



# Military Rehabilitation and Compensation (Non-liability Rehabilitation Pilot) Determination 2021

Instrument 2021 No. MRCC43

The Military Rehabilitation and Compensation Commission, under subsection 53D(1) of the *Military Rehabilitation and Compensation Act 2004*, makes the following determination:

Dated this 21st day of December 2021

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

)  
) SEAL  
)

<i>Elizabeth Cosson</i>	<i>Don Spinks</i>	<i>Gwen Cherne</i>
<b>ELIZABETH COSSON</b>	<b>DONALD SPINKS</b>	<b>GWEN CHERNE</b>
<b>AM CSC</b>	<b>AM</b>	
<b>Chair</b>	<b>Member</b>	<b>Member</b>

<i>Sarah Sharkey</i>	<i>Wade Stothart</i>
<b>REAR ADMIRAL SARAH SHARKEY</b>	<b>WADE STOTHART</b>
<b>AM CSC RAN</b>	<b>DSC AM CSC</b>
<b>Member</b>	<b>Member</b>



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## 1 Name

This instrument is the *Military Rehabilitation and Compensation (Non-liability Rehabilitation Pilot) Determination 2021*.

## 2 Commencement

This instrument commences immediately after the commencement of Schedule 5 to the *Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021*.

Note: Section 2 of the *Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021* provides for that schedule to commence on 1 January 2022.

## 3 Authority

This instrument is made under subsection 53D(1) of the *Military Rehabilitation and Compensation Act 2004*.

## 4 Purpose

The purpose of this instrument is:

- (a) to determine a class of persons who will be eligible (subject to further selection by the *Commission*) for access to an *approved rehabilitation program* provided under the program established by the Commonwealth and known as the non-liability rehabilitation pilot; and
- (b) to set out the limits and conditions that will apply to an *approved rehabilitation program* under subsection 53C(3) of the *Act*.

Note: The *Commission* is empowered, under paragraph 53B(1)(d) of the *Act* to determine in writing that Part 2A of Chapter 3 of the *Act* applies to a person, and that one of the criterion that must be met is that the person must fall within the class determined by this instrument (paragraph 53B(1)(c) refers). The effect of paragraph 53B(1)(d) of the *Act* is to enable the *Commission*, by determination in writing, and in addition to the criteria set out in paragraphs 53B(1)(a) and (b), to select persons from the class determined by this instrument to be provided with an *approved rehabilitation program* under the non-liability rehabilitation pilot.

## 5 Definition

In this instrument:

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

*approved program provider* has the same meaning as in the *Act*.

*approved rehabilitation program* means a *rehabilitation program* provided under section 53C of the *Act* for a person by the person's *rehabilitation authority*.

Note: Subsection 53C(2) of the *Act* provides that for the purposes of designing or providing a rehabilitation program:

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- (i) the *rehabilitation authority* or *approved program provider* may seek the assistance of persons with suitable qualifications or expertise in the design or provision of rehabilitation programs; and
  - (ii) the *rehabilitation authority* or *approved program provider* may take into account any relevant information of which it is aware or that is brought to its attention.

**Commission** means the body corporate known as the Military Rehabilitation and Compensation Commission established under section 361 of the *Act*.

**former member** means a person who:

- (a) is a *former member* (within the meaning of the *Act*); and
- (b) who was a *member* at any time on or after 1 December 1988.

**member** has the same meaning as in the *Act*.

**participant** means a person undertaking an *approved rehabilitation program* provided by an *approved program provider* under the non-liability rehabilitation pilot.

**psycho-social training** includes but is not limited to services and activities to assist with building social connectedness and overcoming barriers to social wellbeing.

Note: Examples of psycho-social training include, but are not limited to, community inclusion activities, sporting clubs, hobby clubs and wellbeing activities.

**rehabilitation authority** has the same meaning as in the *Act*.

**rehabilitation program** means either or both *psycho-social training* or *vocational assessment and rehabilitation* provided to a *member* or *former member* under Part 2A of Chapter 3 of the *Act* that has been approved by the *rehabilitation authority* and provided by an *approved program provider*.

**vocational assessment and rehabilitation** includes, but is not limited to the types of assistance set out in subsection 18D(3) of the *Military Rehabilitation and Compensation Regulations 2020*.

## 6 Determined class of persons

For the purposes of paragraph 53B(1)(c) of the *Act*, the following class of persons is determined:

A *member* or *former member* who:

- (a) is, in the opinion of the *Commission*, likely to benefit from participation in the non-liability rehabilitation pilot; and
- (b) consents to participate in the non-liability rehabilitation pilot.

## 7 Conditions applicable to the provision of a rehabilitation program

For the purposes of paragraph 53C(3)(a) of the *Act*, the conditions under which an *approved rehabilitation program* is provided by an *approved program provider* under the non-liability rehabilitation pilot are that the *participant*:

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- (a) resides in Australia; and
  - (b) is not:
    - (i) undertaking an approved rehabilitation program under the *Act* (within the meaning of that Act); or
    - (ii) undertaking a rehabilitation program under section 37 of the *Safety, Rehabilitation and Compensation (Defence- related Claims) Act 1988* (within the meaning of that Act); or
    - (iii) receiving, or previously received, assistance to transition into civilian work under Part 3A of the *Military Rehabilitation and Compensation Regulations 2020*.

## **8 Limits applicable to the provision of rehabilitation program**

- (1) Subject to subsection (2), for the purposes of paragraph 53C(3)(b) of the Act, the limits (whether financial or otherwise) under which an *approved rehabilitation program* is provided by an *approved program provider* are:
  - (a) an amount not exceeding \$4,000 may be allocated to pay for the cost of managing an *approved rehabilitation program*;
  - (b) an amount not exceeding \$2,500 may be allocated for *psychosocial training* activities, which may include activities such as sport/exercise membership fees, community club membership fees, and short courses that promote health and wellbeing; and
  - (c) an amount not exceeding \$2,000 may be allocated for *vocational assessment and rehabilitation*, which may include the activities outlined in subsection 18D(3) of the *Military Rehabilitation and Compensation Regulations*;
  - (d) the duration of an *approved rehabilitation program* is not to exceed six months;
  - (e) where a *participant* has elected to again participate in the non-liability rehabilitation pilot after the conclusion of an *approved rehabilitation program* their new program is not to provide the same, or substantially the same activities that were provided in the concluded program.
- (2) The maximum amounts payable for activities under an *approved rehabilitation program*, the duration of an *approved rehabilitation program* and the activities that can be provided under an *approved rehabilitation program*, may be varied by the rehabilitation authority.