



Military Rehabilitation and Compensation Commission

## Guide to Determining Impairment and Compensation 2016

Instrument 2016 No.MRCC37

The Military Rehabilitation and Compensation Commission:

- (a) under subsection 67(3) of the *Military Rehabilitation and Compensation Act 2004* (the Act), repeals the *Guide to Determining Impairment and Compensation* (Instrument 2015 No. MRCC4); and
- (b) under subsection 67(1) of the Act determines this *Guide to Determining Impairment and Compensation 2016*.

Dated this 9<sup>th</sup> day of August 2016

The Seal of the Military Rehabilitation and Compensation Commission was affixed hereto in the presence of: ) SEAL ) ) )

Simon Lewis

C Orme

M A Kelly

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**SIMON LEWIS**

**CRAIG ORME**  
DSC AM CSC  
MEMBER

**MAJOR GENERAL MARK KELLY**  
AO DSC  
MEMBER

**CHAIR**

B S Wolski

Jennifer Taylor

T Smart

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**REAR ADMIRAL BRETT WOLSKI**  
AM  
MEMBER

**JENNIFER TAYLOR**  
MEMBER

**AIR VICE-MARSHAL TRACY SMART**  
AM  
MEMBER

## **1. Name**

This instrument is the *Guide to Determining Impairment and Compensation 2016*.

## **2. Short Title**

The short title for this instrument is GARP M.

## **3. Commencement**

This instrument is taken to have commenced on 2 July 2015.

## **4. Transitional**

A process (e.g. an assessment) commenced under the *Guide to Determining Impairment and Compensation* (Instrument 2015 No. MRCC4) and not finalised before the commencement of this instrument may be completed under this instrument as if the process had been commenced under this instrument.

## **5. Guide determination**

For the purposes of section 67 of the *Military Rehabilitation and Compensation Act 2004*, it is determined by the Military Rehabilitation and Compensation Commission that the following Guide to Impairment and Compensation applies as the guide for the determination of the degree of impairment and lifestyle ratings when determining the compensation payable to a person under the *Military Rehabilitation and Compensation Act 2004*.

## **6. Power under C&T Act**

- (1) Subsection 13(4) of the C&T Act provides that the MRCC may include in the guide under section 67 of the MRCA one or more methods of working out the amount of compensation a person is entitled to under Part 2 of Chapter 4 of the MRCA for a service injury or disease where a person also has:
  - (a) a separate war-caused or defence-caused injury or disease (within the meaning of the VEA); or
  - (b) a separate injury or disease (within the meaning of the SRCA).

(2) A method may (but does not have to) include a method of offsetting payments made to the person under the VEA or SRCA in respect of the old injury or disease.

(3) In this section:

*C&T Act* means the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.

*MRCA* means the *Military Rehabilitation and Compensation Act 2004*.

*MRCC* means the Military Rehabilitation and Compensation Commission.

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

*VEA* means the *Veterans' Entitlements Act 1986*.

## **7. Application provisions**

The application provisions in the Schedule have effect.

## Schedule

### Application provisions

- (a) In this Schedule:

*Commencement day* means the day on which *GARP M (Transitional Impairment Methodology and Interim Permanent Impairment Lifestyle Methodology) Amendment Determination 2013* commenced.

Note: *GARP M (Transitional Impairment Methodology and Interim Permanent Impairment Lifestyle Methodology) Amendment Determination 2013* commenced on 1 July 2013.

*Commission* means the Military Rehabilitation and Compensation Commission.

*permanent impairment*, in relation to a person, means the person's impairment for which compensation is payable under Chapter 4 of Part 2 of the *Military Rehabilitation and Compensation Act 2004* (MRCA).

- (b) Subject to paragraphs (c) and (d), the provisions of Chapter 25 of GARP M (as in force on the commencement day) are taken to apply to all claims to which section 13 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* applies on and from 1 July 2004.
- (c) Subject to paragraph (e), if,
- (i) a person is a person whose permanent impairment was calculated under Chapter 25 as it applied prior to the commencement day (pre-existing methodology); and
  - (ii) on or after the commencement day, the application of the methodology in Chapter 25 of GARP M as in force on the commencement day (new methodology) would result in a lower amount of compensation for that person for the same condition and level of impairment that applied on the day that the last determination was made before 1 July 2013:

then, the methodology that is to apply to that person in relation to that condition and impairment on and after the commencement day is the pre-existing methodology.

- (d) Subject to paragraph (e), if,
  - (i) a person has made a claim in respect of a permanent impairment before 1 July 2013; and
  - (ii) the claim has not been determined before 1 July 2013;

then, the methodology that is to apply to that person in relation to that condition and impairment on and after the commencement day is the pre-existing methodology.

- (e) For a person to whom paragraph (c) or (d) applies, the pre-existing methodology is to apply until a determination of the amount of compensation payable for a person's permanent impairment using the new methodology results in a change in the amount of compensation payable.
- (f) Despite section 3, this instrument is taken not to apply retrospectively to 2 July 2015 in respect of a claim lodged by a person on or after that date and before the registration of this instrument, to the extent that the application of the new methodology would result in a lower amount of compensation for that person in respect of that claim than the person would have received if the pre-existing methodology had been applied to determine the person's permanent impairment for that claim.