



**Australian Government**  
**Department of Veterans' Affairs**  
OFFICE OF THE SECRETARY

Committee Secretary  
Senate Education and Employment Committees  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Committee Secretary,

Thank you for the opportunity for the Department of Veterans' Affairs (DVA) to present a submission to your Committee's inquiry into amendments to the *Safety, Rehabilitation and Compensation Act 1988* (SRCA), introduced into Parliament by the Minister for Employment on 25 March 2015 as the *Safety, Rehabilitation and Compensation Amendment (Improving the Comcare Scheme) Bill 2015* (SRCA Bill).

In support of the inquiry, I would like to provide the Committee with the following information to illustrate the work that DVA has undertaken both independently and in consultation with the Department of Employment regarding compensation for Australian Defence Force (ADF) members and former members under the SRCA.

The SRCA provides compensation coverage to Commonwealth employees (and employees of premium paying agencies) and is administered by Comcare on behalf of the Department of Employment, which has primary portfolio responsibility for the Act. However, the Act also provides compensation coverage, under Part XI, for ADF members for injuries related to service prior to 1 July 2004. DVA has been responsible for the determination of claims under Part XI of the SRCA since 1999 when it was transferred from the Department of Defence. One of the roles of the Military Rehabilitation and Compensation Commission (MRCC) is to oversee the administration of these claims.

The SRCA is one of three Acts administered by DVA that provide compensation to ADF members. The other Acts are the *Veterans' Entitlements Act 1986* (VEA) and the *Military Rehabilitation and Compensation Act 2004* (MRCA).

By way of background, the benefit structure in the VEA was developed in the 1920s to provide compensation to veterans and their dependants for the effects of war service. Coverage under the VEA has been extended over the years to include various wars and conflicts until 2004. The MRCA, which provides compensation coverage for injuries and illnesses linked to ADF service from 1 July 2004 onwards is an Act that was derived from the most beneficial aspects of the VEA and the SRCA and, like the VEA, was developed specifically for ADF members.

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It is important to point out that claims administered by DVA, including those under Part XI of the SRCA, are funded by Government appropriation, not premiums levied on licensees as is the case for other claims under the SRCA. Therefore, enhancements to benefits for ADF claims need to be considered in light of any prevailing Budget constraints.

As a key stakeholder in the administration of claims under the SRCA, the MRCC worked closely with the Department of Employment and the independent authors throughout the Review of the Act in 2012 to assess and respond to recommendations affecting ADF clients.

The MRCC appreciates that one of the primary goals of the SRCA Bill is to ensure the long term financial viability of the Comcare Scheme by introducing a range of measures to target compensation towards those who need it most. However, the MRCC is also mindful that the nature of claims arising from Defence personnel under the SRCA is different to that of civilians and the benefit structure should reflect this.

The unique nature of military service underpinned the decision to request an exemption from the majority of changes contained in the SRCA Bill. On 6 March 2015, the Government agreed to an exemption for Part XI clients from all but two of the amendments in the Bill.

Both of these amendments relate to changes in the calculation of Permanent Impairment compensation (discussed at [Attachment A](#)). ADF clients are exempt from all other proposed amendments.

The Government's approval also included agreement to excise Part XI from the SRCA into a separate Act for Defence claims presently covered by this Part. A process to achieve this has commenced.

Once the separate Act is established, the Minister for Veterans' Affairs will have policy responsibility, not the Minister for Employment. This will make it easier for the MRCC and DVA to investigate opportunities for closer alignment with contemporary military compensation legislation (i.e. the MRCA) and ensure that Part XI clients are not unintentionally impacted by changes to the SRCA that are more relevant to civilian employees. It will also allow time to consult with the veteran and defence communities on any future changes to the standalone Act.

In closing, I would like to thank you once again for the opportunity for DVA to lodge a submission to this inquiry and I hope the information which has been provided is of use for the Committee.

If you have any follow-up questions regarding the issues discussed above or if DVA can assist you in your investigations further, please contact

~~Yours~~ sincerely

**Shane Carmody**  
Acting Secretary

27 April 2015

## ATTACHMENT A

### Amendments in the SRCA Bill to be adopted for Part XI clients

#### Calculating Compensation and the Maximum Permanent Impairment Payable

Permanent Impairment (PI) lump sum payments under the SRCA are currently calculated on the basis of a "straight line" percentage of a maximum statutory figure of \$243,329. This amount comprises two separate components. The first component is payable under section 24 of the SRCA (\$176,966) and is based on the degree of physical impairment. The second component is payable under section 27 of the Act (\$66,362) to reflect Non-Economic Loss (NEL) factors.

The changes being introduced in the Bill contain three elements:

1. increasing the maximum statutory amount to \$350,000;
2. introducing an "algorithmic" model for the calculation of benefits rather than the linear model which is currently in place. This model would increase the compensation payable to more severely injured employees but restrict the amount of compensation payable for impairments that are less severe; and
3. removing the separate process for calculating NEL under section 27 of the SRCA by "rolling" it into the increased payment amount.

A model for Part XI clients has been agreed by Government that retains the current linear assessment methodology at the lower end of the impairment scale but matches payments with the Employment model for Part XI clients at the higher end of the impairment scale.

#### Combining Permanent Impairment ratings

When the SRCA was established, Permanent Impairment (PI) compensation was calculated using a whole of person assessment methodology, similar to claims under the *Military Rehabilitation and Compensation Act 2004* (MRCA). This means that multiple impairments arising from a single injury occurrence could be combined for compensation assessment purposes. However, a High Court decision in 2006 (*Canute v Comcare (2006) HCA 47*) impacted on the assessment methodology of lump sum compensation under the SRCA. The *Canute* decision directed that where **single** injury events (accidents, etc) result in **multiple** injuries, each impairment resulting from the injury must be assessed and compensated separately.

With the exception of claims relating to hearing loss, the loss of taste or smell and the loss of (or the loss of use of) fingers and toes, the SRCA does not provide PI compensation for injuries or illnesses which are assessed at less than 10 per cent in accordance with the Comcare approved Guide.

This amendment will allow separate impairments which arise from a single injury occurrence to be combined to meet PI thresholds under the SRCA (as was originally the case under the Act).

It will also largely restore the concept of whole person impairment that already exists under the MRCA, thus improving equity in compensation outcomes for injuries between the SRCA and the MRCA.