

Chapter 2

Overview of the bill

The proposed legislation

2.1 In his second reading speech, Minister Tehan stated '[t]he bill will duplicate the existing *Safety, Rehabilitation and Compensation Act 1988* (SRCA) as a standalone act, with appropriate amendments to give full control of the act to the Minister for Veterans' Affairs'. The Minister emphasised:

[E]ligibility and benefits under the standalone act will be the same as those currently available to serving and former ADF members under the existing SRCA...It will not apply to (or impact on) veterans with eligibility under the *Veterans' Entitlements Act 1986* (VEA) or the *Military Rehabilitation and Compensation Act 2004* (MRCA).¹

2.2 The standalone act created by the bill will be titled the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA).

Structure and key provisions of the bill

2.3 The key provisions of the bill are contained in the three schedules.

2.4 Schedule 1 has three parts. Part 1 of Schedule 1 deals with the enactment of the DRCA. The explanatory memorandum (EM) indicates that the DRCA will maintain existing entitlements which currently exist in the SRCA for current and former ADF members and their dependents.²

2.5 Part 2 of Schedule 1 amends the DRCA make amendments to the DRCA created in Part 1, including repealing redundant definitions, references to the SRCA and provisions not relevant to administration of the DRCA by the Military Rehabilitation and Compensation Commission (MRCC).

2.6 In particular, Item 45, Part 2 of Schedule 1 inserts new section 121B 'Regulations modifying the operation of this Act'. Subsection 121B(1) provides the Minister to make regulations modifying the operation of the legislation, but this limited by subsection 121B(2) which provides that before regulations are made the Minister must be satisfied 'that is necessary or desirable to make the regulations to ensure that no person (except the Commonwealth) is disadvantaged by the enactment of this Act'.

2.7 Part 3 of Schedule contains pension age amendments flowing from the increase in the pension age as defined under the *Social Security Act*. The EM states:

The amendments would ensure that incapacity payments under the DRCA will continue for those former Defence Force members who are the subject

1 *House of Representatives Hansard*, 9 November 2016, p. 3279.

2 EM, p. 2.

of an increase in their age pension age while in receipt of incapacity payments.

These amendments will align with the changes made to the MRCA by the *Veterans' Affairs Legislation Amendment (Budget and Other Measures) Act 2016*. The Minister for Employment has introduced similar measures to amend the SRCA, which are contained in the Seafarers and Other Legislation Amendment Bill 2016 (Seafarers Bill.)

The Seafarers Bill is currently before the Parliament and may be debated in the 2017 Autumn sittings. If the Seafarers Bill commences before 1 July 2017, then the amendments in Part 3 of Schedule 1 will not take effect. However, in case the Seafarers' Bill is not passed ahead of the DRCA, identical amendments have been included in the DRCA to ensure Defence Force members, who are the subject of an increase in their age pension age while in receipt of incapacity payments, continue to receive incapacity payments.³

2.8 Schedule 2 contains amendments to the SRCA and application and transitional provisions.

2.9 Schedule 3 contains amendments to existing references to the SRCA in other Commonwealth legislation.

3 *Submission 5*, p. 6.