



Military Rehabilitation and Compensation Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 March 2020

David Hurley
Governor-General

By His Excellency's Command

Darren Chester
Minister for Veterans' Affairs

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Part 1—Preliminary

1 Name

This instrument is the *Military Rehabilitation and Compensation Regulations 2020*.

2 Commencement

- (1) Each provision of this instrument 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 instrument	The day after this instrument is registered.	25 March 2020

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Military Rehabilitation and Compensation Act 2004*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note 1: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) cadet;
- (b) Commission;
- (c) declared member.

Note 2: A declared member, or member, includes a person who is the subject of a determination under subsection 8(1) of the Act.

In this instrument:

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

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casual work: a person who is in ***casual work*** means a person who:

- (a) is employed on a casual or irregular basis; and
- (b) is aged 16 years or over.

Human Services Department means a Department, or Executive Agency, administered by the Minister administering the *Human Services (Centrelink) Act 1997*.

remunerated cadet means an individual who:

- (a) is an Officer of Cadets or an Instructor of Cadets; and
- (b) is remunerated for the individual's service as a cadet.

social security law has the same meaning as in section 23 of the *Social Security Act 1991*.

Part 2—Matters relating to cadets

Division 1—Working out compensation for serving cadets

6 Normal and actual earnings—cadet engaged in paid civilian work at time of incapacity

- (1) For the purposes of section 116 of the Act, this section applies to a cadet who:
 - (a) for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (b) was a cadet when the service injury was sustained or the service disease was contracted; and
 - (c) was engaged in paid civilian work that was not casual work at the time of the cadet's incapacity; and
 - (d) is not a person who is unable to continue full-time studies or enter the workforce as a result of the incapacity.
- (2) The cadet's normal earnings for a week is the amount worked out by:
 - (a) treating the cadet as if the cadet were an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) assuming, for the application of section 95 of the Act, that the cadet would have an ADF component of:
 - (i) if the person is a remunerated cadet—the total worked out under subsection (3) of this section; or
 - (ii) in any other case—nil; and
 - (c) working out the amount that would be the cadet's normal earnings if the cadet were an incapacitated Reservist.
- (3) For the purposes of subparagraph (2)(b)(i), work out the total of:
 - (a) an amount determined by the Commission having regard to the cadet's rate of pay; and
 - (b) if the cadet is also a member of the Permanent Forces or the Reserves—any normal ADF pay earned by the cadet.
- (4) The cadet's actual earnings for a week is the amount worked out by:
 - (a) treating the cadet as an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) working out, for the application of section 101 of the Act, the cadet's actual ADF pay; and
 - (c) working out the amount that would be the cadet's actual earnings if the cadet were an incapacitated Reservist.

7 Normal and actual earnings—cadet only engaged in casual work, or not engaged in civilian work, at time of incapacity

- (1) For the purposes of section 116 of the Act, this section applies to a cadet who, at the time of the cadet's incapacity, was:

Part 2 Matters relating to cadets

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- (a) for a week referred to in this section, incapacitated for either or both service or work as a result of a service injury or disease; and
- (b) a cadet when the service injury was sustained or the service disease was contracted; and
- (c) a person who was:
 - (i) not engaged in paid civilian work; or
 - (ii) only engaged in casual work.

Cadet's normal earnings for a week

- (2) The cadet's normal earnings for a week is the amount worked out by:
 - (a) treating the cadet as if the cadet were an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) assuming, for the application of section 95 of the Act, that the cadet would have a civilian component of:
 - (i) if subsection (3) of this section applies—an amount determined by the Commission, having regard to the cadet's qualifications, skills and experience; or
 - (ii) otherwise—nil; and
 - (c) assuming, for the application of section 95 of the Act, that the cadet would have an ADF component of:
 - (i) if the person is a remunerated cadet—the total worked out under subsection (4) of this section; or
 - (ii) otherwise—nil; and
 - (d) working out the amount that would be the cadet's normal earnings if the cadet were an incapacitated Reservist.

Cadet's civilian component requiring Commission determination

- (3) For the purposes of subparagraph (2)(b)(i), this subsection applies if:
 - (a) the cadet is aged 16 years or over; and
 - (b) the cadet is unable to continue full-time studies or enter the workforce as a result of the incapacity; and
 - (c) the cadet has undertaken a rehabilitation assessment; and
 - (d) the cadet:
 - (i) has undertaken a rehabilitation program; or
 - (ii) is undertaking a rehabilitation program; or
 - (iii) is not currently fit to undertake a rehabilitation program; or
 - (iv) is assessed as not requiring a rehabilitation program.

ADF component for a remunerated cadet

- (4) For the purposes of subparagraph (2)(c)(i), work out the total of:
 - (a) an amount determined by the Commission having regard to the cadet's rate of pay; and
 - (b) if the cadet is also a member of the Permanent Forces or the Reserves—any normal ADF pay earned by the cadet.

Cadet's actual earnings for a week

- (5) The cadet's actual earnings for a week is the amount worked out by:
- (a) treating the cadet as an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) working out, for the application of section 101 of the Act, the cadet's actual ADF pay; and
 - (c) working out the amount that would be the cadet's actual earnings if the cadet were an incapacitated Reservist.

Division 2—Working out compensation for former cadets

8 Normal earnings and normal weekly hours for person who was a cadet— person engaged in paid civilian work before last ceasing to be member of Defence Force

- (1) For the purposes of section 175 of the Act, this section applies to a person:
 - (a) who was a cadet; and
 - (b) who, for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (c) who was a cadet when the service injury was sustained or the service disease was contracted; and
 - (d) in respect of whom the Commonwealth is liable to pay compensation under section 118 of the Act; and
 - (e) who has not chosen to receive a Special Rate Disability Pension under Part 6 of Chapter 4 of the Act; and
 - (f) who, before last ceasing to be a member of the Defence Force, was a person engaged in civilian work that was not casual work.
- (2) The person's normal earnings for a week is the amount worked out by:
 - (a) treating the person as if the person were an incapacitated person mentioned in section 152 of the Act; and
 - (b) assuming, for the application of section 153 of the Act, that the person would have an ADF component of:
 - (i) if the person was a remunerated cadet—the total worked out under subsection (3) of this section; or
 - (ii) in any other case—nil; and
 - (c) working out the amount that would be the person's normal earnings if the person were an incapacitated person.
- (3) For the purposes of subparagraph (2)(b)(i), work out the total of:
 - (a) an amount determined by the Commission having regard to the person's rate of pay as a cadet immediately before the date of discharge; and
 - (b) if the person was a member of the Permanent Forces or the Reserves—any ADF pay earned by the person up to and including the date of discharge.
- (4) The person's normal weekly hours are the number of hours that would be the person's normal weekly hours worked out under section 158 of the Act as if the person were an incapacitated person.
- (5) The actual earnings for a week for a person to whom this section applies is the amount worked out by treating the person as if the person were a person mentioned in section 129 of the Act:
 - (a) to whom subsection 125(1) of the Act applies; and
 - (b) if, for the purposes of subsection 130(1) of the Act, the number of hours worked by the person exceeds the number mentioned in that subsection—to whom section 130 applies; and
 - (c) whose actual earnings are worked out in accordance with section 132 of the Act.

**9 Normal earnings and normal weekly hours for person who was a cadet—
person not engaged in paid civilian work, or only engaged in casual
work, before last ceasing to be a member of the Defence Force**

- (1) For the purposes of section 175 of the Act, this section applies to a person:
- (a) who was a cadet; and
 - (b) who, for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (c) who was a cadet when the service injury was sustained or the service disease was contracted; and
 - (d) in respect of whom the Commonwealth is liable to pay compensation under section 118 of the Act; and
 - (e) who has not chosen to receive a Special Rate Disability Pension under Part 6 of Chapter 4 of the Act; and
 - (f) who, before last ceasing to be a member of the Defence Force:
 - (i) did not have paid civilian work; or
 - (ii) was engaged in casual work.

Person's normal earnings for a week

- (2) The person's normal earnings for a week is the amount worked out by:
- (a) treating the person as if the person were an incapacitated person mentioned in section 152 of the Act; and
 - (b) assuming, for the application of section 153 of the Act, that the person would have a civilian component of:
 - (i) if subsection (3) of this section applies—an amount determined by the Commission having regard to the person's qualifications, skills and experience, and assuming that the person's normal weekly hours are 37.5 hours; or
 - (ii) otherwise—nil; and
 - (c) assuming, for the application of section 153 of the Act, that the person would have an ADF component of:
 - (i) if the person was a remunerated cadet—the total of worked out under subsection (4) of this section; or
 - (ii) otherwise—nil; and
 - (d) working out the amount that would be the person's normal earnings if the person were an incapacitated person; and
 - (e) treating the person's normal weekly hours as being 37.5 hours.

Person's civilian component requiring Commission determination

- (3) For the purposes of subparagraph (2)(b)(i), this subsection applies if:
- (a) the person is aged 16 years or over; and
 - (b) the person is unable to continue full-time studies or enter the workforce as a result of the incapacity; and
 - (c) the person has undertaken a rehabilitation assessment; and
 - (d) the person:
 - (i) has undertaken a rehabilitation program; or

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Division 2 Working out compensation for former cadets

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- (ii) is undertaking a rehabilitation program; or
- (iii) is not currently fit to undertake a rehabilitation program; or
- (iv) is assessed as not requiring a rehabilitation program.

ADF component for a person who was a remunerated cadet

- (4) For the purposes of subparagraph (2)(c)(i), work out the total of:
- (a) an amount determined by the Commission having regard to the person's rate of pay as a cadet immediately before the person ceased being a cadet; and
 - (b) if the person was also a member of the Permanent Forces or the Reserves—any normal ADF pay earned by the person.

Person's actual earnings for a week

- (5) The actual earnings for a week for a person to whom this section applies is the amount worked out by treating the person as if the person were a person mentioned in section 129 of the Act:
- (a) to whom subsection 125(1) of the Act applies; and
 - (b) if, for the purposes of subsection 130(1) of the Act, the number of hours worked by the person exceeds the number mentioned in that subsection—to whom section 130 applies; and
 - (c) whose actual earnings are worked out in accordance with section 132 of the Act.

Division 3—Working out compensation for parts of weeks

10 Number of days in part of week

For the purposes of paragraph (b) of the definition of *number of days* in subsection 196(3) of the Act, the number of days for a cadet is:

- (a) if the cadet is engaged in paid employment—the number of days the cadet normally works in a week; or
- (b) otherwise—5 days.

Division 4—Modification of Chapter 2 of the Act for cadets

11 Modifications of Chapter 2 of the Act

For the purposes of subsection 439(1) of the Act, Chapter 2 of the Act applies in respect of cadets as if:

- (a) section 32 of the Act did not apply to a serious default or wilful act of a cadet aged under 16 years; and
- (b) section 34 of the Act did not apply to a wilful and false representation of a cadet aged under 16 years; and
- (c) subsections 35(3), (4) and (5) of the Act did not apply to a cadet who, at the time of the injury, disease, death, aggravation or material contribution, was:
 - (i) aged under 18 years; and
 - (ii) under the supervision of a parent of the cadet, or of a responsible adult.

Part 3—Matters relating to declared members

Division 1—Working out compensation for declared members

12 Normal and actual earnings—declared member engaged in paid civilian work at time of incapacity, who is not undertaking career transition assistance

- (1) For the purposes of section 116 of the Act, this section applies to a declared member who:
 - (a) for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (b) was a declared member when the service injury was sustained or the service disease was contracted; and
 - (c) was engaged in paid civilian work at the time of the member's incapacity and is not undertaking a period of career transition assistance.
- (2) The member's normal earnings for a week is the amount worked out by:
 - (a) treating the member as if the member were an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) assuming, for the application of section 95 of the Act, that the member would have an ADF component of nil; and
 - (c) working out the amount that would be the member's normal earnings if the member were an incapacitated Reservist.
- (3) The member's actual earnings for a week is the amount worked out by:
 - (a) treating the member as an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) working out the amount that would be the member's actual civilian earnings if the member were an incapacitated Reservist.

13 Normal and actual earnings—declared member not engaged in civilian work at time of incapacity and not undertaking career transition assistance

- (1) For the purposes of section 116 of the Act, this section applies to a declared member who:
 - (a) for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (b) was a declared member when the service injury was sustained or the service disease was contracted; and
 - (c) was not engaged in paid civilian work at the time of the member's incapacity, and is not undertaking a period of career transition assistance.
- (2) The member's normal earnings for a week is the amount worked out by:
 - (a) treating the member as if the member were an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) assuming, for the application of section 95 of the Act, that the member would have a civilian component of:

Part 3 Matters relating to declared members

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- (i) if subsection (3) of this section applies—an amount determined by the Commission, having regard to the member’s qualifications, skills and experience; or
 - (ii) otherwise—nil.
- (3) For the purposes of subparagraph (2)(b)(i), this subsection applies if:
 - (a) the member is aged 16 years or over; and
 - (b) the member is unable to continue full-time studies or enter the workforce as a result of the incapacity; and
 - (c) the member has undertaken a rehabilitation assessment; and
 - (d) the member:
 - (i) has undertaken a rehabilitation program; or
 - (ii) is undertaking a rehabilitation program; or
 - (iii) is not currently fit to undertake a rehabilitation program; or
 - (iv) is assessed as not requiring a rehabilitation program.
- (4) The member’s actual earnings for a week is the amount worked out by:
 - (a) treating the member as an incapacitated Reservist mentioned in section 94 of the Act; and
 - (b) working out the amount that would be the member’s actual civilian earnings if the member were an incapacitated Reservist.

14 Normal and actual earnings—incapacitated declared member undertaking career transition assistance

- (1) For the purposes of section 116 of the Act, this section applies to an incapacitated declared member who:
 - (a) for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (b) was a declared member when the service injury was sustained or the service disease was contracted; and
 - (c) was undertaking a period of career transition assistance at the time of the incapacity.

Member has not been discharged

- (2) The normal earnings for a week for a member to whom this section applies, and who has not been discharged, is the amount worked out by treating the member as if the member were:
 - (a) a Permanent Forces member or continuous full-time reservist mentioned in section 91 of the Act; and
 - (b) incapacitated for service.
- (3) The actual earnings for a week for a member to whom this section applies, and who has not been discharged, is the amount worked out by treating the member as if the member were:
 - (a) a Permanent Forces member or continuous full-time reservist mentioned in section 92 of the Act; and
 - (b) incapacitated for service.

Member has been discharged

- (4) The normal earnings for a week for a member to whom this section applies, and who has been discharged, is the amount worked out by treating the member as if the member were a person mentioned in section 104 of the Act who was a Permanent Forces member immediately before completing the member's last period of full-time service.
- (5) The actual earnings for a week for a member to whom this section applies, and who has been discharged, is the amount worked out by treating the member as if the member were a person mentioned in section 105 of the Act, and who is incapacitated for service.

Note: For subsections (4) and (5)—a person who has been discharged from the Permanent Forces or the Reserves remains a declared member while undertaking career transition assistance.

Division 2—Working out compensation for former declared members

15 Normal and actual earnings—former declared member engaged in paid civilian work before last ceasing to be a member of the Defence Force, who has not undertaken career transition assistance

- (1) For the purposes of section 175 of the Act, this section applies to a person:
 - (a) who was a declared member; and
 - (b) who, for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (c) who was a declared member when the service injury was sustained or the service disease was contracted; and
 - (d) in respect of whom the Commonwealth is liable to pay compensation under section 118 of the Act; and
 - (e) who has not chosen to receive a Special Rate Disability Pension under Part 6 of Chapter 4 of the Act; and
 - (f) who had paid civilian work before last ceasing to be a member of the Defence Force.
- (2) The person's normal earnings for a week is the amount worked out by:
 - (a) treating the person as if the person were an incapacitated person mentioned in section 152 of the Act; and
 - (b) assuming, for the application of section 153 of the Act, that the person would have an ADF component of nil; and
 - (c) working out the amount that would be the person's normal earnings if the person were an incapacitated person; and
 - (d) working out the number of hours that would be the person's normal weekly hours if the person were an incapacitated person.
- (3) The actual earnings for a week for a person to whom this section applies is the amount worked out by treating the person as if the person were a person mentioned in section 129 of the Act:
 - (a) to whom subsection 125(1) of the Act applies; and
 - (b) if, for the purposes of subsection 130(1) of the Act, the number of hours worked by the person exceeds the number mentioned in that subsection—to whom section 130 applies; and
 - (c) whose actual earnings are worked out in accordance with section 132 of the Act.

16 Normal and actual earnings—former declared member not engaged in paid civilian work before last ceasing to be a member of the Defence Force, who did not undertake career transition assistance

- (1) For the purposes of section 175 of the Act, this section applies to a person:
 - (a) who was a declared member; and
 - (b) who, for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and

- (c) who was a declared member when the service injury was sustained or the service disease was contracted; and
 - (d) in respect of whom the Commonwealth is liable to pay compensation under section 118 of the Act; and
 - (e) who has not chosen to receive a Special Rate Disability Pension under Part 6 of Chapter 4 of the Act; and
 - (f) who did not have paid civilian work before last ceasing to be a member of the Defence Force.
- (2) The person's normal earnings for a week is the amount worked out by:
- (a) treating the person as if the person were an incapacitated person mentioned in section 152 of the Act; and
 - (b) assuming, for the application of section 153 of the Act, that the person would have a civilian component of:
 - (i) if subsection (3) of this section applies—an amount determined by the Commission, having regard to the person's qualifications, skills and experience, and assuming that the person's normal weekly hours are 37.5 hours; or
 - (ii) otherwise—nil; and
 - (c) assuming, for the application of section 153 of the Act, that the person would have an ADF component of nil; and
 - (d) working out the amount that would be the person's normal earnings if the person were an incapacitated person; and
 - (e) treating the person's normal weekly hours as being 37.5 hours.
- (3) For the purposes of subparagraph (2)(b)(i), this subsection applies if:
- (a) the person is aged 16 years or over; and
 - (b) the person is unable to continue full-time studies or enter the workforce as a result of the incapacity; and
 - (c) the person has undertaken a rehabilitation assessment; and
 - (d) the person:
 - (i) has undertaken a rehabilitation program;
 - (ii) is undertaking a rehabilitation program;
 - (iii) is not currently fit to undertake a rehabilitation program;
 - (iv) is assessed as not requiring a rehabilitation program.
- (4) The actual earnings for a week for a person to whom this section applies is the amount worked out by treating the person as if the person were a person mentioned in section 129 of the Act:
- (a) to whom subsection 125(1) of the Act applies; and
 - (b) if, for the purposes of subsection 130(1) of the Act, the number of hours worked by the person exceeds the number mentioned in that subsection—to whom section 130 applies; and
 - (c) whose actual earnings are worked out in accordance with section 132 of the Act.

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17 Normal and actual earnings—incapacitated former declared member who undertook career transition assistance

- (1) For the purposes of section 175 of the Act, this section applies to an incapacitated former declared member who has completed a period of career transition assistance who:
 - (a) for a week referred to in this section, was incapacitated for either or both service or work as a result of a service injury or disease; and
 - (b) was a declared member when the service injury was sustained or the service disease was contracted.
- (2) The normal earnings for a week for a member to whom this section applies is the amount worked out by treating the member as if the member were a person mentioned in section 141 of the Act who was a Permanent Forces member immediately before last ceasing to be a member of the Defence Force.
- (3) The actual earnings for a week for a member to whom this section applies is the amount worked out by treating the member as if the member were a person mentioned in section 129 of the Act:
 - (a) to whom subsection 125(1) of the Act applies; and
 - (b) if, for the purposes of subsection 130(1) of the Act, the number of hours worked by the person exceeds the number mentioned in that subsection—to whom section 130 applies; and
 - (c) whose actual earnings are worked out in accordance with section 132 of the Act.

Division 3—Working out compensation for parts of weeks

18 Working out compensation for parts of weeks for declared members

For the purposes of paragraph (b) of the definition of *number of days* in subsection 196(3) of the Act, the number of days for a declared member is:

- (a) if the member is on career transition assistance—5 days; or
- (b) if paragraph (a) does not apply, and the member is engaged in paid employment—the number of days the member normally works in a week;
or
- (c) if neither paragraph (a) nor (b) applies—5 days.

Part 4—Review by the Board of original determinations

19 Application of the *Veterans' Entitlements Regulations 1986*

- (1) For the purposes of section 353 of the Act:
- (a) regulations 2, 8A to 9AL, 9AN, 10 and 12 of the *Veterans' Entitlements Regulations 1986*; and
 - (b) Form 3 of Schedule 1 to those Regulations;
- apply for the purposes of the application of the applied provisions specified in section 353 of the Act to a review by the Board under Part 4 of Chapter 8 of the Act.
- (2) Those provisions of the *Veterans' Entitlements Regulations 1986* apply as if appropriate modifications were made, including the following substitutions:

Substitutions to be made in provisions of the <i>Veterans' Entitlements Regulations 1986</i>			
Item	In this provision:	For each reference to:	Substitute a reference to:
1	paragraph (c) of the definition of <i>attendant</i> in subregulation 9(1)	Commission	Military Rehabilitation and Compensation Commission
2	subregulation 9(3), (4) or (5)	Commission	Military Rehabilitation and Compensation Commission
3	subregulation 9(16)	a veteran or a dependant of a deceased veteran	a claimant (within the meaning of the <i>Military Rehabilitation and Compensation Act 2004</i>)
4	subregulation 9(16) or (17)	veteran or dependant	claimant
5	subregulation 9(18) (not including the examples)	(a) veteran or a dependant of a deceased veteran; or (b) veteran or dependant	claimant (within the meaning of the <i>Military Rehabilitation and Compensation Act 2004</i>)
6	each example for subregulation 9(18)	veteran	claimant
7	regulation 9AD, 9AE, 9AF, 9AG, 9AH, 9AI, 9AJ, 9AK or 9AL	Commission	Military Rehabilitation and Compensation Commission
8	Form 3 in Schedule 1	VETERANS' ENTITLEMENTS REGULATIONS	VETERANS' ENTITLEMENTS REGULATIONS (as applied under section 19 of the <i>Military Rehabilitation and Compensation Regulations 2020</i>)
9	Form 3 in Schedule 1	a decision of the Repatriation Commission	an original determination under Part 4 of Chapter 8 of the <i>Military Rehabilitation and Compensation Act 2004</i>
10	Form 3 in Schedule 1	<i>Veterans' Entitlements Act</i>	<i>Veterans' Entitlements Act</i>

Substitutions to be made in provisions of the *Veterans' Entitlements Regulations 1986*

Item	In this provision:	For each reference to:	Substitute a reference to:
		<i>1986</i>	<i>1986</i> (as applied under section 353 of the <i>Military Rehabilitation and Compensation Act 2004</i>)

Part 5—Indexation of certain pay and earnings

20 Indexation of pre-CFTS pay and civilian daily earnings

- (1) For the purposes of paragraph 182(1)(a) of the Act, the index for the purposes of section 182 of the Act is *Total hourly rates of pay excluding bonuses*, contained in *6345.0 Wage Price Index, Australia*, published by the Australian Bureau of Statistics in respect of the most recent quarter.
- (2) For the purposes of paragraph 182(1)(b) of the Act, the manner of working out an increase in the amount of a person’s pre-CFTS pay or civilian daily earnings is:
 - (a) to assume that the pre-CFTS pay or civilian daily earnings is a dollar amount to be indexed under subsection 404(1) of the Act; and
 - (b) to treat the **December index number** mentioned in section 404 of the Act as the value for “December” in the tables of the index referred to in subsection (1) under the headings “Australia”, “Private and Public” and “All industries”.

Note: In 2020, the index was found in “Table 1. Total Hourly Rates of Pay Excluding Bonuses: Sector, Original, Seasonally Adjusted and Trend” under the data item description “Percentage Change from Corresponding Quarter of Previous Year; Total hourly rates of pay excluding bonuses; Australia; Private and Public; All industries” (see the Australian Bureau of Statistics’ website).

21 Indexation of \$100 in ADF pay

- (1) For the purposes of paragraph 183(1)(a) of the Act, the index for the purposes of section 183 of the Act is created by:
 - (a) treating a base amount of \$100 as being in effect on 31 December 2001; and
 - (b) applying to the base amount the percentage increases required in each subsequent calendar year in accordance with the ADF Workplace Remuneration Arrangement applicable to that subsequent calendar year.
- (2) For the purposes of paragraph 183(1)(b) of the Act, the manner of working out the increase in an amount of \$100 mentioned in that paragraph is:
 - (a) for the year ending on 31 December 2002—to multiply the amount of \$100 by the value of 104.55, and divide the result by 100; and
 - (b) for the year ending on 31 December 2003—to multiply the amount of \$100 by the value of 107.69, and divide the result by 100; and
 - (c) for each subsequent calendar year—to multiply the amount of \$100 by the value of the index set out in subsection (1) on 31 December in that year, and divide the result by 100.

Note: The values mentioned in paragraphs (2)(a) and (b) are the values for 2002 and 2003 worked out using the index set out in subsection (1).

Part 6—Other matters

22 Provision of information by the Commission

For the purposes of item 3 of the table in subsection 409(2) of the Act, each purpose mentioned in an item in the following table is specified for the person or agency specified in the item.

Providing information to a specified person or agency for a specified purpose		
Item	For this person or agency:	The purposes are:
1	(a) an employee, or contractor, of the Defence Department; or (b) the Chief of the Defence Force	(a) monitoring or reporting of the Defence Force's occupational health and safety performance; or (b) monitoring the cost to the Commonwealth of a service injury or a service disease
2	an employee, or contractor, of the Human Services Department	(a) administering the social security law; or (b) giving information relevant to the administration of concessions provided, on the basis of receipt of compensation under the Act, by: (i) a State, Territory or local government authority; or (ii) an organisation included in a class set out in the table in subsection 17(2) of the <i>Privacy Regulation 2013</i>

Note: *Defence Department*, *Defence Force*, *service disease* and *service injury* are defined in section 5 of the Act.

Part 7—Application and transitional matters

23 Things done under the *Military Rehabilitation and Compensation Regulations 2004* etc.

Things done under the Military Rehabilitation and Compensation Regulations 2004

- (1) If:
 - (a) a thing was done for a particular purpose under the *Military Rehabilitation and Compensation Regulations 2004* as in force before those Regulations were repealed; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument (and may be dealt with) as if it had been done under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a calculation, determination, decision or other instrument being given or made.

Things done under the applied Veterans' Entitlements Regulations 1986

- (3) If:
 - (a) a thing was done for a particular purpose under the old VE law before the *Military Rehabilitation and Compensation Regulations 2004* were repealed; and
 - (b) the thing could be done for that purpose under the new VE law;the thing has effect for the purposes of the new VE law (and may be dealt with) as if it had been done under the new VE law.
- (4) Without limiting subsection (3), a reference in that subsection to a thing being done includes a reference to a calculation, determination, decision, application, notice or other instrument being given or made.

- (5) In this section:

new VE law means the *Veterans' Entitlements Regulations 1986* as applied by this instrument.

old VE law means the *Veterans' Entitlements Regulations 1986* as applied by the *Military Rehabilitation and Compensation Regulations 2004*.

Schedule 1—Repeals

Military Rehabilitation and Compensation Regulations 2004

1 The whole of the instrument

Repeal the instrument.