



## **Australian Government**

Australian Government Response to the  
Senate Standing Foreign Affairs, Defence and Trade Legislation  
Committee Inquiry Report into the

Veterans' Entitlements, Treatment and Support  
(Simplification and Harmonisation) Bill 2024

November 2024

## Introduction

On 3 July 2024, the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024 (the VETS Bill) was introduced into the House of Representatives by the Minister for Veterans' Affairs and Defence Personnel (the Minister), the Hon Matt Keogh MP.

This Bill will simplify and harmonise the existing tri-Act framework of legislation governing veterans' entitlements, rehabilitation and compensation arrangements that has long been in place. The legislation governing veterans' entitlements, rehabilitation and compensation is widely acknowledged as being complex and difficult to navigate and calls to simplify these arrangements are longstanding.

The introduction of the VETS Bill demonstrates that the Albanese Labor Government is delivering on a thorough, and timely response to the Interim Report of the Royal Commission into Defence and Veteran Suicide. In the 2024-25 Budget, the Albanese Government allocated \$222 million for veteran and family entitlements across the first two years from commencement of this legislation.

Under the VETS Bill all new compensation claims from 1 July 2026 will be dealt with under a single piece of legislation – an improved *Military Rehabilitation and Compensation Act 2004* (MRCA) – regardless of when or where the veteran served.

On 4 July 2024, pursuant to the Senate Selection of Bills Committee Report, the provisions of the Bill were referred to the Senate Standing Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report.

The Committee tabled its final report on 3 October 2024.

The Government's response to the recommendations of the Report follows below. The Government thanks the Committee for its work on the inquiry, as well as those who provided submissions and appeared at hearings. The Government agrees with the Committee's recommendation that the Bill be passed.

**Australian Government Response to the  
Senate Standing Foreign Affairs, Defence and Trade Legislation Committee  
Inquiry Report into the  
Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024**

**Committee recommendation**

#	Recommendation	Government response
1	The Committee recommends that the bill be passed.	Agreed.

**Additional information / recommendations**

#	Recommendation	Government response
<b>Australian Greens</b>		
1	The Senate to initiate a review of the changes this Bill made to the <i>Military Rehabilitation and Compensation Act 2004</i> , to be conducted, with input from all stakeholders, within 12 months after the legislated changes commence.	<p>It is a matter for the Senate as to what inquiries it initiates.</p> <p>DVA will monitor the outcomes from the VETS Bill changes and evaluate the implementation of legislation reform, to inform future policy and service design for the veteran support system.</p> <p>The Interim Report of the Royal Commission into Defence and Veteran Suicide (Royal Commission) recommended legislative reform to simplify and harmonise veterans' entitlements, and the VETS Bill, currently before the Parliament, forms part of the Government's response.</p> <p>While the Government is currently developing its response to the Royal Commission's Final Report through the usual processes, it notes that it has agreed to the establishment of an independent oversight body, which may undertake such a review at the appropriate juncture.</p>

#	Recommendation	Government response
<b>Jacqui Lambie Network</b>		
1	The Australian Government immediately address systemic, structural, and cultural issues within Defence and Veteran portfolios by introducing amendments to implement recommendations from the Final Report of the Royal Commission into Defence and Veteran Suicide.	<p>The breadth of recommendations in the Final Report of the Royal Commission into Defence and Veteran Suicide (Royal Commission) are not related to the matters contained in or the purpose of the VETS Bill.</p> <p>Further, seeking to add unrelated legislative provisions into the VETS Bill to implement matters recommended by the Royal Commission would add considerable delay to the finalisation and eventual passage of the VETS Bill given the Government’s response to the Royal Commission’s recommendations has not yet been released.</p> <p>While the Government’s response to the recommendations in the Final Report of the Royal Commission will be provided before the end of the year, design and implementation of those responses will still require some further time. Such consequential delays to the passage of the VETS Bill would be inconsistent with the timing intent of the Royal Commission’s recommendation in its Interim Report for the passage of the VETS Bill.</p>
2	To facilitate a timely transition, the DVA should consider advancing the passage of the legislation to 1 July 2025 in line with the recommendation from the Interim Report, accompanied by a robust educational campaign aimed at informing veterans, advocates and other stakeholders about the changes. This campaign should include a comprehensive communication plan utilising letters, emails, websites, and other platforms to ensure a smooth transition to the new legislative framework.	<p>Consistent with the Government’s response to recommendation 1 of the Interim Report of the Royal Commission, a commencement date of 1 July 2026 will ensure that:</p> <ul style="list-style-type: none"> <li>• DVA can implement an appropriate and comprehensive communications plan informing veterans of the changes contained in the VETS Bill becoming law;</li> <li>• veterans have time to consider their individual circumstances, including allowing them to determine whether claims should be made under the current arrangements or when the new model commences;</li> <li>• there is sufficient opportunity to provide necessary training to advocates regarding the impacts of the VETS Bill’s passage; and</li> <li>• necessary changes to client facing and internal IT systems are implemented and tested.</li> </ul>

#	Recommendation	Government response
3	<p>The Department of Veterans' Affairs bring forward the commencement of Schedule 2, Part 1 (funeral payments) and Schedule 1, Part 3 (private vehicle reimbursement) to 30 days after receiving Royal Assent.</p>	<p>The VETS Bill, as drafted, is designed to ensure changes to entitlements benefits, as well as the operations of the amended Acts, come into effect together at one time on 1 July 2026.</p> <p>The exception to this is the change to enable <i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i> (DRCA) decisions to be appealed to the Veterans' Review Board (VRB) 60 days after Royal Assent.</p> <p>The VRB is a veteran friendly, low cost, non-adversarial jurisdiction for the review of DVA decisions, which means the changes expanding its jurisdiction can be brought into effect separately and earlier than the others.</p>
4	<p>Extend the coverage of liability to provide 24/7 coverage to members of the Australian Defence Force during all forms of deployment, exercise, and operations.</p>	<p>The VETS Bill contains amendments to the <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA), which will become the sole ongoing scheme, to allow liability to be accepted for an injury or death if it occurred while the person was on duty as a member, even if the injury or death did not result from member's duties. This new provision will apply to claims lodged under the MRCA on or after 1 July 2026.</p> <p>Amending legislation to establish 24/7 coverage, however, are not supported as the relevant distinctions are already governed in case law and Military Rehabilitation and Compensation Commission policy. The current approach enables flexibility to ensure the success of claims where appropriate.</p>

#	Recommendation	Government response
5	<p>Establish a legal aid scheme to provide veterans with legal representation to improve access to justice and enhance the health and wellbeing of veterans through timely, fair, and accurate determination of claims.</p>	<p>The purpose of the VETS Bill is to simplify and harmonise veteran legislation. The new system will provide a less complex framework that should allow for easier acceptance of claims. Presumptive liability provisions and the new 'on duty' head of liability will also make claims less difficult to prove and easier to accept. These factors should result in a less complexity for veterans, families, advocates and DVA staff and therefore a reduced need to seek review of determinations.</p> <p>Additionally, the single review pathway will allow for a more veteran-friendly merits review process. DVA will support the training of advocates in the new system appropriately through the Advocacy Training and Development Program (ATDP).</p> <p>Veterans may be able to access Commonwealth Government funded legal assistance through the current National Legal Assistance Partnership (NLAP). Social security law, including matters relating to military entitlements and compensation claims, is identified as a Commonwealth civil law priority under the NLAP.</p> <p>Recommendation 99 of the Final Report of the Royal Commission calls for improved funding for professional, paid advocates. The Government will provide its response to the Final Report of the Royal Commission before the end of the year.</p>

#	Recommendation	Government response
6	<p>Establish a dedicated compensation scheme for addressing detriment caused by defective administration to provide a timely and fair redress scheme for veterans.</p>	<p>Defective administration claims are outside of the scope of the VETS Bill. Veterans seeking to recover losses in relation to defective administration can continue to apply under the Scheme for Compensation for Detriment caused by Defective Administration (CDDA).</p> <p>The Department of Finance has policy ownership of the CDDA Scheme but does not consider requests relating to another non-corporate Commonwealth Entity. Veterans seeking compensation for detriment caused by defective administration may contact DVA to apply for their matter to be considered under the CDDA Scheme.</p> <p>Additional information on the CDDA Scheme can be found at:</p> <ul style="list-style-type: none"> <li>• <a href="http://www.dva.gov.au/get-support/financial-support/compensation-claims/seek-damages/claims-against-department">www.dva.gov.au/get-support/financial-support/compensation-claims/seek-damages/claims-against-department</a></li> <li>• <a href="http://www.finance.gov.au/cdda-scheme">www.finance.gov.au/cdda-scheme</a></li> </ul>
7	<p>Provide that if the Estate of a deceased veteran fails to confirm in writing their intent to act on behalf of the veteran within a specified period of 60 days, the individual designated by the veteran as next of kin should be recognised as the legal personal representative for the purpose of engaging with the Department of Veterans' Affairs and managing claims related to the veteran's service.</p>	<p>The VETS Bill does not contain any amendment on this issue. 'Next of kin' is a different concept to Executor or Administrator of an Estate, and there is no legal basis for disregarding the Executor or Administrator in favour of a 'next of kin'. In any event, not all veterans have nominated or will nominate 'next of kin', or this information could be outdated. DVA taking instructions from any 'next-of-kin' may well be contrary to the intentions of the veteran.</p> <p>It should also be noted that the failure to, or any delay in, an Executor being put in place regarding a deceased Estate of a veteran does not act as a barrier to, or result in any delay in, applications to DVA for appropriate entitlements by a widow/wholly dependent spouse, child or dependent.</p>



#	Recommendation	Government response
8	Expand eligibility criteria to encourage general practitioners to accept Gold Cards and enhance access to allied health practitioners and other healthcare services.	<p>By creating a single ongoing scheme under the MRCA for all new claims or for material exacerbations to existing injuries, the VETS Bill will provide for <del>has</del> expanded eligibility for the Gold Card to all veterans who meet the relevant impairment and lifestyle requirements.</p> <p>It is already the case that, in general, DVA pays a rate higher than the equivalent Medicare Benefits Schedule (MBS) fee. The loading varies depending on the service. The Veterans' Access Payment (VAP) is already in place as incentives for General Practitioners who provide services to Veteran Card holders. From 1 November 2023, the Commonwealth Government tripled standard VAP amounts for certain services for veterans.</p> <p>DVA also has a process that allows health care providers to request prior financial approval for medical and/or allied health services for safe and effective treatments that are not covered by the MBS, or where the fee requested is higher than the DVA scheduled fee. This is a mechanism to help ensure veterans are not out of pocket when receiving medical treatment.</p>
9	Establish a consistent standard of proof based on the 'balance of probabilities' to ensure fairness in the claims process.	<p>The standard of proof that applies to all liability claims relating to peacetime service is the 'balance of probabilities' test. The more generous Reasonable Hypothesis test applies in relation to liability claims relating to operational service (warlike and non-warlike service). The VETS Bill does not change this.</p> <p>Moving to have all claims assessed using the 'balance of probabilities' test would be detrimental for veterans lodging liability claims relating to operational service.</p> <p>The Reasonable Hypothesis test has a long history and is designed to make it easier for veterans with operational service to gain entry to the veteran support system.</p>

#	Recommendation	Government response
10	Clarify that the Statement of Principles should serve as discretionary guidance rather than a definitive determinant in the claims process.	<p>Statement of Principles (SoPs) are a key element of the veteran’s compensation assessment framework and will continue under the single-ongoing Act model. They are based on sound medical-scientific evidence and, in more cases than not, claims are accepted based on the SoPs.</p> <p>The VETS Bill inserts changes to enhance the existing liability framework:</p> <ul style="list-style-type: none"> <li>• New MRCA section 341 which allows at decision review, the application of the SoP that is most beneficial to the veteran’s circumstances if it has been updated since the original decision.</li> <li>• New heads of liability relating to injuries that occur whilst a member is on duty and presumptive liability provisions, which will operate alongside the SoPs, thereby making the MRCA more beneficial to veterans.</li> </ul> <p>The current application of the SoPs is deemed appropriate, consistent and, in general, beneficial to claimants. SoPs will continue to be developed and reviewed by the Repatriation Medical Authority in line with developments in medical-scientific literature.</p>
11	Establish a self-executing time limit (such as 90 days) to resolve claims for liability or incapacity payments, with interest applied to any delayed back payments, while including certain safeguards to account for reasonable delays such as receiving necessary information from external parties.	<p>This recommendation is contrary to good administrative decision-making practice and may result in acceptance of liability without sufficient (or any) evidence. Such an approach would also incentivise increased spurious claims to game such a system design.</p>

#	Recommendation	Government response
12	Revise the definition of clinical onset to allow for broader interpretations that facilitate the determination of onset periods rather than requiring exact dates, thereby improving the claims process for veterans.	<p>The term ‘clinical onset’ is not used or defined in the primary legislation; the term is used in the Statements of Principles (SoPs). The VETS Bill does not alter the definition or application of the date of clinical onset.</p> <p>The clinical onset date of a claimed condition is determined by the delegate based on medical evidence, and there is already some flexibility in this process. Where the date of diagnosis of a condition is clearly within the time required by the relevant SoP factor, DVA policy allows delegates to use the date of diagnosis to reflect the date of onset, providing there is no detriment to the veteran’s entitlements.</p>
13	Define the criteria for determining ‘primary responsibility for the daily care of the eligible young person or child’ to avoid ambiguity and prevent unintended consequences for determining eligibility for compensation.	<p>Changes being introduced in the VETS Bill will modify the operation of section 80 of the MRCA. Specifically, new subsection 80A is proposed which will give the Repatriation Commission discretion to make the payment to the person who has primary responsibility for the daily care of the child.</p> <p>The intent of section 80 is to assist severely impaired veterans with expenses associated with raising children. In some cases, the impaired veteran may not be the primary carer. Therefore, the Bill will allow the additional amount to be paid to either the impaired person or to the primary carer of the eligible young person or child. This is to provide flexibility in different family arrangements to serve the interest of the eligible young person or child.</p> <p>DVA will work with appropriate stakeholders to develop policy guidance regarding this issue.</p>

#	Recommendation	Government response
14	<p>Include an independent review to be conducted 12 months after the commencement of the Bill and require the Minister to present the findings to both Houses of Parliament.</p>	<p>DVA will monitor the outcomes from the VETS Bill changes and evaluate the implementation of legislation reform, to inform future policy and service design for the veteran support system.</p> <p>The Interim Report of the Royal Commission recommended legislative reform to simplify and harmonise veterans' entitlements, and the VETS Bill, currently before the Parliament, forms part of the Government's response.</p> <p>While the Government is currently developing its response to the Royal Commission's Final Report through the usual processes, it notes that it has agreed to the establishment of an independent oversight body, which may undertake such a review at the appropriate juncture.</p>
15	<p>That the Bill not be considered in Parliament until the Department of Veterans' Affairs provides a detailed and transparent response to the above recommendations, along with a clear plan to implement urgent reforms from the Royal Commission into Defence and Veteran Suicide that reflect the unique needs of serving and ex-serving members of the Australian Defence Force.</p>	<p>A response to the recommendations from the Final Report of the Royal Commission is under current consideration of the Government, and will be provided by the end of the year. However, the Government has already committed to the establishment of an independent oversight body (see Recommendation 122).</p> <p>Further, seeking to add unrelated legislative provisions into the VETS Bill to implement matters recommended by the Royal Commission would add considerable delay to the finalisation and eventual passage of the VETS Bill given the Government's response to the Royal Commission's recommendations has not yet been released.</p> <p>While the Government's response to the recommendations in the Final Report of the Royal Commission will be provided before the end of the year, design and implementation of those responses may require some further time. Such consequential delays to the passage of the VETS Bill would be inconsistent with the timing intent of the Royal Commission's recommendation in its Interim Report for the passage of the VETS Bill.</p>