



# **Veterans' Affairs Legislation Amendment (Omnibus) Act 2018**

**No. 135, 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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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Claims by Chief of Defence Force on behalf of persons</b>		3
	<i>Military Rehabilitation and Compensation Act 2004</i>	3
<b>Schedule 2—Obtaining information</b>		4
	<i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i>	4
<b>Schedule 3—Exempt lump sums</b>		7
	<i>Veterans' Entitlements Act 1986</i>	7





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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 25 October 2018]*

The Parliament of Australia enacts:

## **1 Short title**

*This Act is the *Veterans' Affairs Legislation Amendment  
(Omnibus) Act 2018*.*

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	26 October 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Note: This table relates only to the provisions of this Act as originally enacted.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.

- (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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Claims by Chief of Defence Force on behalf of persons**

### ***Military Rehabilitation and Compensation Act 2004***

#### **1 Subsection 319(3)**

After “in respect of a person”, insert “(except a claim made by the Chief of the Defence Force on behalf of the person)”.

#### **2 After subsection 320(2)**

Insert:

- (2A) Without limiting paragraph (2)(a), the person may approve the Chief of the Defence Force making a claim on behalf of the person if:
- (a) the person is a member of the Defence Force; and
  - (b) the claim is for acceptance of liability by the Commission for a service injury sustained by the person or a service disease contracted by the person.
- (2B) However, if the person approves the Chief of the Defence Force making a claim as mentioned in subsection (2A), the Chief of the Defence Force is not required to make the claim on behalf of the person.

#### **3 Application provision**

The amendment of section 320 of the *Military Rehabilitation and Compensation Act 2004* made by this Schedule applies in relation to a service injury sustained by the person, or a service disease contracted by the person, on or after the commencement of this item.

## Schedule 2—Obtaining information

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

#### **1 Section 151**

Repeal the section, substitute:

#### **151 MRCC may obtain information etc.**

- (1) The MRCC may give a written notice to any person requiring the person, for the purposes of this Act:
  - (a) to provide the MRCC (or a specified staff member assisting the MRCC) such information as the MRCC requires; or
  - (b) to produce to the MRCC (or a specified staff member assisting the MRCC) any documents in the custody or under the control of the person; or
  - (c) to appear before a specified staff member assisting the MRCC to answer questions.
- (2) To avoid doubt, the person given the notice may be:
  - (a) the Secretary of the Defence Department; or
  - (b) the Secretary of the Department; or
  - (c) the Chief of the Defence Force; or
  - (d) a person employed:
    - (i) in or in connection with a Department of the Commonwealth, a State or Territory; or
    - (ii) by any authority of the Commonwealth, a State or Territory.
- (3) The notice must specify:
  - (a) if paragraph (1)(a) or (b) applies:
    - (i) the period within which the person must comply with the notice; and
    - (ii) the manner in which the person must comply with the notice; or
  - (b) if paragraph (1)(c) applies:



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- (i) the time at which the person must appear before the staff member; and
  - (ii) the place at which the person must appear before the staff member.
- (4) The specified period or the specified time mentioned in subsection (3) must be at least 14 days after the notice is given.
  - (5) The MRCC may require the information or answers to be verified by, or given on, oath or affirmation and either orally or in writing.
  - (6) A staff member to whom information or answers are verified or given may administer the oath or affirmation.
  - (7) This section does not require a person to give information, produce a document or give evidence to the extent that, in doing so, the person would contravene a law of the Commonwealth (not being a law of a Territory).

Note: A law of a State or Territory cannot prevent a person from giving information, producing documents or giving evidence for the purposes of this Act (see section 151A).

- (8) This section binds the Crown in each of its capacities, but does not make the Crown liable to be prosecuted for an offence.
  - (9) A person commits an offence if the person fails to comply with a notice under this section.
- Penalty: 10 penalty units.
- (10) An offence against subsection (9) is an offence of strict liability.
  - (11) Subsection (9) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (11) (see subsection 13.3(3) of the *Criminal Code*).

### **151AA Self-incrimination**

- (1) An individual is not excused from giving information or evidence, or producing a document, under section 151 on the ground that the information or evidence, or the production of the document, might tend to incriminate the individual or expose the individual to a penalty.

(2) However:

- (a) the information or evidence given or the document produced;  
and
- (b) giving the information or evidence or producing the  
document; and
- (c) any information, document or thing obtained as a direct or  
indirect consequence of giving the information or evidence or  
producing the document;

are not admissible in evidence against the individual in any proceedings, other than proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act.

## **2 Before subsection 151A(1)**

Insert:

- (1AA) Nothing in a law of a State or Territory operates to prevent a person from giving information, producing documents or giving evidence for the purposes of this Act.

## **3 Application provision**

The amendments made by this Schedule apply in relation to a notice given under subsection 151(1) of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* on or after the commencement of this item.

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## Schedule 3—Exempt lump sums

### *Veterans' Entitlements Act 1986*

#### **1 Subsection 5H(1) (definition of *exempt lump sum*)**

Omit “subsection (12)”, substitute “subsections (12) and (12A)”.

#### **2 Subsection 5H(1) (note 1 to the definition of *ordinary income*)**

Omit “subsection (12)”, substitute “subsections (12) and (12A)”.

#### **3 After subsection 5H(12)**

Insert:

(12A) An amount received by a person is also an *exempt lump sum* if the amount is an exempt lump sum within the meaning of subsection 8(11) of the *Social Security Act 1991*.

#### **4 Subsection 5Q(1) (definition of *exempt lump sum*)**

Omit “subsection 5H(12)”, substitute “subsections 5H(12) and (12A)”.

#### **5 Subparagraph 52ZZM(1)(c)(iii)**

Repeal the subparagraph, substitute:

(iii) subsections 5H(12) and (12A);

#### **6 Subparagraph 52ZZM(2)(c)(iii)**

Repeal the subparagraph, substitute:

(iii) subsections 5H(12) and (12A);

#### **7 Application provision**

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

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*[Minister's second reading speech made in—  
House of Representatives on 20 September 2018  
Senate on 17 October 2018]*

(205/18)

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