



Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017

No. 108, 2017

**An Act to amend the law relating to the
rehabilitation and treatment of, and compensation
for, members of the Defence Force, and for related
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
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Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017

No. 108, 2017

**An Act to amend the law relating to the
rehabilitation and treatment of, and compensation
for, members of the Defence Force, and for related
purposes**

[Assented to 14 September 2017]

The Parliament of Australia enacts:

No. 108, 2017 Safety, Rehabilitation and Compensation Legislation Amendment 1
(Defence Force) Act 2017

1 Short title

This Act is the *Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 September 2017
2. Schedule 1, Part 1	The 28th day after this Act receives the Royal Assent.	12 October 2017
3. Schedule 1, Part 2	Immediately after the commencement of the provisions covered by table item 2.	12 October 2017
5. Schedules 2 and 3	Immediately after the commencement of the provisions covered by table item 2.	12 October 2017

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Enactment and amendment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

Part 1—Enactment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

1 Enactment of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*

- (1) Without limiting the effect of the *Safety, Rehabilitation and Compensation Act 1988* apart from this item, that Act, as in force at the time this item commences, is re-enacted as the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

Note: This item creates a second version of the *Safety, Rehabilitation and Compensation Act 1988*. This second version will be amended by this Schedule, and will continue in force in relation to an injury, disease, death, loss or damage that relates to certain employment that occurred before the MRCA commencement date.

- (2) For the purposes of subparagraph 40(1A)(a)(ii) of the *Acts Interpretation Act 1901*, the secular year in which the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* was passed is taken to be 1988 and its number is taken to be 156.

Note: This means that the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* may be cited as Act No. 156 of 1988.

- (3) Subitem (2) has effect despite section 39 of the *Acts Interpretation Act 1901*.

2 Previous versions of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*

- (1) This item applies if, in administering the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (the *DRCA*) in relation to a claim, that Act, or an instrument made under that Act, applies in relation to a time before this Part commences.

Schedule 1 Enactment and amendment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

Part 1 Enactment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

- (2) The version of the DRCA, or the instrument, that applies in relation to the time is taken to be the same as the version of the *Safety, Rehabilitation and Compensation Act 1988* (the **SRCA**), or the relevant instrument made under the SRCA, that would have applied in relation to the time if this Schedule had not been enacted (taking into account any transitional, application and saving provisions in any Act or instrument that amended the SRCA or the instrument before that time).
- (3) This item does not prevent a provision of a later Act or instrument overriding this item (whether expressly or impliedly).

Part 2—Main amendments of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

Division 1—Amendments

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

3 Title

Omit “of employees of the Commonwealth and certain corporations and to workers’ compensation for those employees and certain other persons”, substitute “and treatment of, and compensation for, members of the Defence Force”.

4 Subsection 4(1) (definitions of *ACT enactment*, *ACT Self-Government Act* and *administering authority*)

Repeal the definitions.

5 Subsection 4(1) (definition of *approved program provider*)

Repeal the definition, substitute:

approved program provider means a person or body approved under section 34F or 34H of the SRC Act as a rehabilitation program provider and includes a person or body so approved whose approval is renewed under section 34L of that Act.

6 Subsection 4(1) (definition of *Chief Executive Officer*)

Repeal the definition.

7 Subsection 4(1) (at the end of the definition of *Comcare*)

Add “of the SRC Act”.

8 Subsection 4(1) (at the end of the definition of *Commission*)

Add “of the SRC Act”.

Schedule 1 Enactment and amendment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

Part 2 Main amendments of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

9 Subsection 4(1) (definitions of *Commissioner* and *Commonwealth*)

Repeal the definitions.

10 Subsection 4(1) (paragraph (b) of the definition of *Commonwealth authority*)

Omit “an ACT enactment or a law of”, substitute “a law of the Australian Capital Territory or”.

11 Subsection 4(1) (note at the end of the definition of *Commonwealth authority*)

Repeal the note.

12 Subsection 4(1) (definitions of *corporation*, *Deputy Chief Executive Officer* and *eligible corporation*)

Repeal the definitions.

13 Subsection 4(1) (definition of *exempt authority*)

After “section 35”, insert “of the SRC Act”.

14 Subsection 4(1) (definitions of *exit contribution* and *Finance Minister*)

Repeal the definitions.

15 Subsection 4(1) (at the end of the definitions of *licence*, *licensed corporation* and *licensee*)

Add “of the SRC Act”.

16 Subsection 4(1) (definition of *member*)

Repeal the definition.

17 Subsection 4(1)

Insert:

MRCC means the Military Rehabilitation and Compensation Commission.

18 Subsection 4(1) (definitions of *premium*, *previous Commission* and *special premium*)

Repeal the definitions.

19 Subsection 4(1)

Insert:

SRC Act means the *Safety, Rehabilitation and Compensation Act 1988*.

20 Subsections 4(10) and (10A)

Repeal the subsections.

21 Subsection 4(14)

Omit “, or has ceased to be,”.

22 Subsection 4(15)

Repeal the subsection.

23 Section 4AA

Repeal the section, substitute:

4AA Application of this Act

- (1) This Act applies (subject to Part X) in relation to an injury that is not an ailment, or an aggravation of an injury that is not an ailment, suffered by an employee if:
- (a) the injury or aggravation arises out of, or in the course of, the employee’s employment as a member of the Defence Force; and
 - (b) the employment occurred:
 - (i) on or after the commencement of section 3 of the *Commonwealth Employees’ Rehabilitation and Compensation Act 1988* (which was 1 December 1988); and

Schedule 1 Enactment and amendment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

Part 2 Main amendments of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

- (ii) before the MRCA commencement date (which was 1 July 2004), but not before and on or after, the MRCA commencement date.

Note 1: Comcare and the Safety, Rehabilitation and Compensation Commission do not have any liability in respect of injuries, losses, damage or deaths that relate to defence service (see section 4AA of the *Safety, Rehabilitation and Compensation Act 1988*).

Note 2: Compensation for members of the Defence Force is provided under the MRCA (instead of this Act) for an injury or aggravation that relates to employment that occurred after the MRCA commencement date.

Note 3: See also subsection 6A(2A) (injury arising out of or in the course of employment—extended operation).

Note 4: The *Safety, Rehabilitation and Compensation Act 1988* (which previously covered members of the Defence Force) was originally called the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*.

- (2) This Act applies (subject to Part X) in relation to an ailment, or an aggravation of an ailment, suffered by an employee if:

(a) the ailment or aggravation is contributed to, to a significant degree, by the employee's employment as a member of the Defence Force; and

(b) the employment occurred:

(i) on or after the commencement of section 3 of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* (which was 1 December 1988); and

(ii) before the MRCA commencement date (which was 1 July 2004), but not before and on or after, the MRCA commencement date.

Note: Compensation for members of the Defence Force is provided under the MRCA (instead of this Act) for an ailment or aggravation that relates to employment that occurred after the MRCA commencement date.

- (3) This Act applies (subject to Part X) in relation to loss of, or damage to, property used by an employee if:
-

- (a) the loss or damage resulted from an accident that arose out of, and in the course of, the employee's employment as a member of the Defence Force; and
- (b) the employment occurred:
 - (i) on or after the commencement of section 3 of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* (which was 1 December 1988); and
 - (ii) before the MRCA commencement date (which was 1 July 2004).

Note: Compensation for members of the Defence Force is provided under the MRCA (instead of this Act) for loss or damage that relates to employment that occurred after the MRCA commencement date.

- (4) This Act applies (subject to Part X), in accordance with section 6A, in relation to any injury suffered by an employee if:
 - (a) the injury is suffered as an unintended consequence of medical treatment received by the employee that was paid for by the Commonwealth; and
 - (b) the treatment was provided on or after the commencement of section 3 of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* (which was 1 December 1988); and
 - (c) section 8 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* does not apply in relation to the injury.

Note: Compensation for members of the Defence Force is provided under the MRCA (instead of this Act) for injuries suffered as an unintended consequence of medical treatment paid for by the Commonwealth if the treatment was provided after the MRCA commencement date.

- (5) To avoid doubt, employment occurred before, and on or after, the MRCA commencement date whether the employment spanned the commencement date or occurred during separate periods before and on or after that date.

24 Section 5

Repeal the section, substitute:

5 Employees

(1) In this Act:

employee means a member of the Defence Force.

(2) For the purposes of this Act, a person who is a member of the Defence Force is taken to be employed by the Commonwealth, and the person's employment is taken to be constituted by the person's performance of duties as such a member of the Defence Force.

Note: However, members of the Defence Force with service after the MRCA commencement date might only be entitled to compensation under the MRCA and not this Act (see section 4AA and subsection 6A(2A) of this Act).

Persons taken to be members of the Defence Force

(3) The Minister may, by legislative instrument, declare:

(a) that persons specified in the declaration, being persons who:

(i) hold an honorary rank in the Defence Force before the MRCA commencement date; or

(ii) are, before the MRCA commencement date, members of a philanthropic organisation that provides services to the Defence Force; or

(iii) undertake resettlement training, before the MRCA commencement date, under an arrangement made by the Defence Force;

are, for the purposes of this Act, taken to be members of the Defence Force; and

(b) that such persons' employment is, for those purposes, taken to be constituted by the performance by those persons of such acts as are specified in the declaration;

and such a declaration has effect accordingly.

Note: Declarations in respect of these kinds of people can be made under the MRCA for service after the MRCA commencement date (see section 8 of the MRCA).

(4) The Minister may, by legislative instrument, declare:

(a) that persons specified in the declaration, being persons who, before the MRCA commencement date, engage in activities

or perform acts at the request or direction, for the benefit, or under a requirement made by or under a law, of the Commonwealth in relation to the Defence Force, are, for the purposes of this Act, taken to be employed by the Commonwealth; and

- (b) that such persons' employment is, for those purposes, taken to be constituted by the performance by those persons of such acts as are specified in the declaration; and such a declaration has effect accordingly.

Former employees

- (5) A reference to an employee in a provision of this Act that applies to an employee at a time after Comcare, a licensed authority or a licensed corporation has incurred a liability in relation to the employee under this Act includes, unless the contrary intention appears, a reference to a person who has ceased to be an employee.

Act not to apply to certain members of the Defence Force

- (6) Subject to subsections (7) and (8), this Act does not apply in relation to service of a member of the Defence Force in respect of which provision for the payment of pension is made by:
- (a) the *Veterans' Entitlements Act 1986*; or
 - (b) the *Papua New Guinea (Members of the Forces Benefits) Act 1957*.

Note: Compensation and other benefits might also be available for a member of the Defence Force under the MRCA. Generally, an injury, disease or death that is covered by that Act would not be covered by this Act (see section 4AA and subsection 6A(2A) of this Act).

- (7) Subsection (6) does not apply in relation to a veteran:
- (a) who has rendered operational service on or after the day on which the *Military Compensation Act 1994* commences; and
 - (b) for whom provision for the payment of pension in respect of service rendered by the person is made by Part II of the *Veterans' Entitlements Act 1986*.
- (8) Subsection (6) does not apply in relation to a member of the Defence Force who has rendered service in respect of which

Schedule 1 Enactment and amendment of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

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provision for the payment of pension is made by Part IV of the *Veterans' Entitlements Act 1986*.

25 Paragraph 6A(1)(e)

Omit "5(6A)", substitute "5(3)".

26 Paragraph 6A(2A)(a)

Repeal the paragraph.

27 Paragraph 6A(2A)(b)

After "is first suffered", insert "by the employee".

28 Paragraph 7(9)(c)

Omit "(disregarding the effect of any declarations under subsection 5(15))".

29 Paragraph 8(8)(a)

Omit "or (6)".

30 Subsection 15(1) (note)

Omit "section 15A", substitute "subsection 4AA(3)".

31 Section 15A

Repeal the section.

32 Subsection 23A(4)

Omit "(other than section 90C)".

33 Divisions 1 and 2 of Part III

Repeal the Divisions.

34 Division 3 of Part III (heading)

Repeal the heading.

35 Section 35

Repeal the section.

36 Paragraph 41A(1)(b)

After “Part VIII”, insert “of the SRC Act”.

37 Sections 41B to 41D

Repeal the sections.

38 Subsection 60(4)

Repeal the subsection.

39 Subsection 62(2A)

After “Part VIII”, insert “of the SRC Act”.

40 Paragraph 64(1)(d)

After “Part VIII”, insert “of the SRC Act”.

41 Paragraphs 67(1A)(b) and (c)

After “Part VIII”, insert “of the SRC Act”.

42 Parts VII and VIII

Repeal the Parts.

43 Subsections 112A(5) and 112B(5)

Omit “(other than section 90C)”.

44 Subparagraphs 114A(1)(a)(ii) and (iii)

After “Part VIII”, insert “of the SRC Act”.

45 After section 121A

Insert:

121B Regulations modifying the operation of this Act

- (1) The regulations may modify the operation of this Act.
- (2) Before the Governor-General makes regulations under subsection (1), the Minister must be satisfied that it is necessary or

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desirable to make the regulations to ensure that no person (except the Commonwealth) is disadvantaged by the enactment of this Act.

46 Section 141 (definitions of MRCC, Veterans' Affairs Department and Veterans' Affairs Minister)

Repeal the definitions.

47 Paragraph 142(1)(b)

Omit "claims; and", substitute "claims."

48 Paragraphs 142(1)(c) and (d)

Repeal the paragraphs.

49 Subsections 142(3) and (5)

Repeal the subsections.

50 Paragraph 147(1)(a)

Omit "references in section 28 and".

51 Paragraph 147(1)(c)

Omit "Division 2 of Part III, section 41 or Part VI, VII or VIII", substitute "section 41 or Part VI".

52 Subsection 148(1)

Omit "(1) Despite", substitute "Despite".

53 Subsection 148(2)

Repeal the subsection.

54 Section 150

Repeal the section.

55 Paragraph 151(1)(b)

Omit "Veterans' Affairs".

56 Section 156

Repeal the section.

57 Subsection 157(1)

After “97D”, insert “of the SRC Act”.

58 Subsection 157(2)

After “97H”, insert “of the SRC Act”.

59 Subsection 157(2)

After “97D”, insert “of that Act”.

60 Sections 158 and 159

Repeal the sections.

61 Subsection 161(2)

Repeal the subsection, substitute:

- (2) A report under subsection (1) must include particulars of any directions given by the Minister under section 149 during the financial year to which the report relates.

Division 2—Application and transitional provisions

62 Definitions

In this Part:

first commencement time means the time when Part 1 of this Schedule commences.

second commencement time means the time when this Part commences.

63 Instruments under the *Safety, Rehabilitation and Compensation Act 1988*

- (1) This item applies if:
- (a) an instrument made under or for the purposes of a provision of the *Safety, Rehabilitation and Compensation Act 1988* was
-

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in force immediately before the first commencement time;
and

- (b) immediately after the second commencement time, there is a corresponding provision in the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.
- (2) Without limiting its effect apart from this item, the instrument is also taken, after the second commencement time, to have been made under or for the purposes of the corresponding provision.
- (3) To avoid doubt, the instrument may be varied, amended or revoked under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* after the second commencement time.

64 Claims, applications, requests and other processes begun under the *Safety, Rehabilitation and Compensation Act 1988*

- (1) This item applies if:
- (a) a process begun (including by claim, application or request) under a provision of the *Safety, Rehabilitation and Compensation Act 1988* before the first commencement time was not completed by that time; and
- (b) immediately after the second commencement time, there is a corresponding provision in the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.
- (2) Without limiting its effect apart from this item, the process is also taken, after the second commencement time, to have been begun under the corresponding provision.

65 Payments of compensation made under the *Safety, Rehabilitation and Compensation Act 1988*

- (1) This item applies in relation to a payment of compensation made under a provision of the *Safety, Rehabilitation and Compensation Act 1988* to, or in respect of, an employee (within the meaning of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*) before this item commences in relation to any of the following events:
- (a) any injury, disease or death of the employee;
-

- (b) any loss of, or damage to, property used by the employee.
- (2) The payment is taken, after that commencement, to have been made under the corresponding provision of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* in relation to the event.

66 Application of section 23A

Section 23A of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* applies in relation to:

- (a) any salary, wages or pay paid before or after this item commences; and
- (b) any determination made by the MRCC before or after this item commences.

67 Application of offences

Without limiting this Part, sections 46 to 48 of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* apply in relation to:

- (a) a claim of which a person becomes aware; or
- (b) damages which are recovered;

before or after this item commences (except if the MRCC has been notified of the claim or damages before this item commences).

68 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.
- (2) However, to avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;

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- (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) This Act (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).

Schedule 2—Amendment of the Safety, Rehabilitation and Compensation Act 1988

Part 1—Amendments

Safety, Rehabilitation and Compensation Act 1988

1 Subsection 4(1) (definition of *Defence Department*)

Omit “MRCA”, substitute “*Military Rehabilitation and Compensation Act 2004*”.

2 Subsection 4(1)

Insert:

defence service has the meaning given by the *Military Rehabilitation and Compensation Act 2004*.

3 Subsection 4(1) (definitions of *MRCA* and *MRCA commencement date*)

Repeal the definitions.

4 Subsection 4(1) (paragraph (c) of the definition of *rehabilitation authority*)

Omit “employed; and”, substitute “employed.”.

5 Subsection 4(1) (paragraph (d) of the definition of *rehabilitation authority*)

Repeal the paragraph.

6 Subsection 4(3) (note)

Repeal the note.

7 Section 4AA

Repeal the section, substitute:

4AA Liabilities of Comcare and the Commission with respect to defence service

Neither Comcare nor the Commission has any liability under this Act in respect of an injury, loss, damage or death that relates to defence service (whenever it occurred).

8 Paragraph 5(2)(b)

Repeal the paragraph.

9 Subsection 5(2)

Omit “, by the person’s performance of duties as such a member of the Defence Force”.

10 Subsection 5(2) (note)

Repeal the note.

11 Subsections 5(6A) and (10) to (10D)

Repeal the subsections.

12 At the end of section 5

Add:

(17) To avoid doubt, a member of the Defence Force is not an *employee*.

Note: For members of the Defence Force, see the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

13 Section 6A

Repeal the section.

14 Subsection 15(1) (note)

Repeal the note.

15 Section 15A

Repeal the section.

16 Subsection 16(1) (note)

Repeal the note.

17 Paragraphs 33(2)(b) and (d)

Repeal the paragraphs.

18 Subsection 37(2) (note)

Repeal the note.

19 Subsection 41A(1)

Omit “(1)”.

20 Subsection 41A(2)

Repeal the subsection.

21 Section 43

Repeal the section.

22 Subsection 49(4) (definition of *prescribed dependant*)

Omit “or by whom, or on whose behalf, a request under section 43 relating to compensation under this Act in respect of that injury has been made”.

23 Subsection 54(4)

Repeal the subsection, substitute:

- (4) If a claim relating to an employee is given to Comcare, Comcare must cause a copy of the claim to be given to the principal officer of the Entity, Commonwealth authority or licensed corporation in which the employee was employed at that time.

24 At the end of subsection 97D(1)

Add:

Note: Comcare must also make a determination under section 97DAA of the amount of regulatory contribution to be paid by the Defence Department.

25 After section 97DA

Insert:

97DAA Regulatory contributions by Defence Department

- (1) Comcare must make a determination of the amount of the regulatory contribution to be paid by the Defence Department in respect of a financial year in relation to defence service.
- (2) The amount of the regulatory contribution to be paid for a particular financial year is the sum of:
 - (a) that part of the estimated cost incurred by the Commission and Comcare in carrying out their respective functions under this Act that Comcare determines, in accordance with guidelines under section 97E, to be referable to the Defence Department in relation to defence service; and
 - (b) that part of the estimated cost incurred by the Commission and Comcare in carrying out their respective functions under the repealed *Occupational Health and Safety Act 1991*, the *Work Health and Safety Act 2011* and the *Work Health and Safety (Transitional and Consequential Provisions) Act 2011* that Comcare determines, in accordance with those guidelines, to be referable to the Defence Department in relation to defence service.

97DAB Modifications of provisions relating to contributions

Sections 97E to 97P apply to the Defence Department in relation to defence service, but only so far as those sections relate to determinations under section 97DAA.

26 Part XI

Repeal the Part.

Part 2—Application and transitional provisions

27 Transitional provision

Despite the repeal of paragraph 33(2)(b) of the *Safety, Rehabilitation and Compensation Act 1988* by this Schedule, that paragraph, as in force immediately before that repeal, continues in effect in relation to an amount paid or payable in respect of a period of leave of absence granted, or in lieu of the grant of a period of leave of absence, before the time of the repeal.

28 Application of amendments

Sections 97DAA and 97DAB of the *Safety, Rehabilitation and Compensation Act 1988*, as inserted by this Schedule, and the repeal of sections 158 and 159 of that Act, by this Schedule, apply in relation to:

- (a) if a determination under section 158 of that Act has not been made for the financial year in which this item commences—that financial year; and
- (b) any financial year that commences after this item commences.

Schedule 3—Amendments of other Acts

Age Discrimination Act 2004

1 Paragraph 41(1)(fc)

Repeal the paragraph, substitute:

(fc) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or

2 Schedule 1 (after table item 43)

Insert:

43A *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*

Australian Participants in British Nuclear Tests (Treatment) Act 2006

3 Subparagraph 7(2)(b)(i)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “or the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

Defence Act 1903

4 Paragraph 58B(1)(b)

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

5 Transitional provision

- (1) The *Defence Determination 2016/19*, as in force immediately before the commencement of this item, applies after that commencement as if a reference in that Determination to the *Safety, Rehabilitation and Compensation Act 1988* or the SRC Act were a reference to the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

-
- (2) This item does not prevent the amendment or revocation of the Determination after that commencement.

6 Subsection 120B(16) (definition of salary)

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

7 Application of amendments

The amendment of the definition of *salary* in subsection 120B(16) of the *Defence Act 1903* made by this Schedule applies in relation to payments of compensation made after this item commences.

Defence Force (Home Loans Assistance) Act 1990

8 Section 3 (after paragraph (a) of the definition of compensable disability)

Insert:

- (aa) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or

9 Subsection 24(4) (after subparagraph (b)(i) of the definition of prescribed member)

Insert:

- (iaa) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or

Defence Home Ownership Assistance Scheme Act 2008

10 Section 3 (after paragraph (a) of the definition of compensable condition)

Insert:

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

Disability Discrimination Act 1992

11 Paragraph 51(1)(j)

Repeal the paragraph, substitute:

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

Income Tax Assessment Act 1997

12 Paragraphs 51-32(1)(a) and (4)(a) and 51-33(1)(a)

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

Military Rehabilitation and Compensation Act 2004

13 Section 278

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

14 Section 280A (heading)

Repeal the heading, substitute:

280A Treatment for certain injuries covered by the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*

15 Subsection 280A(1)

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

16 Subsection 280A(1) (note 2)

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

17 Section 289 (paragraph (b) of the definition of compensable treatment)

Omit “SRCA injuries”, substitute “injuries covered by the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

18 Section 289 (note at the end of the definition of compensable treatment)

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

19 Section 300 (note 2)

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

20 Paragraph 423(c)

Omit “SRCA injuries”, substitute “injuries covered by the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

21 Section 423 (note 2)

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

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

22 Subsection 4(1)

Insert:

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

23 Subsections 7(1) and (2) and 8(1) and (2) (note)

Repeal the note.

24 Section 10 (heading)

Repeal the heading, substitute:

10 Subsection 7(4) of the DRCA does not apply

25 Section 10

Omit “SRCA”, substitute “DRCA”.

26 Section 10 (note)

Omit “SRCA”, substitute “DRCA”.

27 Section 11 (note)

Repeal the note.

28 Part 3 (heading)

Repeal the heading, substitute:

**Part 3—Persons who have both VEA/DRCA and
MRCA injuries and diseases**

29 Section 13 (heading)

Repeal the heading, substitute:

**13 Bringing across impairment points from a VEA or DRCA injury
or disease**

30 Section 13

Omit “SRCA” (wherever occurring), substitute “DRCA”.

31 Section 14 (heading)

Repeal the heading, substitute:

14 Offsetting VEA and DRCA payments against a Special Rate Disability Pension

32 Subsection 14(2)

Omit “SRCA”, substitute “DRCA”.

33 Sections 15 and 16

Omit “SRCA” (wherever occurring), substitute “DRCA”.

34 Application of amendments

The amendments of sections 14, 15 and 16 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* made by this Schedule apply in relation to benefits and amounts paid (however described) after this item commences.

35 Section 17 (heading)

Repeal the heading, substitute:

17 Amount of compensation where a person has redeemed an amount under the DRCA

36 Section 17

Omit “SRCA” (wherever occurring), substitute “DRCA”.

37 Application of amendments

The amendments of section 17 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* made by this Schedule apply in relation to amounts redeemed after this item commences.

38 Section 18 (heading)

Repeal the heading, substitute:

18 Rehabilitation under the MRCA for persons undergoing rehabilitation under the VEA or DRCA

39 Section 18

Omit “SRCA” (wherever occurring), substitute “DRCA”.

40 Section 22 (note)

Repeal the note.

41 Section 23 (note)

Omit “(The review provisions under or in respect of the VEA or the SRCA apply to a decision made under a provision being inserted or amended by Schedule 1 or 2 to this Act respectively.)”.

42 Paragraph 24(3)(a)

Omit “SRCA”, substitute “DRCA”.

Superannuation Act 1976

43 Paragraph 51(2)(d)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “or the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

44 Section 54A (paragraph (a) of the definition of compensation leave)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “or the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

45 Subsections 54G(2) and 54JA(6A)

After “*Military Rehabilitation and Compensation Act 2004*”, insert “or the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

46 Subsection 78A(1)

After “*Safety, Rehabilitation and Compensation Act 1988*”, insert “, the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

Veterans' Entitlements Act 1986**47 Section 25A (heading)**

Repeal the heading, substitute:

25A Offsetting certain payments made under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988***48 Subsection 25A(1)**

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

49 Subsection 30B(3) (definition of *damages*)

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

50 Subsection 30C(2) (heading)

Repeal the heading, substitute:

Lump sum payment—Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (section 137)

51 Paragraph 30C(2)(a)

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

52 Subsection 30C(3) (heading)

Repeal the heading, substitute:

*Lump sum payment—Safety, Rehabilitation and Compensation
(Defence-related Claims) Act 1988 (section 30)*

53 Paragraph 30C(3)(a)

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

54 Subsections 30G(1) and 30H(1) (note)

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

55 Paragraphs 74(3A)(a) and (3B)(a)

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

56 Subsections 76(6) and 85(2A)

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

57 Application of amendments

The amendments of sections 25A, 30B, 30C, 74 and 76 of the *Veterans’ Entitlements Act 1986* made by this Schedule apply in relation to payments made or received (however described) after this item commences.

58 Subsection 110(3A)

Omit “SRCA injuries”, substitute “injuries covered by the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*”.

59 Subsection 110(3A) (note)

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

60 Application of amendments

The amendments of section 110 of the *Veterans' Entitlements Act 1986* made by this Schedule apply in relation to treatment obtained after this item commences.

*[Minister's second reading speech made in—
House of Representatives on 9 November 2016
Senate on 5 September 2017]*

(46/16)

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