

## Health Care, Compensation and Payment Schemes

- 4.1 This Chapter considers the health schemes instituted in response to the BOI and SHOAMP and the various schemes to provide compensation or cash payments.

### Health care schemes

- 4.2 Two health care schemes were instituted as a result of the BOI. The first of these was the Interim Health Care Scheme (IHCS) which was subsequently replaced by the SHOAMP Health Care Scheme (SHCS).

### Interim health care scheme

- 4.3 The earliest health care scheme that was developed in response to the concerns of the health of workers in the DSRS programs at Amberley was the IHCS. Its implementation was in response to the many F-111 maintenance workers who had presented with a wide range of conditions. It would have been inappropriate to wait until the results of the BOI recommended health studies were released. The aim of the IHCS was to:

...provide "sympathetic advice and treatment" for personnel who were posted to the RAAF Base Amberley and whose

health conditions were viewed as being “reasonably related” to DSRS activities.<sup>1</sup>

## IHCS eligibility

4.4 At the outset a joint advisory committee comprising doctors from Defence and DVA, which included expertise in the areas of occupational health and environmental health in the Air Force was established:

The Doctors’ Advisory Committee (DAC) was tasked with identifying a list of conditions for access to treatment under the IHCS. The DAC was frequently consulted in relation to the appropriateness of treatment for some conditions. It was the view of the DAC that a generous approach should be taken towards inclusion of conditions given the unknown nature of causation at that stage.<sup>2</sup>

4.5 The list of conditions recognised under the IHCS included:

- Skin rashes and associated systemic conditions
- Neurological conditions
- Mental disorder
- Personality change
- Neoplasms
- Haematological conditions
- Liver disease
- Gastrointestinal problems
- Fatigue
- Coronary heart disease, its precursors & sequelae
- Chronic infections
- Chronic respiratory conditions.<sup>3</sup>

4.6 Eligibility for the IHCS was split into two groups. DVA advised that:

Group 1 participants include serving members, ex-serving members and civilians who were engaged in F-111 aircraft maintenance activities at RAAF Base Amberley, Queensland. They include personnel who worked on the four formal DSRS programs **as well as those involved in general F-111 aircraft**

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1 Department of Veterans’ Affairs, *Submission* No. 89, p. 7.

2 Department of Veterans’ Affairs, *Submission* No. 89, p. 7.

3 Department of Veterans’ Affairs, *Submission* No. 89, Attachment D.

**maintenance work, such as Pick and Patch...** [emphasis added].

...[Group 2 participants] include other individuals possibly affected, for example, personnel not directly engaged in F-111 aircraft maintenance activities, but who had been employed at RAAF Base Amberley, or are the direct family members of Group 1 participants.<sup>4</sup>

4.7 DVA advised that entry to the IHCS was subject to a number of conditions. These were:

- The level of participation in the DSRS programs which determined eligibility for either Group 1 or Group 2 status;
- Group 1 participants (currently serving/ex-ADF and civilians who were engaged in the DSRS programs) must have lodged a claim for compensation with either DVA, Comcare or WorkCover Queensland before they could access treatment through the IHCS; and
- Treatment was available to Group 1 participants for those conditions that were identified by the DAC as being reasonably associated with involvement in the DSRS programs.<sup>5</sup>

4.8 It should be noted that the decision to classify a member as either Group 1 or Group 2 was a decision that rested with the RAAF.<sup>6</sup>

4.9 In relation to the IHCS, DVA advised the Committee:

Bear in mind that it was a very wide and broad application of the interim healthcare scheme. At the time we asked people to ensure that they had a compensation claim lodged before they could get access to the Interim Health Care Scheme. We encouraged as many people as possible to lodge those claims so that they could get access. All of those people that had access to the Interim Health Care Scheme continue to have access to the Health Care Scheme, as it is now defined. There were some original decisions that were changed by government. The original decision was that they would have access to the health care scheme until all of their avenues for appeal for compensation had been exhausted. That was subsequently changed by the former minister to allow those people to continue to have access to the Health Care Scheme

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4 Department of Veterans' Affairs, *Submission* No. 89, p. 7.

5 Department of Veterans' Affairs, *Submission* No. 89, p. 8.

6 Department of Veterans' Affairs, *Submission* No. 89, p. 7.

irrespective of whether they were subsequently found to be eligible for compensation.<sup>7</sup>

## Claims assessment processes for Interim Health Care Scheme

4.10 In September 2001 the IHCS was introduced. DVA describes the process:

While policy responses were being developed, all Air Force workers who believed that they may have been affected were encouraged to access the Commonwealth's compensation schemes, the *Veterans' Entitlements Act 1986* (VEA) and *Safety, Rehabilitation and Compensation 1988* (SRCA). Civilian workers had access to the common law. While the SHOAMP was investigating the nature of the health impact of DSRS work, F-111 aircraft maintenance personnel were encouraged to register for the IHCS and submit a claim for compensation. All those who needed health treatment through involvement with DSRS work were able to access the required treatment, even while they waited for the outcome of their compensation claim. This was a unique arrangement particularly created in response to the specific circumstances of this group of people. Care was taken to ensure information and assistance was given to all those who approached DVA.<sup>8</sup>

4.11 DVA told the inquiry:

Entry into the IHCS was therefore subject to a number of conditions. These included:

- The level of participation in the DSRS programs which determined eligibility for either Group 1 or Group 2 status;
- Group 1 participants (currently serving/ex-ADF and civilians who were engaged in the DSRS programs) must have lodged a claim for compensation with either DVA, Comcare or WorkCover Queensland before they could access treatment through the IHCS; and
- Treatment was available to Group 1 participants **for those conditions that were identified by the DAC** as being reasonably associated with involvement in the DSRS programs.<sup>9</sup>

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7 Mr E Killesteyn, *Transcript*, 21 July 2008, p. 89

8 Department of Veterans' Affairs, *Submission* No. 89, p.3.

9 Department of Veterans' Affairs, *Submission* No. 89, p. 8.

- 4.12 In 2001 and while the SHOAMP study was proceeding, DVA moved to implement the findings of the BOI:

Following the Air Force's BOI findings and during the course of the Health Study, all claims for compensation were extensively medically investigated to establish the diagnosis and any causal connection to F-111 activities. Where liability could be accepted under the existing legislation, action was taken to process the claim and provide the benefits which flowed from the decision, including medical treatment.<sup>10</sup>

- 4.13 This meant that claimants might receive their compensation under either the VEA or the SRCA, where supporting medical evidence or reference to Statement of Principles (SoPs) was sufficient under the Acts, or continue to receive benefits under IHCS pending the outcome of SHOAMP.<sup>11</sup> DVAs submission also noted:

Throughout the claim determination process, a case management approach was taken with each individual claim for compensation. In determining the outcome of each claim, reference was made not only to the individual's involvement with DSRS activities, but in the broader context of their overall work history. This meant that even if the claimant believed that the cause of their condition was their DSRS work, Departmental staff looked for any possible cause from other eligible Defence Service when assessing their claim.<sup>12</sup>

- 4.14 In evidence to the Committee DVA said that the IHCS was 'never a comprehensive response' (in the sense of being a solution to the issue replacing the reliance on existing compensation vehicles), but only one:

intended to provide non-liability services to assist the affected groups, as broadly defined as possible, while awaiting the results of the study. Entry to the scheme required a compensation claim to be lodged. Decisions were taken not to reject any claim for compensation under the Veterans' Entitlements Act or the Safety, Rehabilitation and Compensation Act pending the government response to the SHOAMP.<sup>13</sup>

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10 Department of Veterans' Affairs, *Submission* No. 89, p. 9.

11 Department of Veterans' Affairs, *Submission* No. 89, p. 9.

12 Department of Veterans' Affairs, *Submission* No 89, p. 9.

13 Mr E Killesteyn, *Transcript*, 21 July 2008, p. 51.

- 4.15 In August 2005 the Government announced a number of responses to the SHOAMP including the continuation of non-liability health treatment through SHCS and the ex-gratia scheme.

## SHOAMP Health Care Scheme (SHCS)

- 4.16 In response to the SHOAMP findings, the Government announced that the IHCS would cease on 19 August 2005. It also announced that all participants of the IHCS would be transferred to the new scheme, the SHCS.

### SHCS eligibility

- 4.17 As with the IHCS, the SHCS treatment was categorised into two groups. The following categories of individuals were eligible for the SHCS, **provided that they had registered prior to 20 September 2005 and had lodged a claim for compensation under the SRCA or VEA** [emphasis added].

#### Group 1 status:

- Personnel involved in the F-111 Deseal/Reseal training conducted in Sacramento USA;
- Personnel, including supervisors, involved in the 1st and 2nd Deseal/Reseal Programs 1977-82 and 1991-93; the Spray Seal Program 1996-99 and the Wings Deseal/Reseal Program 1985-92;
- Personnel involved in the regular burning or disposal of Deseal/Reseal products including firefighters, boiler attendants, plant attendants and Department of Construction workers;
- Personnel who dismantled and/or disposed of the canvas from the Air Transportable Deseal/Reseal Hangar (the 'Rag Hangar');
- Personnel whose primary place of duty was within the Deseal/Reseal hangars;
- Fuel farm workers and personnel involved in the transport, delivery and handling of Deseal/Reseal products including SR51/51A. These workers and personnel must have regularly performed duties of supply and disposal of Deseal/Reseal products and must have had regular contact with contaminated fuel from the defuel process either at RAAF Base Amberley or No.7 Stores Depot;
- Personnel immersed in the settling pond at RAAF Base Amberley; and

- Work Experience students at Hawker de Havilland who worked inside the tanks.

Group 2 status:

- The immediate family members of Group 1 participants; and
- Service personnel and civilian employees employed on the Base during the F- 111 Deseal/Reseal programs who are not covered by the Group 1 definition.<sup>14</sup>

4.18 Also eligible were those who were already in the superseded IHCS.

4.19 DVA advised that at the announcement of SHOAMP, several changes from the IHCS were made:

- all new registrations had to be submitted by 20 September 2005;
- new compensation claims had to be lodged by 20 September 2005; and
- based on the SHOAMP Report, several conditions were removed from the list of treated conditions as they were found not to be associated with involvement in the F-111 aircraft maintenance programs. These conditions include heart conditions, chronic respiratory conditions and chronic infections. However, former IHCS participants who had previously received treatment for heart conditions, respiratory conditions or chronic infections continued to receive treatment for these conditions under the SHCS. No new participants of the SHCS could receive treatment for these conditions; and
- access to the SHCS would cease for an individual once liability for a condition has been accepted by the relevant statutory compensation authority or once all merit-based avenues of appeal had been exhausted (ie the Administrative Appeals Tribunal but not the Federal Court).<sup>15</sup>

4.20 On 14 February 2007, the Government amended this final point. The new arrangements meant that treatment would continue even after all merit based avenues of appeal had been exhausted. However, under these arrangements, health care would continue to be provided on the basis that the treatment did not constitute any admission of liability on behalf of the Government.

4.21 In addition, the DAC refined the list of conditions that would be treated under SHCS. These are summarised in the following table:

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14 Department of Veterans' Affairs, *Submission* No 89, Attachment A.

15 Department of Veterans' Affairs, *Submission* No 89, p. 14.

Table 2: Conditions treated under SHCS

<b>Category</b>	<b>Condition</b>
Skin rashes and associated systemic conditions	Dysplastic naevus Eczema/dermatitis
Neurological conditions	Multiple sclerosis Parkinson's disease Peripheral neuropathy Spinal muscular atrophy Erectile dysfunction Cauda equine syndrome Neurogenic bladder Non-alcoholic toxic encephalopathy Acquired colour vision deficiency
Mental disorders and personality changes	Depression Sleep disorders with neurological basis Bi-polar affective disorder Vertigo Memory loss Anxiety Panic disorders Impaired cognition Alcohol and drug dependence
Malignant neoplasms and myeloproliferative disorders	All
Liver diseases	Liver disease (excluding diabetes) Pancreatic disease
Gastrointestinal problems	Irritable bowel disorder Ulcerative colitis/Crohn's disease Diverticulitis Bowel polyps
Immunological disorders	Mixed connective tissue disease Systemic lupus erythematosus Sarcoidosis

Source Department of Veterans' Affairs Submission No 89, Attachment E



- 4.22 Given the significance throughout this Inquiry of the circumstances of those involved in 'pick and patch' work, it is important to note that those who were engaged in 'pick and patch' activities in 1, 6 and 482 Squadron had access to health coverage by the Commonwealth through the IHCS. The transition to the SHCS allowed for those who were being treated for certain conditions (as outlined above) under the IHCS to be transferred to the new scheme. The treatment for those in the former IHCS continues to this day under the SHCS **provided that a compensation claim for related conditions was submitted by 20 September 2005**. The effect of this is that some workers in the squadrons who undertook 'pick and patch' work have had access to costs for treatment of a range of conditions provided by the Commonwealth. However, that is dependent on them successfully registering in the IHCS/SHCS **and** submitting a compensation claim for a related condition prior to the cut-off date of 20 September 2005.
- 4.23 Other squadron workers with identical work and health profiles who failed to register for the IHCS and lodge a claim for compensation prior to 20 September 2005 are denied benefits from the IHCS or SHCS.
- 4.24 The reasons for cut off dates for these schemes appear to be administrative rather for reasons of equity or public policy.
- 4.25 This also highlights the difference in eligibility between the IHCS and SHCS. As noted in par 4.6, the IHCS included '**personnel who worked on the four formal DSRS programs as well as those involved in general F-111 aircraft maintenance work, such as Pick and Patch**' ...[emphasis added]. Except for those who may qualify because of their prior acceptance in the IHCS, the SHCS excluded 'pick and patch' workers. The reasons for this omission are not clear to the Committee and difficult to understand given the otherwise wide scope of duties included, extending to fire fighters, boiler attendants and construction workers.

### Benefits available

- 4.26 In addition to treatment of the conditions outlined in the table above, DVA described the benefits available to Group 1 participants under the SHCS:

Group 1 participants who registered and submitted compensation claims before 20 September 2005 are eligible for:

- medical treatment (including medical consultations, pharmaceuticals, appliances) for conditions for which they have submitted a compensation claim;
- unlimited general counselling sessions through the Veterans and Veterans Families Counselling Service (VVCS) for issues and conditions associated with the DSRS programs;
- three genetic counselling sessions through VVCS to discuss the probability of developing or transmitting a disorder to offspring and the options open to them in order to prevent, avoid or ameliorate it;
- eligibility to attend VVCS-coordinated programs, including the Lifestyle Management Course and Heart Health;
- eligibility to participate in the BHP (a cancer screening and disease prevention program administered by DVA); and
- approved travel to medical consultations and VVCS counselling sessions.

Group 1 participants who registered but who had not submitted compensation claims before 20 September 2005 are eligible for:

- up to five general counselling sessions through VVCS;
- three genetic counselling sessions through VVCS;
- eligibility to attend VVCS-coordinated programs, including the Lifestyle Management Course and Heart Health; and
- eligibility to participate in the BHP (a cancer screening and disease prevention program administered by DVA).<sup>16</sup>

4.27 DVA also described the benefits available to Group 2 participants under the SHCS:

Group 2 participants who have registered before 20 September 2005 can receive:

- up to five general counselling sessions through VVCS; and
- three genetic counselling sessions through VVCS.<sup>17</sup>

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16 Department of Veterans' Affairs, *Submission* No 89, p. 14.

17 Department of Veterans' Affairs, *Submission* No 89, p. 14.

## Better Health Program

### 4.28 DVA advised the Committee that:

As part of its response to the findings of the SHOAMP Report, the Government announced the establishment of a Cancer and Health Screening and Disease Prevention Program for F-111 aircraft maintenance workers, which is now known as the Better Health Program (BHP). This program aims to monitor and screen F-111 aircraft maintenance workers for conditions possibly linked to their work in an effort to improve their health outcomes in the longer term.

The BHP was set up with the advice of an Expert Advisory Panel which included professionals in relevant fields. A cost effective GP-based model was developed which enables participants to access all screening services through their GP who can also recommend appropriate treatment if a positive screening outcome occurs.

The BHP comprises:

- Cancer Screening – provides early detection for colorectal cancer and melanoma; and
- Health Information and Disease Prevention – promotes a healthy lifestyle by providing information on health conditions including erectile dysfunction, depression and anxiety.

The BHP does not cover the costs for any treatment that may be recommended as a result of BHP's processes. If a participant receives a positive result or diagnosis, they are advised to submit a compensation claim through the usual channels.<sup>18</sup>

### 4.29 The Committee understands that the BHP was limited to those who were accepted into the ex-gratia payment scheme, in either Tier 1, 2 or 3.

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<sup>18</sup> Department of Veterans' Affairs, *Submission* No 89, p. 19.

## Health Care Compensation

- 4.30 This section deals with relevant compensation claims under the *Veteran's Entitlements Act 1986* and the *Safety, Rehabilitation and Compensation Act 1988*, which covered almost all of the affected workers with the exception of contractors of Hawker De Havilland whose claims were dealt with under WorkCover Queensland (discussed below).

## Veterans' Entitlements Act 1986

- 4.31 DVA defines entitlements to compensation benefits under the provisions of the *Veterans' Entitlements Act 1986* in the following terms:
- The VEA provides compensation and rehabilitation to a veteran, member of the Forces, member of a Peacekeeping Force or Australian mariner for injuries or diseases caused or aggravated by war service or certain defence service on behalf of Australia occurring on or before 30 June 2004. It also provides compensation to eligible dependants if their death is related to service occurring on or before 30 June 2004.<sup>19</sup>
- 4.32 For the purposes of the present inquiry it is important to note that all claims for compensation submitted under the *Veterans' Entitlement Act* are examined and determined by a delegate of the Repatriation Commission. In determining whether or not a veteran or serving member's injury is caused by service, the delegate of the Repatriation Commission must have regard to the Statements of Principles (SoPs).<sup>20</sup>
- 4.33 SoPs are legislative instruments issued by the Repatriation Medical Authority (RMA) and are binding on the Repatriation Commission and other decision-making bodies in determining VEA compensation claims. Crucially, they set out the minimum factors that must exist in order to establish a causal connection between particular diseases, injuries or death and service.
- 4.34 The Repatriation Medical Authority's role is to determine what constitutes 'sound medical-scientific evidence' of a relationship

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19 Department of Veterans' Affairs, *Submission* No 89, p. 24. Details of the definition are expanded on pp. 27-8.

20 Department of Veterans' Affairs, *Submission* No. 89, DVA, pp. 27-8.

between eligible service and the development of a particular condition. Two SoPs apply to each condition. One applies to those who have operational service and provides for determination of claims based on a reasonable hypothesis. The other applies to those who have eligible service (such as DSRS activities), and provides for determination of claims based on the balance of probabilities.<sup>21</sup>

## Section 180A of the VEA

4.35 Section 180A of the VEA states:

(1) If:

(a) the Repatriation Medical Authority has determined, or has declared that it does not propose to make or amend, a Statement of Principles in respect of a particular kind of injury, disease or death (see section 196B); and

(b) the Commission is of the opinion that, because the Statement of Principles is in force, or because of the decision by the Authority not to make or amend the Statement of Principles:

(i) claims for pensions in respect of incapacity from injury or disease of that kind made by veterans, members of the Forces, or members of a Peacekeeping Force, of a particular class; or

(ii) Claims for pensions made by dependants of those veterans or members in respect of the death of such a veteran or; cannot succeed; and

(c) the Commission is also of the opinion that, in all the circumstances of the case, those veterans, members or their dependants should receive a pension;

the Commission may, in its discretion, make a determination in respect of that kind of injury, disease or death under subsection (2) or (3), or determinations under both subsections (as the case requires).

4.36 DVA advised the Committee:

The use of section 180A of the VEA provides the Repatriation Commission (the Commission) with the discretion to issue overriding determinations that have the same effect as the Statements of Principles (SoP) regime. This provision allows

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<sup>21</sup> Department of Veterans' Affairs, *Submission* No. 89, DVA, pp. 27-8.

the Commission to grant entitlements to certain classes of veterans when it considers that such entitlements should exist. However, the Second Reading Speech made it clear that the Commission's powers are intended to be used only in exceptional circumstances and not as a means to either usurp the Repatriation Medical Authority's (RMA's) function or as a further stage of appeal of the RMA's decision.

This power has only been used on one occasion to make determinations in respect of herbicide exposure in Vietnam....

In order to make a Section 180A determination, the Commission must specify both 'the factors that must as a minimum exist' and 'which of those factors must be related to service'. A 'factor' needs to define the circumstances, fact or influence that produced a particular injury, disease or death. That is, it needs to look at actual causation rather than the circumstantial link between employment and health outcomes. To list generic terms such as Deseal/reseal service is not sufficient. A factor needs to define the element or component of that service in a quantifiable way...

4.37 DVA cautioned against the use of subsection 180A as a blanket determination in this case advising that it:

would also provide a small group with peacetime only service a much more generous standard of proof than others in similar situations. It would effectively provide this group with easier access to VEA benefits (including war widow's pension) than veterans who have operational service. While veterans with operational service are subject to the more generous "reasonable hypothesis" standard of proof, they are still subject to the SoP regime which requires that a factor in a SoP be met.<sup>22</sup>

4.38 Furthermore, DVA advised the Committee that:

the diseases that need to be specified in a 180A determination still need evidence. So you need to go through the same sort of process of establishing that there is medical scientific evidence that the disease should be listed. So the first starting point would be that the same diseases as 7.2. The second issue with 180A is that it is not merely a matter of incidence but of causation as well. So that is a further difficulty in using 180A

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22 Departments of Defence and Department of Veterans' Affairs, *Submission No. 121*, p. 12.

as it is cast today. There is another problem with 180A as it is cast today, and that is that in order for the commission to even move to the step of considering evidence and how it might be listed, the RMA needs to declare that it will not make or amend a SOP. So it actually needs to say, 'We don't intend to act.' Now, to the commission's mind, the RMA has not made such a declaration. It does use the SHOAMP results. It does take them into account in the pool of materials it considers. So it cannot be said that there is information in front of the commission that the RMA does not have and is not applying.<sup>23</sup>

## Safety, Rehabilitation and Compensation Act 1988

4.39 DSRS personnel participants are also entitled to claim compensation under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA). The DVA submission sets out the Act's coverage in the following terms:

The SRCA is the Commonwealth's workers' compensation legislation that applies to all employees of the Commonwealth. This includes members and former members of the Australian Defence Force (ADF), Reserves, Cadets and Cadet Instructors and certain other persons who hold honorary rank in the ADF as well as members of certain philanthropic organisations that provide services to the ADF.

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4.40 In relation to DSRS applicants for compensation, under either the *Veterans Entitlement Act 1986* or the *Safety, Rehabilitation and Compensation Acts 1986*, when DVA determines a claim by a member or former member of the ADF, the claims assessor is obliged to consider all possible links to that claimant's general service work history. The entitlement to compensation may currently be considered either:

- Under the specific DSRS provisions under subsection (ss) 7 (2) of the SRCA; and
- Based on their general work history under the SRCA and/or VEA.<sup>25</sup>

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23 Mr S Farrelly, *Transcript*, April 17 2009, p. 52.

24 Department of Veterans' Affairs, *Submission* No. 89, p. 24.

25 Department of Veterans' Affairs, *Submission* No. 89, pp.24-25.

- 4.41 In terms of coverage for those who worked in the formal DSRS programs, DVA advised:

With the exception of the pure contractors, all of the defence force members have coverage under the Safety, Rehabilitation and Compensation Act but not all of them have coverage under the Veterans' Entitlements Act.<sup>26</sup>

### Access to compensation under s7(2) of the SRCA

- 4.42 In addition, as part of the response to SHOAMP in 2005, it was decided to extend the provision in the SRCA which allows for a more beneficial standard of proof. Under subsection 7 (2) of the SRCA (and ss 31 of the C(CG E) Act 1971, the SRCA antecedent legislation), a claim must succeed unless the Commonwealth can prove that there is no probable connection between a particular type of employment and the subsequent development of a particular medical condition. In other words, the reverse onus of proof applies.<sup>27</sup>
- 4.43 Access to these provisions was made available to all of those who were accepted into the ex-gratia scheme. Details of that scheme are included later in this chapter.
- 4.44 Despite the reversal of the burden of proof to establish a causal connection, it remains the case that in order to access the beneficial provisions of the above legislation, 'a claimant has to satisfy the Tiers One, Two or Three eligibility criteria of an F-111 DSRS participant and obtain a definitive diagnosis of a SHOAMP disease'.<sup>28</sup> Not all those diseases covered by the IHCS continued to be covered under its successor the SHCS. In an answer to a question on notice from the Chair, DVA provided a list of the diseases meeting the requirements of s7(2) of the SRCA.

The following diseases are accepted as meeting the requirements of subsection 7(2) of the SRCA and ss31 of the *Commonwealth Government Employees (C(CG E)) Act 1971* for all ADF personnel involved in the DSRS programs at RAAF Base Amberley with a Tier 1, 2 or 3 employment classification:

- Skin Rashes and associated systemic conditions (Dysplastic naevus, Eczema/dermatitis);

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26 Ms C Spiers, *Transcript*, 19 September 2008, p. 49.

27 Department of Veterans' Affairs, *Submission* No. 89, p. 13. See also Mr E Killesteyn and Ms C Spiers, *Transcript*, 21 July 2008, p.62.

28 Department of Veterans' Affairs, *Submission* No. 89, p. 13.



- Neurological conditions (Multiple sclerosis, Parkinson's disease, Peripheral neuropathy, Spinal muscular atrophy, Erectile dysfunction, Cauda equine syndrome, Neurogenic bladder, Non-alcoholic toxic encephalopathy, Acquired colour vision deficiency);
- Mental disorder and personality changes (Depression, Sleep disorders with neurological basis, Bi-polar affective disorder, Vertigo, Memory loss, Anxiety, Panic disorders (including Agoraphobia with panic disorder), Impaired cognition;
- All malignant neoplasms and myeloproliferative disorders
- Liver disease (Liver disease and pancreatic disease, excluding diabetes);
- Gastrointestinal problems (Irritable bowel disorder, Ulcerative colitis/Crohn's disease, Diverticulitis, Bowel polyps); and
- Immunological disorders - Mixed connective tissue disease, SLE (systemic lupus erythematosus), Sarcoidosis.<sup>29</sup>

4.45 The Committee notes that the only difference between this list and that provided earlier for the SHCS is that the s7(2) list does not provide for treatment of the 'alcohol and drug dependence' condition under the 'Mental disorders and personality changes' category.

4.46 Asked by the Committee about the process of determining the above conditions, DVA replied:

The Doctor's Advisory Committee's (DAC) primary role was to determine which conditions would be included in the SRCA sub-section 7(2) list of conditions. The DAC included doctors from Department of Defence and DVA who prepared the sub-section 7(2) list based on results of SHOAMP and the conditions they believed showed a significant increase in presentations in the F-111 DSRS cohort when compared to other personnel engaged in duties at RAAF Bases Amberley and Richmond.<sup>30</sup>

4.47 Further details of the process for determining inclusions under s7(2) were provided by DVA:

Following the release of the SHOAMP, the Doctors Advisory Committee reconvened to examine the outcomes of the study and how they compared to those conditions covered by the

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29 Department of Veterans' Affairs, *Submission* No. 119, pp. 5-6.

30 Department of Veterans' Affairs, *Submission* No. 119, p.6.

IHCS. The Study did not support coverage for some conditions previously covered by the IHCS such as heart conditions, chronic respiratory conditions and chronic infections. Within the constraints of the SHOAMP, the Doctors Advisory Committee took the most generous view of whether there was a possible link to DSRS activities, whilst ensuring that all decisions were based on reasonable medical evidence.<sup>31</sup>

- 4.48 In evidence to the Committee, DVA was at pains to point out the evidential principles on which all assessment of claims was based:

The Department of Veterans' Affairs has always used objective and scientifically supported evidence as a basis for decisions in relation to entitlements. Deseal-reseal entitlements are no different...eligibility for the SHOAMP Health Care Scheme was based on scientific results of that study, taking into consideration the expert advice of a doctors advisory committee. As is standard practice, compensation decisions relating to deseal-reseal participants were based, firstly, on diagnoses from relevant medical professions. Decisions under the Veterans' Entitlements Act 1986 were then finalised by comparing medical diagnoses with the requirements of the relevant statements of principles. Statements of principles are produced by the independent Repatriation Medical Authority and are based on sound scientific evidence. Decisions under the Safety, Rehabilitation and Compensation Act were also guided by the RMA statements of principles but only where use of the statement of principles would result in a favourable outcome.<sup>32</sup>

## Comparative benefits under the VEA and SRCA

- 4.49 In addition to the different access requirements for compensation under the VEA and the SRCA discussed above, there are different benefit outcomes for claimants. Benefit lists were provided by DVA.

- 4.50 Under the VEA:

Compensation is paid only as a fortnightly pension. VEA benefits are paid for life and, depending on the level of disability pension, may include access to the Gold Card for

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31 Department of Veterans' Affairs, *Submission* No. 89, p. 27.

32 Mr E Killesteyn, *Transcript*, 21 July 2008, p.52.

health care treatment. Offsetting provisions apply to VEA disability pensions where the same condition is accepted under both the VEA and the SRCA. Other benefits payable under the VEA, include:

- War Widow's and orphan's pension;
- Health Treatment Cards for specific conditions or full treatment for all conditions;
- Commonwealth Seniors Health Card;
- Fringe benefits;
- Aids and appliances;
- Counselling services;
- Educational benefits to children;
- Rent assistance;
- Income support payments to eligible veterans' and their dependants; and various allowances such as Pharmaceutical allowance, Telephone allowance, Utilities allowance and Remote area allowance for income support recipients.<sup>33</sup>

4.51 The following compensation benefits are payable under the SRCA:

Once a connection to defence service has been established, compensation and other benefits may be payable under the SRCA, which include:

- weekly compensation payments for a compensable injury resulting in incapacity for work;
- lump sum payments of compensation for permanent impairment (PI) and noneconomic loss suffered as a result of the compensable injury;
- compensation for the cost of any medical treatment, including surgical, pharmaceutical, etc, which is reasonably required as a result of the compensable injury;
- compensation for dependants of an employee whose death is a result of a compensable injury;
- payment for the costs incurred for the provision of normal household services which the employee is no longer able to undertake due to the compensable injury;
- payment for the cost of attendant care services to assist with personal hygiene,
- dressing, taking medications etc, if these services are reasonably required as a result of the compensable injury;

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33 Department of Veterans' Affairs, *Submission* No. 89, p. 29.

- financial assistance with essential home, workplace and motor vehicle
- modifications required as the result of a compensable injury; and
- medical, vocational and psychological rehabilitation which aims, where possible, to return the employee to suitable work as soon as practicable. Where this is not possible it aims to maximise the extent of his or her physical, social and mental health recovery.<sup>34</sup>

4.52 As both lists attest, compensation under both Acts is comprehensive. The problem for DSRS and squadron claimants was gaining access to them. In response to a question from the Chair, DVA advised that most DSRS claimants would have qualified for benefits under the SRCA but not necessarily for the VEA (which included the Gold Card):

A claimant can claim the same condition under both acts. As you can see, they will not follow the same path. If they are successful under both acts then we use the provisions of compensation offsetting to adjust for the fact that they have been previously compensated under the former act...

They will satisfy the SRCA rate. With the exception of the pure contractors, all of the defence force members have coverage under the Safety, Rehabilitation and Compensation Act but not all of them have coverage under the Veterans' Entitlements Act. That is why that act has some attraction.<sup>35</sup>

## Claims assessment processes under the VEA and SRCA

4.53 DVA outlined the compensation claims process in general terms in evidence to the Committee:

Generally there are four elements that must be established before a claim can proceed. Firstly, you have to establish that the person is a veteran or a serving member; secondly, that they had some particular service that is eligible under the act; thirdly, that they have some particular injury or disease that they believe relates to that particular service; and, finally, that it is confirmed in a diagnosis as to the extent of limitation. Those who are not successful in establishing a claim would

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34 Department of Veterans' Affairs, *Submission* No 89, p. 26.

35 Ms C Spiers, *Transcript*, 19 September 2008, p. 49.

not have been successful in establishing all four of those elements.<sup>36</sup>

4.54 DVA advised that claims assessors 'make decisions on the basis of the information and facts that can be supported by the legislation and the procedures'.<sup>37</sup> Both the VEA and the SRCA claims determination processes require diagnosis of a particular condition. The International Classification of Diseases (ICD) is used to identify and determine conditions.

4.55 In evidence to the Committee on 21 July 2008, DVA provided insights into the particular difficulties of determining DSRS claims. One area of difficulty was establishing causal links. In commenting on the health studies, DVA said:

The only issue around the studies is that you are very unlikely to find a health study of any kind which goes to the question of causation. The nature of most of these health studies is that they are essentially about self-reported conditions and give a correlation but do not necessarily prove anything about the causation. That is the difference between exposure and causation.<sup>38</sup>

4.56 The other area of difficulty was in relation to the diagnosis of a specific disease (using the ICD). In the case of particular DSRS claims:

Often the claimants claimed symptoms with no specific condition. The GP might be supporting that and saying that they have these symptoms. Therefore, we need a specialist to try and figure out what the disease or condition is. Underpinning both compensation systems, you have to have a disease. We do not treat symptoms as a rule.<sup>39</sup>

4.57 In answer to a question from the Committee relating to whether there were any people whose claims had been rejected because DVA could not certify the claimed condition under the Acts, DVA responded:

Yes, there are individuals who have had conditions rejected because the claimed condition was found not to be present based on the medical evidence.<sup>40</sup>

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36 Mr K Douglas, *Transcript*, 19 September 2008, p. 42.

37 Mr K Douglas, *Transcript*, 21 July 2008, p. 66.

38 Mr E Killesteyn, *Transcript*, 21 July 2008, p. 66.

39 Ms C Spiers, *Transcript*, 21 July 2008, pp. 66-67.

40 Department of Veterans' Affairs, *Submission* No. 119, p.9.

- 4.58 As at 21 July 2008, DVA listed rejected claims in the above category under both the SRCA and VEA, as a total of 1,235 individual conditions claims (or 17 per cent) by a total of 629 individual claimants. DVAs submission comments on these figures:

These numbers have been influenced by the fact that a large number of claims were lodged in relation to undiagnosed or self reported symptoms which could not be identified as compensable conditions.<sup>41</sup>

## The Ex gratia payment scheme

### Background

- 4.59 The SHOAMP study found that those who worked in the four formal DSRS programs 'reported nearly twice the number of poor health symptoms compared to the comparison groups, who were comprised of those who did not work in the F-111 fuel tanks'. While not attributing causality of these heightened illnesses to the F-111 program, the study showed that those in the formal DSRS programs suffered a much poorer quality of life, due to health outcomes, compared to those in the comparison groups. This prompted a two-pronged response by the Government; firstly, ex-gratia payments to recognise the unique working conditions endured by those in the DSRS programs and, secondly, a more defined package of health care building on the work done in the IHCS. Access to compensatory avenues was also relaxed.
- 4.60 On 19 August 2005, the then Ministers for Defence and Veterans' Affairs issued a media release outlining lump sum payments for DSRS workers following the SHOAMP findings. The payments, which would be administered by DVA, would be either \$40 000 or \$10 000. The press release stated:

The package is in response to the Study of Health Outcomes in Aircraft Maintenance Personnel (SHOAMP) and recognises that those people who participated in F-111 Deseal/Reseal work experienced a unique working environment.<sup>42</sup>

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41 Department of Veterans' Affairs, *Submission* No. 119, p.9.

42 Ministers for Defence, Veterans' Affairs: *Lump sum payments announced following health study findings*, media release Friday, 19 August 2005 ,

- 4.61 The press release also stated that in addition to the ex-gratia payment scheme, access to the existing compensation schemes, health care support and ongoing screening and prevention programs were available.

### Purpose of the ex-gratia scheme

- 4.62 The ex-gratia payment scheme was in recognition of the poor working conditions endured by those working in the F-111 fuel tanks or in support roles of the formal DSRS program. **It was not a means of injury or medical compensation.**

- 4.63 The Defence submission states:

The underlying premise of the ex gratia payment was first and foremost an acknowledgement by the Commonwealth of the very poor working conditions experienced by RAAF personnel who were required to work inside F-111 fuel tanks for extended periods while being exposed to potentially toxic chemicals. The ex gratia payment was not a substitute for compensation ...<sup>43</sup>

### Eligibility and Payments

- 4.64 The August 2005 statement issued by the Government defining eligibility said:

**DEFINITION OF A DESEAL/RESEAL PARTICIPANT FOR THE PURPOSES OF THE LUMP SUM PAYMENT SCHEME**

**Tier 1 - \$40,000**

A person who meets any one of the following criteria can test their eligibility to receive a lump sum payment of \$40,000:

1. A person who spent at least 30 cumulative working days on the Fuselage Deseal/Reseal or Respray Programs during the period 1977 - 1982, 1991 - 1993 and 1996 - 2000, whose duties involved working inside F-111 fuel tanks; **or**

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[http://minister.dva.gov.au/media\\_releases/2005/08\\_aug/joint\\_media\\_minister\\_def\\_vet\\_affairs.htm](http://minister.dva.gov.au/media_releases/2005/08_aug/joint_media_minister_def_vet_affairs.htm)

43 Department of Defence, *Submission* No. 83.

2. A person who spent at least 30 cumulative working days on the Wing tank program during the period 1985 - 1992; **or**
3. A person who spent at least 60 cumulative working days carrying out Sealant Rework ( Pick and Patch) during the period 1973 - 2000 while attached to an F-111 deseal/reseal section; **or**
4. Boiler and Plant Attendants whose usual place of duty was the Base Incinerator as an Incinerator operator and who spent at least 30 cumulative working days undertaking these duties during the period 1976 - 1986; **or**
5. A person who can demonstrate that they would have met one of the above criteria except for the fact that they:
  - had an immediate physical reaction; **and**
  - required medical treatment or intervention; **and**
  - were given a work restriction or medical fitness advice (PM 101) stating that they should not return to that working environment.

#### **Tier 2 - \$10,000**

A person who meets any one of the following criteria can test their eligibility to receive a lump sum payment of \$10,000:

1. A person who spent between 10 and 29 cumulative working days on the Fuselage Deseal/Reseal or Respray Programs during the period 1977 - 1982, 1991 - 1993 and 1996 - 2000, whose duties involved working inside F-111 fuel tanks; **or**
2. A person who spent between 10 and 29 cumulative working days on the Wing tank program during the period 1985 - 1992; **or**
3. A person who spent between 20 and 59 cumulative working days carrying out Sealant Rework (Pick and Patch) during the period 1973 - 2000 while attached to an F-111 deseal/reseal section; **or**



4. Boiler and Plant Attendants whose usual place of duty was the Base Incinerator as an Incinerator operator and who spent between 10 and 29 cumulative working days undertaking these duties during the period 1976 - 1986; **or**
5. Fire Fighters employed as Instructors whose usual place of duty was the Fire Training School fire pits and who spent at least 60 cumulative working days actively involved in the burning of by-products from the F-111 DSRS process during the period 1976 - 1990; **or**
6. Personnel who were **not** involved in tank entry and whose usual place of duty was the Rag Hangar for 60 cumulative working days during the period Dec 1977 - Nov 1983; **or**
7. Personnel who were **not** involved in tank entry and whose usual place of duty was Hangar 255, 260, 277 or 278 for a continuous period of 60 cumulative working days during the period 1977 - 1982, 1991 - 1993 and 1996 - 2000; **or**
8. A person who can demonstrate that they would have met one of the above criteria except for the fact that they:
  - had an immediate physical reaction; **and**
  - required medical treatment or intervention; **and**
  - were given a work restriction or medical fitness advice (PM 101) stating that they should not return to that working environment.

**Note:** Only one ex-gratia payment may be made regardless of how many times a person may be eligible. Where a claimant is assessed as eligible for both payments, the higher amount will be paid.

**DEFINITION OF A DESEAL RESEAL PARTICIPANT FOR THE PURPOSES OF A DETERMINATION UNDER s7(2) OF THE SRCA**

**Tier 3**

The following personnel should be considered for inclusion in any determination under s7(2) of the SRCA:

1. Personnel who worked on the Fuselage Deseal/Reseal or Respray Programs during the period 1977 - 1982, 1991 - 1993 and 1996 - 2000, whose duties involved working inside F-111 fuel tanks; **or**
2. Personnel who worked on the Wing tank program during the period 1985 - 1992; **or**
3. personnel carried out Sealant Rework (Pick and Patch) during the period 1973 - 2000 while attached to an F-111 deseal/reseal section; **or**
4. Boiler and Plant Attendants whose usual place of duty was the Base Incinerator as an Incinerator operator during the period 1976 - 1986; **or**
5. Fire Fighters whose usual place of duty was a Unit at RAAF Base Amberley and who were actively involved in the burning of by-products from the F-111 DSRS process during the period 1976 - 1994; **or**
6. Personnel who were **not** involved in tank entry and whose usual place of duty was the Rag Hangar during the period Dec 1977 - Nov 1983; **or**
7. Personnel who were **not** involved in tank entry and whose usual place of duty was Hangar 255, 260, 277 or 278 during the period 1977 - 1982, 1991 - 1993 and 1996 - 2000; **or**
8. Motor Transport Drivers involved in the first deseal/reseal program who came into contact with aviation fuel contaminated with deseal/reseal by-products during the period 1977-1982;**or**
9. Maintenance personnel on the air transportable ('rag') hangar who were involved in removing/replacing canvas or dismantling the Hangar during relevant periods in 1978, 1980 and 1984; **or**

10. Personnel employed in Engine Test Cell No 1 during the period 1976 - 1986; **or**
11. Personnel tasked with entering the Warrill Creek Settling Pond for the purpose of maintaining the physical barrier during the period 1977- 2000.

### EXCLUSIONS

This definition should not include others indirectly involved in the DS/RS procedures such as:

1. K Group and 7SD personnel; **and**
2. Dept of Housing and Construction Staff; **and**
3. ADG (or other personnel) who entered Warrill Creek for any other reason; **and**
4. Security Personnel; **and**
5. Work Experience students.<sup>44</sup>

4.65 In terms of the lump sum, Defence advised that:

these payments are in addition to a person's entitlement to claim compensation and the receipt of such a payment is not related to having an injury or disease. The lump sum is non-taxable and has no impact on existing Government benefits or potential common law claims.

4.66 Section 51-5 of the *Income Tax Assessment Act 1997* makes these payments tax exempt. It states:

If you are:

a recipient of an ex-gratia payment from the Commonwealth known as the F-111 Deseal/Reseal Ex-gratia Lump Sum Payment

... the following amounts are exempt from income tax:

the ex-gratia payment.<sup>45</sup>

4.67 The Committee was advised well after the final public hearing that the list supplied to the Inquiry and displayed on the Department's

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44 Department of Veterans' Affairs, 'Definition of a Deseal/Reseal Participant at <[http://www.dva.gov.au/f111\\_lump\\_sum.htm](http://www.dva.gov.au/f111_lump_sum.htm)> at 8 June 2008.

45 Section S51-5 of the *Income Tax Assessment Act 1997*.

website contained an error. Whilst the error only related to a small number of people, it is very alarming that this could occur in a matter which had been so keenly scrutinised for many years.<sup>46</sup>

4.68 Eligible claimants were required to be formally attached to one of the four formal DSRS programs. Workers who were sent informally to one of the formal DSRS sections, sometimes for short periods, did not qualify for a payment. Similarly, those who worked performing 'pick and patch' activities in 1, 6 and 482 Squadrons or any other associated area not directly attached to one of the formal sections were ineligible for the scheme. Chapter 2 contains a discussion on the differences between the tasks of those involved in the formal programs compared to those involved in the squadrons.

4.69 When asked why 482 Squadron was excluded from the Tier definitions DVA responded:

If you look at the history of this issue, the board of inquiry focused on the formal programs, the SHOAMP, by and large, focused on the formal programs and the resulting responses primarily focused on the four formal programs – with the exception of the healthcare schemes, which are much more liberal in terms of access. The whole process has been one that has focused on the four formal programs.<sup>47</sup>

4.70 This response overlooks the fact that the IHCS included those in the squadrons engaged in 'pick and patch' work, though DVA did say that:

Essentially, the schemes – the ex-gratia payment, the better health scheme and the compensation system – operate independently in accordance with the requirements set down by each<sup>48</sup>.

4.71 The omission from the ex-gratia scheme of those who were attached to Squadrons 1, 6 and 482 whose duties involved fuel tank entry has generated a great deal of anger amongst those excluded and is at the core of many submissions. As Air Vice-Marshal Brown stated:

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46 Department of Veterans' Affairs, *Correspondence*, 2 June 2008.

47 Mr E Killesteyn, *Transcript*, July 21, p. 74.

48 Mr E Killesteyn, *Transcript*, July 21, p. 75.

In reality there was no real difference between the pick and patch work done at Squadrons 1, 6 and 482 and what was done in the reseal-deseal section.<sup>49</sup>

- 4.72 Given that the 'pick and patch' work in the squadrons was the same as 'pick and patch' work carried out in the DSRS programs, the claims of unfair treatment are understandable.
- 4.73 The Committee notes that personnel who were never required to enter F-111 fuel tanks, such as boiler and plant attendants and fire fighters were included in the Tier 2 criterion for the 'Definition of a DSRS Participant', whilst those involved in the informal 'pick and patch' activities in the squadrons were excluded.
- 4.74 Presumably work in the extremely confined F-111 tanks typified the 'unique working environment' for which the ex-gratia payment was created. No explanations for this apparent anomaly excluding squadron 'pick and patch' workers was provided to the Committee except for the DVA comments expressed above.
- 4.75 There are a substantial number of squadron personnel, whose duties would have involved significant periods of tank entry. These individuals experienced working conditions for various periods of time on a par with and arguably worse than others included in Tier 2 and Tier 3.

## **Link between SHCS and Ex-Gratia / s7(2) SRCA**

- 4.76 As outlined in this report, initially a participant had to register for the IHCS. However, to begin receiving treatment, the participant was required to lodge a claim for compensation. This meant that the applicant had to satisfy the requirements for compensation under the SRCA or VEA. The treatment received is in accordance with the IHCS list identified by the Doctors Advisory Committee (DAC). That is necessary as these conditions are accepted as 'reasonably linked' to DSRS.
- 4.77 The following table provides a useful summary of the varying benefits applying to different schemes and different categories within schemes:

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49 Air Vice-Marshal Brown, *Transcript*, September 19, p. 61.

**BENEFITS AND SERVICES AVAILABLE TO SHCS PARTICIPANTS AND EX GRATIA LUMP SUM RECIPIENTS**

	<b>Reimbursement for specified conditions through SHCS</b>	<b>VVCS general counselling</b>	<b>VVCS genetic counselling</b>	<b>VVCS programs, incl Lifestyle Management Course &amp; Heart Health</b>	<b>Better Health Program</b>	<b>Ex gratia lump sum payment \$40,000</b>	<b>Ex gratia lump sum payment \$10,000</b>	<b>Recognition for working on the F-111 Deseal/Reseal Programs for compensation purposes</b>
<b>Group 1 SHCS (submitted claims before 20 Sept 2005)</b>	✓	Unlimited	3 sessions	✓	✓			
<b>Group 1 SHCS did not submit claims before 20 Sept 2005)</b>		5 sessions	3 sessions	✓	✓			
<b>Group 2 SHCS</b>		5 sessions	3 sessions					
<b>Tier 1 ex gratia</b>					✓	✓		
<b>Tier 2 ex gratia</b>					✓		✓	
<b>Tier 3 ex gratia</b>					✓			✓

**Note:** Group 1/Group 2 and ex gratia status are not mutually exclusive and personnel can be eligible under both SHCS and ex gratia schemes.

*Source* DVA Submission No. 89, Attachment F.

## Existing Claimants and Payments

4.78 It is important to recognise the Commonwealth has provided substantial assistance to many who were involved in F-111 fuel tank repair work. The established compensation systems have been successfully accessed by many.

4.79 The Committee asked DVA about the number of compensation claims that had been received. DVA responded that at 21 July 2008:

We have 628 claimants so far, with claims still coming in. In fact, we have received three claims in the last month. Of those 628 claimants, 70 are claims lodged within the VEA only, 115 are lodged with the SRCA only, and 443 are claims lodged under both VEA and SRCA.<sup>50</sup>

4.80 DVA lists the total DSRS claims:

As at 1 July 2008, the Department had received compensation claims from a total of 626 individuals.

- 556 members lodged claims under SRCA for a total of 3,769 conditions
- 512 members lodged claims under the VEA for a total of 3,655 conditions.
- 442 of the 626 claimants have lodged claims for benefits under both Acts.

As at 1 July 2008 there were 2 outstanding VEA claims and 9 outstanding SRCA claims. New claims are still being received and all claims are being determined as quickly as possible.<sup>51</sup>

4.81 DVA also provided the following claims figures:

There have been 626 individual complainants; 70 claims have been made under the Veterans' Entitlements Act only; 114 have been made under the Safety, Rehabilitation and Compensation Act only; and 442 have been made under both acts. Of (the) 626 (complainants) 500, or around 80 per cent, are now in receipt of a disability pension or have received a lump sum permanent impairment payment or a widows' benefit. Of the 500, 378 are receiving benefits under the Veterans' Entitlements Act. The 373 disability pensioners

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50 Mr K Douglas, *Transcript*, 21 July, p. 57.

51 Department of Veterans' Affairs, *Submission* No. 89, DVA, p.25.

consist of 67 totally and permanently incapacitated, three each of extreme disablement allowance and intermediate, 77 at the 100 per cent rate, 223 at rates varying from 10 per cent to 90 per cent and five receive a war widows' pension. The remainder of the 122 have received benefits under the Safety, Rehabilitation and Compensation Act. Of that, 113 people have received lump sum permanent impairment payment of between \$10,000 and \$370,000, with the majority receiving between \$30,000 and \$40,000, and nine have received the widows' benefit... It is important to note that this includes all those who have claimed compensation for conditions caused by desal-reseal service, whether or not their condition was accepted as due to that service.<sup>52</sup>

4.82 The Committee asked DVA how many claimants were Totally and Permanently Incapacitated (TPI). DVA responded that there were sixty-three claimants.<sup>53</sup>

4.83 The Committee sought to further define that group of claimants whose claims had been rejected by DVA. In response DVA said:

...we had 1,215 claims. As I understand it, 489 of those claims were refused. While I cannot give you a precise answer, our view is that more than 90 per cent of the claims that were refused would have been involved in – if I can just make it clear – the informal pick and patch activities as distinct from those pick and patch activities that were defined as part of the formal program.<sup>54</sup>

4.84 DVA then defined the latter group in more precise terms:

There is also a generic description that people use to describe those who were outside the formal programs, particularly those who were in Squadrons 482, 1 and 6, as involved in pick and patch activities. I guess that that group of pick and patch workers are the ones who are concerned about whether further benefits should be extended to them.<sup>55</sup>

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52 Mr E Killesteyn, *Transcript*, 19 September, p. 40.

53 Mr K Douglas, *Transcript*, 21 July 2008, p. 77.

54 Mr E Killesteyn, *Transcript*, 19 September, p. 60.

55 Mr E Killesteyn, *Transcript*, 19 September 2008, pp.60-1: 'Of the 489 people who were refused, greater than 90 percent of those cases were pick and patch activities not involved in the formal programs- in other words, those people who were more than likely posted to Squadrons 482, 1 and 6.'



4.85 DVA advised the Committee that under the VEA, a total of \$16.1m has been paid to claimants involved in F-111 fuel tank repair. In addition a total of \$19.6m has been paid under the provisions of the SRCA.<sup>56</sup> Together with the payment of \$22.60m<sup>57</sup> from the ex-gratia system, a total of \$67.9m<sup>58</sup> has already been paid to assist those involved in F-111 fuel tank repairs.

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56 Department of Veterans' Affairs, *Submission No. 89*, Table 9, p. 30.

57 Department of Veterans' Affairs, *Submission No. 89*, p. 24.

58 Mr E Killesteyn, *Transcript*, 21 July 2008, p. 59.

