **380CE Submissions to Review Council**

- 22 (1) If the Review Council is carrying out a review under section 380C,
23 any person or organisation referred to in any of paragraphs
24 380CB(1)(a) to (c) may make a submission in writing to the
25 Review Council about any information (*relevant information*) that
26 was both available to the Authority and is relevant to the review.
- 27 (2) A person having expertise in a field relevant to the investigation
28 may make a submission in writing to the Review Council on any
29 relevant information pertaining to that field.
- 30 (3) If an individual, the Commission or an organisation has made a
31 written submission, the individual or the individual's
32 representative, or a representative of the Commission or of the
33 organisation may, subject to subsection (5), appear before the

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- 1 Review Council to make an oral submission complementing the
2 written submission.
- 3 (4) If the Review Council is carrying out a review under
4 section 380CA at the request of an individual, the Commission or
5 an organisation, the individual or the individual's representative, or
6 a representative of the Commission or of the organisation may,
7 subject to subsection (5), appear before the Review Council to
8 make an oral submission complementing the written submission (if
9 any) made under paragraph 380CC(2)(b).
- 10 (5) A person or organisation may not be represented before the Review
11 Council by a legal practitioner.
- 12 (6) In this section, a reference to a submission does not include a
13 submission on a legal matter.

Division 4—Payment of medical and travelling expenses

380CF Medical expenses

- 16 (1) The Commonwealth may, subject to this section, pay to a person
17 (the *applicant*) who asks the Review Council to conduct a review
18 under this Part an amount to cover the medical expenses incurred
19 by the applicant in respect of medical evidence relevant to, and
20 obtained by the applicant for the purposes of, the review and
21 submitted to the Review Council.
- 22 (2) The applicant must not be paid more than the amount prescribed
23 by, or worked out in accordance with, the regulations.
- 24 (3) An amount is not payable in respect of medical expenses unless:
25 (a) the person who has incurred the expenses; or
26 (b) any person approved by that person or by the Review
27 Council;
28 applies in writing to the Review Council for payment.
- 29 (4) The application for payment must:
30 (a) be made within 3 months after the medical evidence was
31 submitted to the Review Council; and

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- 1 (b) be accompanied by any document that the applicant
2 considers relevant; and
3 (c) be made in a manner approved by the Convener of the
4 Review Council.

5 **380CG Travelling expenses for obtaining medical evidence**

- 6 (1) If the applicant has had to travel to obtain any medical evidence
7 submitted to the Review Council as mentioned in
8 subsection 380CF(1), the applicant is, subject to this section,
9 entitled to be paid in relation to that travel the travelling expenses
10 that are prescribed.
- 11 (2) If:
12 (a) the applicant is accompanied by an attendant when travelling
13 to obtain the evidence; and
14 (b) the Review Council is of the view that it is reasonable for the
15 applicant to be so accompanied by an attendant;
16 the attendant is, subject to this section, entitled to be paid in
17 relation to that travel the travelling expenses that are prescribed.
- 18 (3) Travelling expenses are not payable in respect of travel outside
19 Australia.
- 20 (4) Travelling expenses are not payable unless:
21 (a) the person who has incurred the expenses; or
22 (b) any person approved by that person or by the Review
23 Council;
24 applies in writing to the Review Council for payment under
25 subsection (5).
- 26 (5) The application for payment must:
27 (a) be made within:
28 (i) 3 months after the completion of the travel; or
29 (ii) if the Review Council thinks that there are exceptional
30 circumstances that justify extending that period—such
31 further period as the Review Council allows; and
32 (b) be accompanied by any document that the applicant
33 considers relevant; and

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1 (c) be made in a manner approved by the Convener of the
2 Review Council.

3 (6) The Commonwealth is to pay the travelling expenses to which a
4 person is entitled under this section.

5 **380CH Advance of travelling expenses for obtaining medical** 6 **evidence**

7 (1) If the Review Council is satisfied that:

8 (a) it is reasonable to expect that a person may become entitled
9 to travelling expenses under section 380CG; and

10 (b) it is appropriate, in all the circumstances, that the person
11 should be paid an advance on account of those expenses;
12 the Review Council may authorise the payment of that advance to
13 the person.

14 (2) If:

15 (a) a person has received an advance on account of any
16 travelling expenses that the person is likely to incur; and

17 (b) the person:

18 (i) does not incur those travelling expenses; or

19 (ii) incurs travelling expenses that are less than the amount
20 of the advance;

21 the person is liable to repay to the Commonwealth:

22 (c) the amount of the advance; or

23 (d) the difference between the amount of the advance and the
24 amount of the travelling expenses;

25 as the case requires.

26 **380CI Travelling expenses for making oral submissions**

27 (1) If:

28 (a) either:

29 (i) the Review Council is carrying out a review under
30 section 380C and an individual, or an organisation
31 referred to in paragraph 380CB(1)(c), has made a
32 written submission in relation to the review; or

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- 1 (ii) the Review Council is carrying out a review under
2 section 380CA at the request of an individual or an
3 organisation; and
4 (b) a person who is one of the following appears before the
5 Review Council to make an oral submission in relation to the
6 review:
7 (i) the individual or the individual's representative;
8 (ii) a representative of the organisation;
9 the person is, subject to this section, entitled to be paid, for travel
10 that the person undertook to appear, the travelling expenses that are
11 prescribed.
- 12 (2) If:
13 (a) the person is accompanied by an attendant when travelling to
14 appear before the Review Council; and
15 (b) the Review Council is of the view that it is reasonable for the
16 person to be so accompanied by an attendant;
17 the attendant is, subject to this section, entitled to be paid, for that
18 travel, the travelling expenses that are prescribed.
- 19 (3) Travelling expenses are not payable in respect of travel outside
20 Australia.
- 21 (4) Travelling expenses are not payable unless:
22 (a) the person who has incurred the expenses; or
23 (b) any person approved by that person or by the Review
24 Council;
25 applies in writing to the Review Council for payment and the
26 Review Council approves the application.
- 27 (5) The application made under subsection (4) must:
28 (a) be made within 3 months after the completion of the travel;
29 and
30 (b) be accompanied by any document that the person making the
31 application considers relevant; and
32 (c) be made in a manner approved by the Convener of the
33 Review Council.

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- 1 (6) The Commonwealth is to pay the travelling expenses to which a
2 person is entitled under this section.

3 **Part 4—Administration**

4 **Division 1—Membership etc.**

5 **380D Membership**

- 6 (1) The Review Council consists of such number of Councillors as are
7 appointed by the Minister from time to time.
- 8 (2) The Minister may appoint the number of Councillors that the
9 Minister consider necessary for the proper exercise of the functions
10 of the Review Council.

11 **380DA Appointment of Councillors**

- 12 (1) The Councillors are to be appointed by the Minister by written
13 instrument.

14 Note: A Councillor may be reappointed: see section 33AA of the *Acts*
15 *Interpretation Act 1901*.

- 16 (2) The Minister must appoint one of the Councillors to be the
17 Convener.

18 **380DB Qualification for appointment**

- 19 (1) The Minister must not appoint a person to be a Councillor unless
20 the person is a medical practitioner, or a medical scientist, with at
21 least 10 years experience.
- 22 (2) In making appointments, the Minister must:
- 23 (a) ensure that at least one Councillor has at least 5 years
24 experience in the field of epidemiology; and
- 25 (b) have regard to the branches of medical science expertise
26 which would be necessary for deciding matters referred to the
27 Review Council for review.

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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).

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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.

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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 Convener is not present at a meeting of the Review Council as so constituted, the Councillors present must appoint one of themselves to preside.
- (3) 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.
- (4) If the presiding Councillor is not present at a meeting of the Review Council as so constituted, the Councillors present must appoint one of themselves to preside.

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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.

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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.

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Repatriation Medical Authority and Specialist Medical Review Council **Schedule 5**

- 1 (2) The Authority or the Review Council (as the case may be) may not
2 disclose any personal information about a particular person if the
3 information is likely to reveal the identity of that person.

4 ***Veterans' Entitlements Act 1986***

5 **28 Section 5AB**

6 Repeal the section.

7 **29 Subsection 5Q(1)**

8 Insert:

9 *Authority* has the same meaning as in the MRCA.

10 **30 Subsection 5Q(1)**

11 Repeal the following definitions:

- 12 (a) definition of *Chairperson*;
13 (b) definition of *Convener*;
14 (c) definition of *councillor*;
15 (d) definition of *member*;
16 (e) definition of *registered medical practitioner*;
17 (f) definition of *Review Council*;
18 (g) definition of *sound medical-scientific evidence*.

19 **31 Subsection 5T(1) (note)**

20 Repeal the note.

21 **32 Subsection 120A(2)**

22 Omit "Repatriation Medical Authority has given notice under
23 section 196G", substitute "Authority has given notice under section
24 370CJ of the MRCA".

25 **33 Paragraph 120A(2)(a)**

26 Omit "subsection 196B(2)", substitute "section 370CB of the MRCA".

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Schedule 5 Repatriation Medical Authority and Specialist Medical Review Council

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

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- 1 respect of a particular kind of injury, disease or death (see
2 Part 3 of Chapter 9A of the MRCA); and
3 (b) the Commission is of the opinion that, because the Statement
4 of Principles is in force, or because of the decision by the
5 Authority not to make or amend the Statement of Principles:
6 (i) claims for pensions in respect of incapacity from injury
7 or disease of that kind made by veterans, members of
8 the Forces, or members of a Peacekeeping Force, of a
9 particular class; or
10 (ii) claims for pensions made by dependants of those
11 veterans or members in respect of the death of such a
12 veteran or member;
13 cannot succeed; and
14 (c) the Commission is also of the opinion that, in all the
15 circumstances of the case, those veterans, members or their
16 dependants should receive a pension;
17 the Commission may, in its discretion, make a determination in
18 respect of that kind of injury, disease or death under subsection (2)
19 or (3), or determinations under both subsections (as the case
20 requires).
- 21 (2) A determination under this subsection in respect of a particular
22 kind of injury, disease or death must be by legislative instrument
23 and must:
24 (a) state that it has effect only in relation to the class of veterans,
25 members of the Forces, or members of a Peacekeeping Force
26 referred to in subparagraph (1)(b)(i); and
27 (b) state that it applies only in respect of claims relating to:
28 (i) operational service rendered by a veteran; or
29 (ii) peacekeeping service rendered by a member of a
30 Peacekeeping Force; or
31 (iii) hazardous service rendered by a member of the Forces;
32 or
33 (iv) British nuclear test defence service rendered by a
34 member of the Forces; and
35 (c) set out:
36 (i) the factors that must as a minimum exist; and

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Schedule 5 Repatriation Medical Authority and Specialist Medical Review Council

- 1 (ii) which of those factors must be related to service (within
2 the meaning of the MRCA) rendered by a person;
3 before it can be said that a reasonable hypothesis has been
4 raised connecting an injury, disease or death of that kind with
5 the circumstances of that service.
- 6 (3) A determination under this subsection in respect of a particular
7 kind of injury, disease or death must be by legislative instrument
8 and must:
- 9 (a) state that it has effect only in relation to the class of veterans
10 or members of the Forces referred to in
11 subparagraph (1)(b)(i); and
- 12 (b) state that it applies only in respect of claims relating to:
- 13 (i) eligible war service (other than operational service)
14 rendered by a veteran; or
- 15 (ii) defence service (other than hazardous service and
16 British nuclear test defence service) rendered by a
17 member of the Forces; and
- 18 (c) set out:
- 19 (i) the factors that must exist; and
- 20 (ii) which of those factors must be related to service (within
21 the meaning of the MRCA) rendered by a person;
22 before it can be said, on the balance of probabilities, that an
23 injury, disease or death of that kind is connected with the
24 circumstances of that service.
- 25 (4) While there is in force under subsection (2) a determination in
26 respect of a particular kind of injury, disease or death, any
27 Statement of Principles in force under section 370CB of the
28 MRCA in respect of that kind of injury, disease or death does not
29 apply in respect of any veteran, member of the Forces, member of
30 any Peacekeeping Force or dependant in relation to whom the
31 determination has effect.
- 32 (5) While there is in force under subsection (3) a determination in
33 respect of a particular kind of injury, disease or death, any
34 Statement of Principles in force under section 370CC of the
35 MRCA in respect of that kind of injury, disease or death does not

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1 apply in respect of any veteran or member of the Forces or
2 dependant in relation to whom the determination has effect.

3 **43 Paragraph 129A(1)(a)**

4 Repeal the paragraph, substitute:

5 (a) a provision of this Act requires or permits a notice or other
6 document to be given to a person by the Secretary, the
7 Department, an officer of the Department, or the
8 Commission; and

9 **44 Paragraph 129A(1)(d)**

10 Repeal the paragraph, substitute:

11 (d) in a manner approved in writing by the Commission.

12 **45 Parts XIA and XIB**

13 Repeal the Parts.

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Schedule 6 Disability compensation cessation date

1 Schedule 6—Disability compensation
2 cessation date
3

4 *Veterans’ Entitlements Act 1986*

5 **1 Subsection 121(4)**

6 Omit “If”, substitute “Subject to subsection (4AA), if”.

7 **2 After subsection 121(4)**

8 Insert:

9 *Exception—pension under Part II or IV at rate determined under*
10 *Division 4 of Part II*

11 (4AA) If a person who is receiving a pension under Part II or IV at a rate
12 determined under or by reference to Division 4 of Part II dies, an
13 amount is payable to the person’s estate as an instalment of that
14 pension in relation to the pension period in which the person died.

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Application and transitional provisions **Schedule 7**

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.

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Schedule 7 Application and transitional provisions

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.

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Application and transitional provisions **Schedule 7**

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.

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Schedule 7 Application and transitional provisions

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; 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.

Compensation in respect of a person's death

- (3) 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:

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Application and transitional provisions **Schedule 7**

- 1 (a) has received compensation in respect of the death under:
2 (i) section 17 of the DRCA; or
3 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
4 (b) is entitled to, and is receiving, a pension under section 13A
5 of the VEA in respect of the death.

6 *Compensation in respect of funeral expenses*

- 7 (4) A person is not entitled to compensation under Part 5 of Chapter 5
8 of the MRCA in respect of the cost of a deceased member's funeral
9 if:
10 (a) the person has received compensation in respect of the
11 funeral under:
12 (i) section 18 of the DRCA; or
13 (ii) the 1912 Act, the 1930 Act or the 1971 Act; or
14 (b) a funeral benefit has been paid to the estate of the deceased
15 member under section 98B of the VEA.

16 *Compensation in respect of medical expenses etc.*

- 17 (5) A person is not entitled to compensation under Part 4 of Chapter 6
18 of the MRCA in respect of the cost of treatment, or costs incurred
19 in respect of a journey made to obtain treatment or in respect of
20 accommodation required during such a journey, if the person has
21 received compensation in respect of those costs under:
22 (a) section 16 of the DRCA; or
23 (b) the 1912 Act, the 1930 Act or the 1971 Act.

24 *Provision of treatment*

- 25 (6) A person is not entitled to be provided with treatment under Part 3
26 of Chapter 6 of the MRCA for an injury or disease for a period if
27 the person is being provided with treatment under subsection 85(1)
28 or (2) of the VEA for that injury or disease for that period.

29 Note: A person who is being provided with treatment under subsection 85(1)
30 or (2) of the VEA for an injury or disease may become entitled to be
31 provided with treatment under Part 3 of Chapter 6 of the MRCA for
32 that injury or disease (see section 113 of this Act).

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Schedule 7 Application and transitional provisions

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 Part 4 (heading)

Omit “transitional provisions”, substitute “matters”.

12 Sections 15 to 21

Repeal the sections.

13 Section 22

Omit “commencement date”, substitute “date on which section 3 of the MRCA commenced”.

14 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)”.

15 After Part 5

Insert:

Part 6—Other application and transitional provisions relating to the Simplification Act

Division 1—Preliminary

40 Definitions

In this Part:

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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 the same terms and conditions as applied to the person immediately before that date.

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- 1 (3) This section does not prevent those terms and conditions being
2 varied on or after the date of commencement.

3 **42 Acting Commissioners**

- 4 (1) This section applies to a person who was appointed to act as a
5 commissioner under section 191 of the old VEA if the appointment
6 was in force immediately before the date of commencement.
- 7 (2) The person is taken, on and after the date of commencement, to
8 have been appointed under section 360CC of the MRCA:
9 (a) for the balance of the person's term of appointment that
10 remained immediately before that date; and
11 (b) on the same terms and conditions as applied to the person
12 immediately before that date.
- 13 (3) This section does not prevent those terms and conditions being
14 varied on or after the date of commencement.

15 **43 Cessation of appointment of Deputy President**

- 16 (1) This section applies to a person who, immediately before the date
17 of commencement, was holding office as a commissioner (because
18 of an appointment under section 182 of the old VEA) and as the
19 Deputy President of the Commission.
- 20 (2) The person ceases to hold those offices at the start of the date of
21 commencement.
- 22 (3) Nothing in this section prevents the person being appointed to an
23 office under the MRCA.

24 **44 Staff**

- 25 (1) This section applies to a person who, immediately before the date
26 of commencement, was engaged and made available to assist the
27 Commission under section 196 of the old VEA.
- 28 (2) The person is taken, on and after the date of commencement, to be
29 engaged and made available to assist the Commission under
30 section 360D of the MRCA.

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- 1 (3) The repeal of section 196 of the old VEA does not affect the
2 continuity of employment of the person.

3 **45 Contractors**

4 A person who, immediately before the date of commencement, was
5 engaged by the Commission to perform services under
6 paragraph 181(3)(d) of the old VEA is taken, on and after that date,
7 to be engaged by the Commission under section 360DA of the
8 MRCA on the same terms and conditions.

9 **46 Delegations by the Commission**

10 A delegation under section 213 of the old VEA that is in force
11 immediately before the date of commencement continues in force
12 (and may be dealt with), on and after that date, as if the delegation
13 had been made under subsection 360DB(1) of the MRCA.

14 **47 Commission annual reports**

- 15 (1) This section applies to a report referred to in subsection 215(1) of
16 the old VEA.
- 17 (2) Despite the repeal of section 215 of the old VEA by Schedule 4 to
18 the Simplification Act, that section continues to apply in relation to
19 the report for a financial year ending on or before 30 June 2026, as
20 if that repeal had not happened.

21 **Subdivision B—Other matters**

22 **48 Assets and liabilities of the Commission**

23 Assets and liabilities of the Commission immediately before the
24 date of commencement continue, on and after that date, to be assets
25 and liabilities of Commission (without any conveyance, transfer or
26 assignment).

27 **49 Contributions made to Commission**

- 28 (1) This section applies in relation to a contribution that:

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Schedule 7 Application and transitional provisions

- 1 (a) was accepted by the Commission under section 200 of the
2 old VEA before the date of commencement; and
3 (b) has not been dealt with by the Commission under that section
4 before that date.
- 5 (2) On and after the date of commencement, the contribution is taken
6 to have been accepted, and must be dealt with, by the Commission
7 under section 427A of the MRCA.

50 Continued effect of certain trust arrangements etc under the DRCA

- 10 (1) This section applies if, immediately before the date of
11 commencement, money is held by the MRCC for the benefit of a
12 person under section 110 of the old DRCA.
- 13 (2) On and after the date of commencement, the Commission is taken
14 to have assumed the office of trustee of the money under
15 subsection 432(2) of the MRCA.
- 16 (3) If:
17 (a) before the date of commencement, the money was invested in
18 accordance with subsection 110(2) of the old DRCA; and
19 (b) immediately before that date, an arrangement for that
20 investment is in force;
21 the arrangement has effect, on and after that date, as if it were an
22 arrangement under paragraph 434(5)(a) of the MRCA.
- 23 (4) If:
24 (a) before the date of commencement, a direction mentioned in
25 subsection 110(1) or (4) of the old DRCA was given in
26 relation to the money, or the money as invested; and
27 (b) immediately before that date, the direction has not been
28 revoked by the person who gave it;
29 then, despite sections 433 and 434 of the MRCA, the money, or the
30 money as invested, must be dealt with, on or after that date, in
31 accordance with the direction, unless the direction is revoked by
32 person who gave it.

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Application and transitional provisions **Schedule 7**

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.

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Schedule 7 Application and transitional provisions

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 the same terms and conditions as applied to the person immediately before that date.
- (3) This section does not prevent those terms and conditions being varied on or after the date of commencement.

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:

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-
- 1 (a) for the balance of the person's term of appointment that
2 remained immediately before that date; and
3 (b) on the same terms and conditions as applied to the person
4 immediately before that date.
- 5 (3) This section does not prevent those terms and conditions being
6 varied on or after the date of commencement.

7 **56 Cessation of appointment of certain members of the MRCC**

- 8 (1) This section applies to a person who was, immediately before the
9 date of commencement:
10 (a) holding office as a member of the MRCC (because of an
11 appointment under 365(1) of the old MRCA); and
12 (b) a member of the MRCC described in
13 subparagraph 364(1)(b)(i) of the old MRCA.
- 14 (2) The person ceases to hold that office at the start of the date of
15 commencement.

16 **57 Staff**

- 17 (1) This section applies to a person who, immediately before the date
18 of commencement, was engaged and made available to assist the
19 MRCC under section 382 of the old MRCA.
- 20 (2) The person is taken, on and after the date of commencement, to be
21 engaged and made available to assist the Commission under
22 section 360D of the MRCA.
- 23 (3) The repeal of section 382 of the old MRCA does not affect the
24 continuity of employment of the person.

25 **58 Consultants**

26 A person who, immediately before the date of commencement, was
27 engaged by the MRCC as a consultant under section 383 of the old
28 MRCA is taken, on and after that date, to be engaged by the
29 Commission under section 360DA of the MRCA on the same
30 terms and conditions.

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Schedule 7 Application and transitional provisions

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.
- (2) The records and documents are to be transferred to the Commission after that date.

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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 was 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
 - (c) an instrument made under an Act or regulation.

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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.
- (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 the same terms and conditions as applied to the person immediately before that date.
- (3) This section does not prevent those terms and conditions being varied on or after the date of commencement.

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.

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- 1 (2) The person is taken, on and after the date of commencement, to
2 have been appointed as the Chair of the Authority under section
3 370DA of the MRCA:
4 (a) for the balance of the person's term of appointment that
5 remained immediately before that date; and
6 (b) on the same terms and conditions as applied to the person
7 immediately before that date.
- 8 (3) This section does not prevent those terms and conditions being
9 varied on or after the date of commencement.

10 **69 Staff**

- 11 (1) This section applies to a person who, immediately before the date
12 of commencement, was engaged and made available to assist the
13 Authority under section 196T of the old VEA.
- 14 (2) The person is taken, on and after the date of commencement, to be
15 engaged and made available to assist the Authority under section
16 370E of the MRCA.
- 17 (3) The repeal of section 196T of the old VEA does not affect the
18 continuity of employment of the person.

19 **70 Consultants**

20 A person who, immediately before the date of commencement, was
21 engaged by the Authority as a consultant under section 196U of the
22 old VEA is taken, on and after that date, to be engaged by the
23 Authority under section 370EA of the MRCA on the same terms
24 and conditions.

25 **71 Delegations by the Chair**

26 A delegation under subsection 196R(1) of the old VEA that is in
27 force immediately before the date of commencement continues in
28 force (and may be dealt with), on and after that date, as if the
29 delegation had been made under subsection 370EB(1) of the
30 MRCA.

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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

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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.

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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.
- (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 the same terms and conditions as applied to the person immediately before that date.
- (3) This section does not prevent those terms and conditions being varied on or after the date of commencement.

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.
- (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 the same terms and conditions as applied to the person immediately before that date.

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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

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- 1 (ii) a decision of the Repatriation Medical Authority not to
2 make, or not to amend, a Statement of Principles; and
3 (b) immediately before that date, the Review Council had not
4 reviewed the Statement of Principles or the decision.
- 5 (2) The request has effect, on and after the date of commencement, as
6 if it were a request made under section 380CB of the MRCA.

7 **84 Requests for review of decision by the Authority**

- 8 (1) This section applies if:
9 (a) before the date of commencement, the Review Council
10 received a request under section 196Z of the old VEA to
11 review a decision by the Authority not to carry out an
12 investigation in respect of a kind of injury, disease or death;
13 and
14 (b) immediately before that date, the Review Council had not
15 reviewed the decision.
- 16 (2) The request has effect, on and after the date of commencement, as
17 if it were a request made under section 380CC of the MRCA.

18 **85 Payment of medical and travel expenses**

19 Division 4 of Part 3 of Chapter 9B of the MRCA applies in relation
20 to expenses incurred by a person in connection with, or for the
21 purposes of, a review by the Review Council, whether the review
22 was conducted before, on or after the date of commencement.

23 **86 Continued effect of regulations relating to medical and travel** 24 **expenses**

- 25 If:
26 (a) before the date of commencement, regulations were made for
27 the purposes of a provision of the old VEA mentioned in
28 column 1 of an item of the following table; and
29 (b) immediately before that date, the regulations are in force;

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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.

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- (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.

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Division 6—Other application and transitional provisions

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Subdivision A—Amendments made by Schedule 1

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88 Bringing across certain instruments relating to pre-2004

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operations

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- 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	Column 2
	Provision of the VEA	Provision of the MRCA
1	paragraph 5B(2)(a)	paragraph 442(2)(a)
2	paragraph 5B(2)(b)	paragraph 442(2)(b)

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Bringing across certain instruments relating to pre-2004 operations		
Item	Column 1	Column 2
	Provision of the VEA	Provision of the MRCA
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

1 **89 Application provision—permanent impairment**

2 The amendments of the MRCA made by Division 1 of Part 3 of
3 Schedule 1 to the Simplification Act apply in relation to a claim for
4 compensation that is made on or after the date of commencement.

5 **90 Application provision—liability restrictions on tobacco use**

6 The amendment of the MRCA made by Division 2 of Part 3 of
7 Schedule 1 to the Simplification Act applies in relation to a claim
8 that is made on or after the date of commencement.

9 **91 Application provision—medical event on service**

- 10 (1) Paragraph 27(da) of the MRCA, as inserted by Division 3 of Part 3
11 of Schedule 1 to the Simplification Act, applies in relation to a
12 claim for acceptance of liability for an injury that is made on or
13 after the date of commencement, regardless of when the injury was
14 sustained.
- 15 (2) Paragraph 28(ea) of the MRCA, as inserted by Division 3 of Part 3
16 of Schedule 1 to the Simplification Act, applies in relation to a
17 claim for acceptance of liability for a death that is made on or after
18 the date of commencement, regardless of when the death occurred.
- 19 (3) The amendments of sections 338 and 339 of the MRCA made by
20 Division 3 of Part 3 of Schedule 1 to the Simplification Act apply
21 in relation to a claim for acceptance of liability that is made on or
22 after the date of commencement.

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92 Application provision—posthumous permanent impairment payments

The amendments made by Division 4 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.

93 Application provision—overpayments and debts

- (1) The amendments of section 415 of the MRCA made by Division 5 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 5 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 5 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 5 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.

94 Application provision—common law damages

The amendment of the MRCA made by Division 7 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.

95 Application provision—information sharing

Sections 406 and 409 of the MRCA, as amended by Division 8 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

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1 in relation to the use and disclosure of information and documents
2 on or after the date of commencement, whether the information or
3 documents were obtained before, on or after that date.

4 **96 Offsetting**

5 (1) Section 388 of the MRCA, as amended by Division 9 of Part 3 of
6 Schedule 1 to the Simplification Act, applies in relation to an
7 action brought on or after the date of commencement.

8 (2) Sections 390 and 391 of the MRCA, as amended by Division 9 of
9 Part 3 of Schedule 1 to the Simplification Act, apply in relation to a
10 claim for damages made on or after the date of commencement.

11 (3) Sections 399, 401 and 402 of the MRCA, as amended by
12 Division 9 of Part 3 of Schedule 1 to the Simplification Act, apply
13 in relation to damages recovered on or after the date of
14 commencement.

15 (4) Section 403 of the MRCA, as amended by Division 9 of Part 3 of
16 Schedule 1 to the Simplification Act, applies in relation to:
17 (a) an agreement to pay damages that is made on or after the date
18 of commencement; and
19 (b) damages awarded on or after the date of commencement.

20 (5) If:
21 (a) on or after the date of commencement, a provision of
22 Chapter 10 of the MRCA applies in relation to a particular
23 case; and
24 (b) apart from this subsection, a relevant DRCA or VEA
25 provision would also apply in relation to that particular case;
26 the relevant DRCA or VEA provision has no effect in relation to
27 the particular case.

28 (6) In this section:
29 **relevant DRCA or VEA provision** means a provision of:
30 (a) Part IV of the DRCA; or
31 (b) Division 5A of Part II of the VEA; or
32 (c) Division 4 of Part IV of the VEA.

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97 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

98 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.

99 Pending claims 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.

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- 1 (2) The application is taken, on and after the date of commencement,
2 to be a claim for compensation made under section 319 of the
3 MRCA.

4 **100 Pending claims for DRCA funeral expenses**

- 5 (1) This section applies if:
6 (a) before the date of commencement, a claim was made under
7 the old DRCA for compensation under section 18 of that Act;
8 and
9 (b) immediately before that date, the application has not been
10 finally determined.
- 11 (2) The claim is taken, on and after the date of commencement, to be a
12 claim for compensation made under section 319 of the MRCA.

13 **101 Continued effect of acute support packages under the old DRCA**

- 14 (1) This section applies if:
15 (a) before the date of commencement, a person was granted an
16 acute support package under an instrument made for the
17 purposes of section 41B of the DRCA; and
18 (b) immediately before that date:
19 (i) the period during which assistance or benefits for acute
20 support package may be provided has not ended; and
21 (ii) the acute support package has not been revoked.
- 22 (2) The amendments of the old DRCA made by Division 2 of Part 1 of
23 Schedule 2 to the Simplification Act do not affect the continuity of
24 the acute support package.

25 **102 Application provision—Victoria Cross allowance**

- 26 (1) Section 230A of the MRCA, as added by Division 4 of Part 1 of
27 Schedule 2 to the Simplification Act, applies in relation to the
28 allowance period that starts on 20 September 2026 and each later
29 allowance period.
- 30 (2) Section 404A of the MRCA, as added by Division 4 of Part 1 of
31 Schedule 2 to the Simplification Act, applies in relation to the

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1 allowance period that starts on 20 September 2024 and each later
2 allowance period.

3 **103 Decoration allowance**

4 Despite the repeal of section 102 of the old VEA by Division 4 of
5 Part 1 of Schedule 2 to the Simplification Act, that section
6 continues to apply, on and after the date of commencement, in
7 relation to a pension period (within the meaning of the old VEA)
8 that starts before that date and ends on or after that date, as if that
9 repeal had not happened.

10 **104 Transfer of old VEA prisoner of war recognition supplement**
11 **recipients to MRCA**

12 (1) This section applies in relation to a person if, immediately before
13 the date of commencement, prisoner of war recognition
14 supplement under Part VIB of the old VEA is being paid to the
15 person.

16 *Continued application of old VEA to fortnights before transfer*
17 *fortnight*

18 (2) Despite the amendments of the old VEA made by Division 5 of
19 Part 1 of Schedule 2 to the Simplification Act, the old VEA
20 continues to apply, in relation to an amount of prisoner of war
21 recognition supplement payable to the person under Part VIB of
22 that Act for a fortnight that ends before the transfer fortnight, as if
23 those amendments had not been made.

24 *Application of MRCA to transfer fortnight and later fortnights*

25 (3) For the transfer fortnight and each later fortnight, Part 3 of
26 Chapter 5AA of the MRCA has effect in relation to the person as if
27 section 268AO were omitted.

28 Note: Subsection (3) means that the person is eligible for prisoner of war
29 supplement under Part 3 of Chapter 5AA of the MRCA without the
30 person needing to make a claim for compensation under section 319
31 of the MRCA.

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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.

105 Application provision—indexation of prisoner of war recognition supplement

Section 404 of the MRCA, as amended by Division 5 of Part 1 of Schedule 2 to the Simplification Act, applies in relation to the indexation year that starts on 1 July 2024 and each later indexation year.

106 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.

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107 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.
- (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.

108 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

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-
- 1 (ii) section 116CB of the old VEA; or
2 (iii) the Veterans' Children Education Scheme (within the
3 meaning of the old VEA); and
4 (b) immediately before that date, the application had not been
5 finally determined.
- 6 (2) The application is taken, on and after the date of commencement,
7 to be:
8 (a) if subparagraph (1)(a)(i) applies—an application made under
9 paragraph 257C(1)(a) of the MRCA; or
10 (b) if subparagraph (1)(a)(ii) applies—an application made under
11 paragraph 257C(1)(b) of the MRCA; or
12 (c) if subparagraph (1)(a)(iii) applies—a claim for compensation
13 made under section 319 of the MRCA.

14 **109 Reviews in progress under Part VII of the old VEA**

- 15 (1) This section applies if a review by the Commission under
16 section 116D of the old VEA is pending immediately before the
17 date of commencement.
- 18 (2) The Commission must, as far as possible, continue the review
19 under section 347 of the MRCA and, for that purpose, section 347
20 of the MRCA applies as if the review were a reconsideration of an
21 original determination undertaken on the Commission's own
22 initiative.
- 23 (3) Anything done in, or in relation to, the review before the date of
24 commencement continues to have effect for the purposes of, or in
25 relation to, the review (as the case requires) on and after that date.
- 26 (4) Anything done in, or in relation to, the review before the date of
27 commencement that was valid under, or done in accordance with,
28 the old VEA is taken to be valid under, or to have been done in
29 accordance with, the MRCA for the purposes of the review on and
30 after the date of commencement.

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110 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)

111 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.

112 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.

EXPOSURE DRAFT

Application and transitional provisions **Schedule 7**

- 1 (3) Despite the repeal of section 110, and the amendments of
2 sections 111 and 112, of the old VEA made by Division 1 of Part 2
3 of Schedule 2 to the Simplification Act, those provisions, as in
4 force immediately before the date of commencement, continue to
5 apply on and after that date in relation to a journey that starts
6 before that date.

7 **113 All treatment to be provided under MRCA in certain**
8 **circumstances**

- 9 (1) This section applies if:
10 (a) apart from this section, at a time (the *transfer time*) on or
11 after the date of commencement, a person becomes entitled
12 to be provided with treatment for a service injury or disease
13 under Part 3 of Chapter 6 of the MRCA; and
14 (b) at that time, the person is eligible to be, or is being, provided
15 with treatment under subsection 85(1) or (2) of the VEA for a
16 separate war-caused or defence-caused injury or disease
17 (within the meaning of that Act) (the *VEA injury or disease*).
- 18 (2) At the transfer time:
19 (a) the person becomes entitled to be provided with treatment
20 under Part 3 of Chapter 6 of the MRCA for the VEA injury
21 or disease; and
22 (b) the person ceases to be eligible to be provided with treatment
23 under subsection 85(1) or (2) of the VEA for that injury or
24 disease.
- 25 (3) However, section 288A of the MRCA does not apply in respect of
26 any treatment obtained for the VEA injury or disease before the
27 transfer time.

28 **114 Application provision—treatment arrangements**

29 Despite the repeal of section 85B of the old VEA by Division 2 of
30 Part 2 of Schedule 2 to the Simplification Act, that section
31 continues to apply, on and after the date of commencement, in
32 relation to treatment provided during a period that starts before that
33 date and ends on or after that date, as if that repeal had not
34 happened.

EXPOSURE DRAFT

Schedule 7 Application and transitional provisions

115 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.

116 Application provision—additional disablement amount

(1) 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.

(2) Section 404 of the MRCA, as amended by Part 4 of Schedule 2 to the Simplification Act, applies in relation to the indexation year that starts on 1 July 2024 and each later indexation year.

Subdivision C—Amendments made by Schedule 6

117 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

118 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) This Part does not limit the regulations that may be made for the purposes of subsection (1).

EXPOSURE DRAFT

Application and transitional provisions **Schedule 7**

-
- 1 **16 Schedules 1 to 4**
 - 2 Repeal the Schedules.

EXPOSURE DRAFT

Schedule 8 Consequential amendments

Schedule 8—Consequential amendments

Aged Care Act 1997

1 Paragraph 86-3(1)(i)

Omit “*Veterans’ Entitlements Act 1986*”, substitute “*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 “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.

4 Section 86-7

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

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- 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 “*Veterans’ Entitlements Act 1986*”, substitute “*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*”.

EXPOSURE DRAFT

Schedule 8 Consequential amendments

1 ***Age Discrimination Act 2004***

2 **14 Subsection 41(6)**

3 Repeal the subsection.

4 ***A New Tax System (Family Assistance) Act 1999***

5 **15 After paragraph 7(ha) of Schedule 3**

6 Insert:

7 (haa) a payment of an Additional Disablement Amount under
8 Division 3A of Part 7 of Chapter 4 of the *Military*
9 *Rehabilitation and Compensation Act 2004*;

10 ***Australian Participants in British Nuclear Tests and British***
11 ***Commonwealth Occupation Force (Treatment) Act***
12 ***2006***

13 **16 Subsection 4(1) (definition of *Commission*)**

14 Omit “means the Repatriation Commission continued in existence by
15 section 179 of the *Veterans’ Entitlements Act 1986*”, substitute “has the
16 same meaning as in the *Military Rehabilitation and Compensation Act*
17 *2004*”.

18 **17 Subsection 30(1) (note)**

19 Omit “section 180 of the *Veterans’ Entitlements Act 1986*”, substitute
20 “section 360BB of the *Military Rehabilitation and Compensation Act*
21 *2004*”.

22 ***Australian Veterans’ Recognition (Putting Veterans and***
23 ***Their Families First) Act 2019***

24 **18 Subsection 7(3)**

25 Omit “Military Rehabilitation and Compensation Commission”,
26 substitute “Repatriation Commission”.

EXPOSURE DRAFT

Consequential amendments Schedule 8

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- Child Support (Assessment) Act 1989*
- 19 Subsection 150(1) (definition of Veterans’ Affairs Department)**
- Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.
- Child Support (Registration and Collection) Act 1988*
- 20 Subsection 4(1) (definition of Veterans’ Affairs Department)**
- Omit “*Veterans’ Entitlements Act 1986*”, substitute “*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 “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.

EXPOSURE DRAFT

Schedule 8 Consequential amendments

1 ***Defence Force Discipline Act 1982***

2 **24 Paragraph 3(7)(c)**

3 Omit “Part IV of the *Veterans’ Entitlements Act 1986*”, substitute “the
4 *Military Rehabilitation and Compensation Act 2004*”.

5 ***Dental Benefits Act 2008***

6 **25 Subparagraph 41(1)(c)(vi)**

7 Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military*
8 *Rehabilitation and Compensation Act 2004*”.

9 ***Disability Discrimination Act 1992***

10 **26 Subsection 53(2) (definition of *peacekeeping service*)**

11 Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military*
12 *Rehabilitation and Compensation Act 2004*”.

13 ***Health Insurance Act 1973***

14 **27 Subsection 3(1) (definition of *Veterans’ Affairs Minister*)**

15 Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military*
16 *Rehabilitation and Compensation Act 2004*”.

17 ***Higher Education Support Act 2003***

18 **28 Subparagraphs 46-20(2)(n)(ii) and (iii)**

19 Repeal the subparagraphs.

20 **29 Subclause 1(1) of Schedule 1 (definition of *Military***
21 ***Rehabilitation and Compensation Commission*)**

22 Repeal the definition.

EXPOSURE DRAFT

Consequential amendments Schedule 8

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- 30 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*”.
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- Housing Australia Future Fund Act 2023
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- 31 Section 4 (definition of *Veterans’ Affairs Minister*)
Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.
- 11
- Income Tax Assessment Act 1936
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- 32 Subsection 6(1) (definition of *Veterans’ Affairs Secretary*)
Omit “*Veterans’ Entitlements Act 1986*”, substitute “*Military Rehabilitation and Compensation Act 2004*”.
- 15
16
- 33 Subparagraph 160AAAA(2)(a)(i)
Omit “(other than Part VII)”.
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19
- 34 Subsections 202CB(8) and 202CE(9)
Omit “*Military Rehabilitation and Compensation Commission*”, substitute “*Repatriation Commission*”.

EXPOSURE DRAFT

Schedule 8 Consequential amendments

35 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”.

36 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

37 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

38 Paragraphs 52-65(1)(ba) and (e)

Repeal the paragraphs.

39 Subsections 52-65(1F) and (1G)

Repeal the subsections, substitute:

EXPOSURE DRAFT

Consequential amendments Schedule 8

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(1G) Clean energy payments under the *Veterans' Entitlements Act 1986*

2

are exempt from income tax.
- 3

40 Section 52-65 (table items 5.1, 15.1, 16.1, 20.1 and 22.1)

4

Repeal the items.
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41 Section 52-75 (table items 3B, 5, 12A, 15, 16, 20 and 22)

6

Repeal the items.
- 7

42 Section 52-114 (table item 2)

8

After “291”, insert “, 291A”.
- 9

43 Section 52-114 (after table item 9)

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Insert:

9A	Additional Disablement Amount (section 220A)	Exempt	Not applicable
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44 Section 52-114 (after table item 11)

12

Insert:

11A	Victoria Cross allowance (section 230A)	Exempt	Not applicable
11B	Decoration allowance (section 230C)	Exempt	Not applicable
- 13

45 Section 52-114 (table item 18)

14

Omit “section 266”, substitute “sections 266, 268AA, 268AB and

15

268AC”.
- 16

46 Section 52-114 (after table item 18)

17

Insert:

18A	Compensation relating to prisoners of war (sections 268AJ and 268AM)	Exempt	Not applicable
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47 Section 52-114 (table item 22)

19

After “209A”, insert “, 220D”.

EXPOSURE DRAFT

Schedule 8 Consequential amendments

48 Subparagraph 52-145(1)(b)(iii)

Repeal the subparagraph.

49 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.

50 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,

EXPOSURE DRAFT

Consequential amendments **Schedule 8**

- 1 continues to apply on and after that day in relation to a payment of
2 travelling expenses made before, on or after that day.
- 3 (7) Item 22.1 of the table in section 52-65 of the *Income Tax Assessment*
4 *Act 1997*, as in force immediately before the day this item commences,
5 continues to apply on and after that day in relation to a payment of
6 Victoria Cross allowance made before, on or after that day.
- 7 (8) Subparagraph 52-145(1)(b)(iii) of the *Income Tax Assessment Act 1997*,
8 as in force immediately before the day this item commences, continues
9 to apply on and after that day in relation to a payment of an allowance
10 or reimbursement under the scheme known as the Veterans' Children
11 Education Scheme.

My Health Records Act 2012

51 Subsection 5(1) (definition of *Veterans' Affairs Department*)

Repeal the definition, substitute:

Veterans' Affairs Department means the Department administered
by the Minister administering the *Military Rehabilitation and Compensation Act 2004*.

National Cancer Screening Register Act 2016

52 Section 4 (definition of *Veterans' Affairs Department*)

Omit "*Veterans' Entitlements Act 1986*", substitute "*Military Rehabilitation and Compensation Act 2004*".

National Health Act 1953

53 Subsection 4(1) (definition of *Veterans' Affairs Minister*)

Omit "*Veterans' Entitlements Act 1986*", substitute "*Military Rehabilitation and Compensation Act 2004*".

EXPOSURE DRAFT

Schedule 8 Consequential amendments

Safety, Rehabilitation and Compensation Act 1988

54 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

55 Subparagraphs 8(8)(y)(v), (vi), (via), (viaaaa) and (viiaa)

Repeal the subparagraphs.

56 Subparagraph 8(8)(y)(viii)

Omit “Act; or”, substitute “Act;”.

57 Subparagraph 8(8)(y)(ix)

Repeal the subparagraph.

58 Paragraph 8(8)(zo)

Omit “or 266”, substitute “, 266, 268AA, 268AB or 268AC”.

59 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.

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60 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);

61 Paragraph 8(8AA)(d)

Repeal the paragraph.

62 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).

EXPOSURE DRAFT

Schedule 8 Consequential amendments

1 **63 Paragraph 592K(2)(c)**

2 Repeal the paragraph.

3 **64 Subparagraph 592K(5)(b)(iii)**

4 Repeal the subparagraph.

5 **65 Subsection 592L(7) (paragraph (c) of the definition of**
6 ***student relocation payment*)**

7 Repeal the paragraph.

8 **66 Subparagraph 1061ZVBC(b)(i)**

9 Repeal the subparagraph.

10 **67 Application provision**

11 The *Social Security Act 1991*, as in force immediately before the day
12 this item commences, continues to apply, on and after that day, in
13 relation to payments of any of the following that are made before, on or
14 after that day:

- 15 (a) decoration allowance under section 102 of the *Veterans’*
16 *Entitlements Act 1986*;
- 17 (b) Victoria Cross allowance under section 103 of that Act;
- 18 (c) a payment, by a foreign country, of an allowance or annuity
19 that is of a similar kind to decoration allowance payable
20 under section 102 of that Act or to Victoria Cross allowance
21 payable under section 103 of that Act;
- 22 (d) prisoner of war recognition supplement under Part VIB of
23 that Act;
- 24 (e) a payment known as a student start-up scholarship payment,
25 or a relocation scholarship payment, under the scheme
26 referred to in section 117 of that Act;
- 27 (f) a funeral benefit under Part VI of that Act.

28 ***Student Assistance Act 1973***

29 **68 Subparagraph 7D(b)(i)**

30 Repeal the subparagraph.

EXPOSURE DRAFT

Consequential amendments **Schedule 8**

69 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

70 Subsections 54G(2), 54H(1) and 54JA(6A)

Omit “Military Rehabilitation and Compensation Commission”, substitute “Repatriation Commission”.

Treatment Benefits (Special Access) Act 2019

71 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*”.

72 Subsection 40(1) (note)

Omit “section 180 of the *Veterans' Entitlements Act 1986*”, substitute “section 360BB of the *Military Rehabilitation and Compensation Act 2004*”.