

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

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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

[*Assented to 25 October 2018*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Veterans’ Affairs Legislation Amendment (Omnibus) 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. 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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:

(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.

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 52ZZZM(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.

[*Minister’s second reading speech made in—*

*House of Representatives on 20 September 2018*

*Senate on 17 October 2018*]

(205/18)