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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Veterans' Affairs Legislation
Amendment (Digital Readiness and
Other Measures) Bill 2016**

No. , 2016

(Veterans' Affairs)

**A Bill for an Act to amend the law relating to
veterans' entitlements and military rehabilitation
and compensation, and for related purposes**

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**A Bill for an Act to amend the law relating to
veterans' entitlements and military rehabilitation
and compensation, and for related purposes**

The Parliament of Australia enacts:

1 Short title

This Act is the Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Act 2016.

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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, items 1 and 2	The day after this Act receives the Royal Assent.	
3. Schedule 1, items 3 and 4	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of Part 2 of Schedule 1 to the <i>Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2016</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 1, items 5 and 6	The day after this Act receives the Royal Assent.	
5. Schedule 2, items 1 and 2	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
6. Schedule 2, items 3 to 8	The later of: (a) the day the provisions covered by table item 5 commence; and (b) the 28th day after the commencement of Part 2 of Schedule 1 to the <i>Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2016</i> .	

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
7. Schedule 2, items 9 to 13	At the same time as the provisions covered by table item 5.	
8. Schedule 3, item 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Part 2 of Schedule 1 to the <i>Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2016</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 3, items 2 and 3	The day after this Act receives the Royal Assent.	

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—Computerised decision-making

Military Rehabilitation and Compensation Act 2004

1 After section 4

Insert:

4A Secretary may arrange for use of computer programs to make decisions or determinations

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Commission may, or must, under this Act or a legislative instrument made for the purposes of this Act:
 - (a) make a decision or determination; or
 - (b) exercise any power or comply with any obligation; or
 - (c) do anything else related to making a decision or determination or exercising a power or complying with an obligation.

- (2) For the purposes of this Act or the legislative instrument, the Commission is taken to have:
 - (a) made a decision or determination; or
 - (b) exercised a power or complied with an obligation; or
 - (c) done something else related to the making of a decision or determination or the exercise of a power or the compliance with an obligation;that was made, exercised, complied with or done by the operation of a computer program under an arrangement made under subsection (1).

Substituted decisions or determinations

- (3) The Commission may, under a provision of this Act or of the legislative instrument, make a decision or determination in substitution for a decision or determination the Commission is taken to have made under paragraph (2)(a) if the Commission is

satisfied that the decision or determination made by the operation of the computer program is incorrect.

Note: For review of a determination made in substitution, see Chapter 8.

- (4) Subsection (3) does not limit Chapter 8 (about reconsideration and review of determinations).

2 Subsection 5(1)

Insert:

Secretary means Secretary of the Department.

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

3 After section 3

Insert:

3A Secretary may arrange for use of computer programs to make decisions or determinations

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the MRCC may, or must, under this Act or a legislative instrument made for the purposes of this Act:
- (a) make a decision or determination; or
 - (b) exercise any power or comply with any obligation; or
 - (c) do anything else related to making a decision or determination or exercising a power or complying with an obligation.
- (2) For the purposes of this Act or the legislative instrument, the MRCC is taken to have:
- (a) made a decision or determination; or
 - (b) exercised a power or complied with an obligation; or
 - (c) done something else related to the making of a decision or determination or the exercise of a power or the compliance with an obligation;

that was made, exercised, complied with or done by the operation of a computer program under an arrangement made under subsection (1).

Substituted decisions or determinations

- (3) The MRCC may, under a provision of this Act or of the legislative instrument, make a decision or determination in substitution for a decision or determination the MRCC is taken to have made under paragraph (2)(a) if the MRCC is satisfied that the decision or determination made by the operation of the computer program is incorrect.

Note: For review of a decision or determination made in substitution, see Part VI.

- (4) Subsection (3) does not limit Part VI (about reconsideration and review of determinations).

4 Subsection 4(1)

Insert:

Secretary means Secretary of the Department.

Veterans' Entitlements Act 1986

5 After section 4A

Insert:

4B Secretary may arrange for use of computer programs to make decisions

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Commission may, or must, under this Act or a legislative instrument made for the purposes of this Act:
- (a) make a decision; or
 - (b) exercise any power or comply with any obligation; or
 - (c) do anything else related to making a decision or exercising a power or complying with an obligation.

- (2) For the purposes of this Act or the legislative instrument, the Commission is taken to have:
- (a) made a decision; or
 - (b) exercised a power or complied with an obligation; or
 - (c) done something else related to the making of a decision or the exercise of a power or the compliance with an obligation; that was made, exercised, complied with or done by the operation of a computer program under an arrangement made under subsection (1).

Substituted decisions

- (3) The Commission may, under a provision of this Act or of the legislative instrument, make a decision in substitution for a decision the Commission is taken to have made under paragraph (2)(a) if the Commission is satisfied that the decision made by the operation of the computer program is incorrect.

Note: For review of a decision made in substitution, see Parts IX and X.

- (4) Subsection (3) does not limit any other provision of this Act that provide for the review or reconsideration of a decision.

6 At the end of subsection 214(1)

Add “and the power under subsection 4B(1)”.

Schedule 2—Disclosure of information

Military Rehabilitation and Compensation Act 2004

1 After section 409

Insert:

409A Public interest disclosures

- (1) The Secretary may, if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases, disclose any information obtained by any person in the performance of that person's duties under this Act to such persons and for such purposes as the Secretary determines.
- (2) The Secretary must, in giving certificates under subsection (1), act in accordance with any rules made under subsection (3).
- (3) The Minister may, by legislative instrument, make rules for and in relation to the exercise of the Secretary's power to give certificates under subsection (1).
- (4) A certificate under subsection (1) that applies in relation to a particular case is not a legislative instrument.
- (5) A certificate under subsection (1) that applies in relation to a class of cases is a legislative instrument.

Limit on disclosure of personal information

- (6) Before disclosing personal information about a person under subsection (1), the Secretary must:
 - (a) notify the person in writing of the Secretary's intention to disclose the information; and
 - (b) give the person a reasonable opportunity to make written comments on the proposed disclosure of the information; and
 - (c) consider any written comments made by the person.
- (7) The Secretary commits an offence if:

- (a) the Secretary discloses personal information about a person under subsection (1); and
- (b) the Secretary failed to comply with subsection (6) in relation to that disclosure.

Penalty: 60 penalty units.

Authorisation for Australian Privacy Principles

- (8) To avoid doubt, if information is disclosed in accordance with this section, the disclosure is taken, for the purposes of the Australian Privacy Principles, to be authorised by this Act.

Definitions

- (9) In this section:

personal information has the same meaning as in the *Privacy Act 1988*.

2 Application provision

The amendment made by item 1 applies in relation to disclosures of information on or after the commencement of that item (whether the information was obtained before, on or after that commencement).

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

3 Subsection 147(2) (after table item 2)

Insert:

- | | | |
|----|------------|--|
| 2A | Section 61 | <p>The section applies as if it requires the determining authority to give a copy of the notice to the Chief of the Defence Force if the determination relates to liability for an injury, disease or death, or the permanent impairment, of a person who was a member of the Defence Force:</p> <ul style="list-style-type: none"> (a) for an injury or disease or permanent impairment—at the time when the determination was made; or (b) for a death—at the time of death. |
|----|------------|--|

4 Subsection 151(1)

Omit “relevant to a defence-related claim”, substitute “required for the purposes of this Act”.

5 After subsection 151A(1)

Insert:

- (1A) The MRCC (or a staff member assisting the MRCC) may provide any information obtained in the performance of duties under this Act to the Secretary of the Defence Department for any purposes relating to:
- (a) litigation involving an injury, disease or death of an employee in relation to which a claim has been made under this Act; or
 - (b) monitoring, or reporting on, the performance of the Defence Force in relation to occupational health and safety; or
 - (c) monitoring the cost to the Commonwealth of injuries, diseases or deaths of employees, in relation to which claims have been made under this Act.

6 Paragraphs 151A(2)(a) and (b)

After “the information”, insert “obtained under subsection (1) or (1A)”.

7 After section 151A

Insert:

151B Public interest disclosures

- (1) The Secretary may, if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases, disclose any information obtained by any person in the performance of that person’s duties under this Act to such persons and for such purposes as the Secretary determines.
- (2) The Secretary must, in giving certificates under subsection (1), act in accordance with any rules made under subsection (3).
- (3) The Minister may, by legislative instrument, make rules for and in relation to the exercise of the Secretary’s power to give certificates under subsection (1).

- (4) A certificate under subsection (1) that applies in relation to a particular case is not a legislative instrument.
- (5) A certificate under subsection (1) that applies in relation to a class of cases is a legislative instrument.

Limit on disclosure of personal information

- (6) Before disclosing personal information about a person under subsection (1), the Secretary must:
 - (a) notify the person in writing of the Secretary's intention to disclose the information; and
 - (b) give the person a reasonable opportunity to make written comments on the proposed disclosure of the information; and
 - (c) consider any written comments made by the person.
- (7) The Secretary commits an offence if:
 - (a) the Secretary discloses personal information about a person under subsection (1); and
 - (b) the Secretary failed to comply with subsection (6) in relation to that disclosure.

Penalty: 60 penalty units.

Authorisation for Privacy Act 1988

- (8) To avoid doubt, information that is disclosed in accordance with this section is taken, for the purposes of the *Privacy Act 1988*, to be authorised by law.

Definitions

- (9) In this section:

personal information has the same meaning as in the *Privacy Act 1988*.

8 Application provisions

- (1) The amendment made by item 3 applies in relation to notices given on or after the commencement of that item.

- (2) The amendments made by items 5 and 7 apply in relation to disclosures of information on or after the commencement of those items (whether the information was obtained before, on or after that commencement).

Veterans' Entitlements Act 1986

9 At the end of section 130

Add:

- (3) To avoid doubt, if information is disclosed in accordance with subsection (2), the disclosure is taken, for the purposes of the Australian Privacy Principles, to be authorised by this Act.

10 After section 131

Insert:

131A Public interest disclosures

- (1) The Secretary may, if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases, disclose any information obtained by any person in the performance of that person's duties under this Act to such persons and for such purposes as the Secretary determines.
- (2) The Secretary must, in giving certificates under subsection (1), act in accordance with any rules made under subsection (3).
- (3) The Minister may, by legislative instrument, make rules for and in relation to the exercise of the Secretary's power to give certificates under subsection (1).
- (4) A certificate under subsection (1) that applies in relation to a particular case is not a legislative instrument.
- (5) A certificate under subsection (1) that applies in relation to a class of cases is a legislative instrument.

Limit on disclosure of personal information

- (6) Before disclosing personal information about a person under subsection (1), the Secretary must:

- (a) notify the person in writing of the Secretary's intention to disclose the information; and
 - (b) give the person a reasonable opportunity to make written comments on the proposed disclosure of the information; and
 - (c) consider any written comments made by the person.
- (7) The Secretary commits an offence if:
- (a) the Secretary discloses personal information about a person under subsection (1); and
 - (b) the Secretary failed to comply with subsection (6) in relation to that disclosure.

Penalty: 60 penalty units.

Authorisation for Australian Privacy Principles

- (8) To avoid doubt, if information is disclosed in accordance with this section, the disclosure is taken, for the purposes of the Australian Privacy Principles, to be authorised by this Act.

Definitions

- (9) In this section:

personal information has the same meaning as in the *Privacy Act 1988*.

11 Paragraph 212(1)(a)

After “delegation”, insert “and the power under subsection 131A(3)”.

12 Subsection 214(1)

Omit “and the power under subsection 4B(1)”, substitute “and the powers under subsections 4B(1) and 131A(1)”.

13 Application provision

The amendment made by item 10 applies in relation to disclosures of information on or after the commencement of that item (whether the information was obtained before, on or after that commencement).

Schedule 3—Technical amendments

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

1 Section 1

After “*and Compensation*”, insert “*(Defence-related Claims)*”.

Veterans’ Entitlements Act 1986

2 Subsection 127(4) (penalty)

Omit “\$1,000 or imprisonment for 6 months”, substitute “Imprisonment for 6 months or 10 penalty units”.

3 Section 216

Omit “\$500”, substitute “5 penalty units”.