



**Veterans' Affairs Legislation
Amendment (Veteran-centric Reforms
No. 2) Act 2018**

No. 70, 2018

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

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

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

[Assented to 29 June 2018]

The Parliament of Australia enacts:

No. 70, 2018

*Veterans' Affairs Legislation Amendment (Veteran-centric Reforms
No. 2) Act 2018*

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1 Short title

This Act is the *Veterans' Affairs Legislation Amendment (Veteran-centric Reforms No. 2) Act 2018*.

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.	29 June 2018
2. Schedule 1	The later of: (a) 1 November 2018; and (b) the seventh day after this Act receives the Royal Assent.	1 November 2018 (paragraph (a) applies)
3. Schedule 2	The later of: (a) 1 July 2018; and (b) the seventh day after this Act receives the Royal Assent.	6 July 2018 (paragraph (b) applies)
4. Schedule 3	The 28th day after this Act receives the Royal Assent.	27 July 2018
5. Schedule 4	1 July 2019.	1 July 2019
6. Schedule 5	The day after this Act receives the Royal Assent.	30 June 2018
7. Schedule 6	The 28th day after this Act receives the Royal Assent.	27 July 2018
Note:	This table relates only to the provisions of this Act as originally enacted.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.	

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- (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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Compensation for incapacity for work for former members

Military Rehabilitation and Compensation Act 2004

1 Subsection 131(2) (paragraph (f) of the definition of adjustment percentage)

Repeal the paragraph, substitute:

- (f) if:
- (i) the person is working for 100% or more of the person's normal weekly hours during that week; or
 - (ii) subsection (3) applies to the person in relation to that week;
- 100%.

2 At the end of section 131

Add:

- (3) This subsection applies to a person in relation to a week beginning on or after the commencement of this subsection and before 1 July 2022 if:
- (a) the Commission is satisfied that, on one or more days in that week, the person is undertaking an approved rehabilitation program; and
 - (b) the Commission is satisfied that, on one or more days in that week and as part of that program, the person is undertaking full-time study.
- (4) For the purposes of paragraph (3)(b), a person is ***undertaking full-time study*** in the circumstances determined in an instrument under subsection (5).
- (5) The Commission may, by legislative instrument, determine circumstances for the purposes of subsection (4).
- (6) Without limiting subsection (5), the instrument may provide that a person is undertaking full-time study in a period (such as, for

example, a period of vacation) that does not fall within a study period.

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

3 Subsection 19(3) (paragraph (f) of the definition of adjustment percentage)

Repeal the paragraph, substitute:

- (f) if:
- (i) the employee is employed for 100% of the employee's normal weekly hours during that week; or
 - (ii) subsection (3AA) applies to the employee in relation to that week;
- 100%.

4 After subsection 19(3)

Insert:

- (3AA) This subsection applies to an employee in relation to a week beginning on or after the commencement of this subsection and before 1 July 2022 if:
- (a) because of subsection 5(5), subsection (3) of this section has effect in relation to the employee on one or more days in that week as a person who is a former member of the Defence Force; and
 - (b) the MRCC is satisfied that, on one or more days in that week, the person is undertaking a rehabilitation program provided under this Act; and
 - (c) the MRCC is satisfied that, on one or more days in that week and as part of that program, the person is undertaking full-time study.
- (3AB) For the purposes of paragraph (3AA)(c), a person is ***undertaking full-time study*** in the circumstances determined in an instrument under subsection (3AC).
- (3AC) The MRCC may, by legislative instrument, determine circumstances for the purposes of subsection (3AB).

(3AD) Without limiting subsection (3AC), the instrument may provide that a person is undertaking full-time study in a period (such as, for example, a period of vacation) that does not fall within a study period.

Schedule 2—Veteran Suicide Prevention pilot

Veterans’ Entitlements Act 1986

1 Subsection 85(2) (after note 1)

Insert:

Note 1A: A veteran or other person may be eligible to be provided with treatment, being treatment that is the provision of services under the program established by the Commonwealth and known as the Veteran Suicide Prevention pilot, in accordance with section 88B.

2 After section 88A

Insert:

88B Provision of services under the Veteran Suicide Prevention pilot

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

3 Subsection 90(8)

Omit “or 88A”, substitute “, 88A or 88B”.

Schedule 3—Compensation for member's death for wholly dependent partners

Military Rehabilitation and Compensation Act 2004

1 Subsection 236(3)

Omit "6 months", substitute "2 years".

2 Application provision

The amendment made by this Schedule applies in relation to:

- (a) a notice given under section 235 of the *Military Rehabilitation and Compensation Act 2004* on or after the commencement of this item; and
- (b) a notice given under that section before that commencement, where the partner had not made a choice under section 236 of that Act immediately before that commencement.

Schedule 4—Veterans' Children Education Scheme

Veterans' Entitlements Act 1986

1 Subsection 116(1)

Insert:

eligible grandchild of a Vietnam veteran means a person determined under subsection 116CC(2) to be included in a class of persons that has been determined by the Commission under subsection 116CA(1) for the purposes of this definition.

grandchild of a veteran means a person who is a child of a person who is a child of the veteran. The definition of ***child*** in subsection 5F(1) does not apply for the purposes of this definition.

Note: Section 10 deals with interpreting references to a child of a veteran or to a child of a person who is not a veteran.

Vietnam service means operational service in Vietnam that is covered by section 6C, 6E or 6F.

2 Section 116B (heading)

Repeal the heading, substitute:

116B Eligible child of a veteran—person may apply for determination under subsection 116C(2)

3 Section 116C (heading)

Repeal the heading, substitute:

116C Eligible child of a veteran—Commission may determine that a person is a member of a class under section 116A

4 After section 116C

Insert:

116CA Determination of class of persons for the purposes of the definition of *eligible grandchild of a Vietnam veteran* in subsection 116(1)

- (1) The Commission may, by legislative instrument, determine a class of persons for the purposes of the definition of *eligible grandchild of a Vietnam veteran* in subsection 116(1). However, the persons must be the grandchildren of veterans who have rendered Vietnam service.

Note: The Veterans' Children Education Scheme already covers children of veterans who have rendered Vietnam service.

Variation or revocation

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

116CB Eligible grandchild of a Vietnam veteran—person may apply for determination under subsection 116CC(2)

- (1) An application for a determination under subsection 116CC(2) to be made in respect of a person who is, or was, the grandchild of a veteran may be made, in writing, to the Commission:
- (a) in the case of a person who is, or was, the grandchild of a veteran and who is over the age of 18 years:
 - (i) by the grandchild; or
 - (ii) with the approval of the grandchild, by another person on behalf of the grandchild; or
 - (iii) if the grandchild is unable, by reason of physical or mental incapacity, to approve a person to make the claim or application on the grandchild's behalf—by another person, being a person approved by the Commission, on behalf of the grandchild; or
 - (b) in the case of a person who is, or was, the grandchild of a veteran and who is under the age of 18 years:
 - (i) by a parent or guardian of the grandchild; or
 - (ii) by another person approved by a parent or guardian of the grandchild; or

- (iii) if there is no parent or guardian of the grandchild alive, or willing and able to make, or approve a person to make, such an application on behalf of the grandchild—by another person, being a person approved by the Commission;
on behalf of the grandchild.
- (2) An application under subsection (1) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

116CC Eligible grandchild of a Vietnam veteran—Commission may determine that a person is a member of a class under section 116CA

- (1) If an application has been made under section 116CB in respect of a person, the Commission must decide whether the person the subject of the application falls within a class of persons determined by the Commission under subsection 116CA(1).
- (2) If the Commission decides that the person falls within a class of persons determined by the Commission under subsection 116CA(1), the Commission must determine, in writing, that the person is included in the specified class.
- (3) The Commission must give the person written notice of the Commission's decision under subsection (1).

5 Section 116D (heading)

Repeal the heading, substitute:

116D Review of Commission's decisions

6 Subsections 116D(1) and (5)

After "subsection 116C(1)", insert "or 116CC(1)".

7 At the end of subsection 117(1)

Add "and eligible grandchildren of Vietnam veterans".

8 Paragraphs 117(5)(a) and (c)

After “eligible children”, insert “or eligible grandchildren of Vietnam veterans”.

9 Subsection 118(1)

After “eligible children”, insert “or eligible grandchildren of Vietnam veterans”.

10 Paragraph 175(5)(a)

After “subsection 116C(1)”, insert “or 116CC(1)”.

Schedule 5—Service on submarine special operations

Veterans' Entitlements Act 1986

1 Section 6DB

Repeal the section, substitute:

6DB Operational service—service on submarine special operations from 1978 to 1992

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

- (a) the member has rendered continuous full-time service on a submarine for a period that started on or after 1 January 1978 and ended on or before the end of 31 December 1992;
- (b) the member has rendered continuous full-time 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 31 December 1992;
- (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).

Schedule 6—Claims for compensation

Military Rehabilitation and Compensation Act 2004

1 Subsection 319(2)

After “A claim”, insert “under paragraph (1)(a), (b) or (c)”.

2 After subsection 319(2)

Insert:

(2A) A claim under paragraph (1)(d) must:

- (a) be in writing and be given to the Commission; or
- (b) be made orally to the Commission.

Note: Section 323 sets out when a claim is taken to have been given to the Commission.

3 Subsection 319(3)

After “give a copy of a claim”, insert “under paragraph (1)(a), (b) or (c)”.

4 Subsection 319(4)

Repeal the subsection, substitute:

- (4) The Commission must advise the Chief of the Defence Force of the making of a claim under paragraph (1)(d) in respect of a person if:
 - (a) the claim is for compensation under Part 2 of Chapter 4 (permanent impairment); and
 - (b) the person was a member of the Defence Force at the time the claim was made.

5 Subsection 323(2)

After “transmitted electronically”, insert “or a claim that is made orally”.

6 Subsection 323(5)

After “A claim”, insert “covered by subsection (2) or (3)”.

7 After subsection 323(5)

Insert:

- (5A) A claim made orally to the Commission is taken to have been given to the Commission on the day on which the claim was made.

8 Application provision

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

*[Minister's second reading speech made in—
House of Representatives on 24 May 2018
Senate on 18 June 2018]*

(98/18)
