

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

Peter Thornton

March 2017

Senate Committee
Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senators,

RE: ‘SAFETY, REHABILITATION AND COMPENSATION LEGISLATION AMENDMENT (DEFENCE FORCE) BILL 2016’

INTRODUCTION

I would like to thank the Senate Committee for inquiring about this very important piece of legislation.

However, the Author considers the timeframe for submissions to this Inquiry was unreasonable given the import of the matter at hand, and because it has been introduced with an urgency whilst the Inquiry into Veteran Suicide is still being conducted. However, the Author appreciates the considerations of the Senate Secretariat who was gracious enough to provide an extension of time otherwise personal circumstances would have denied the Author’s contribution to such an important matter.

This submission aims to elicit a number of concerns and raise points pertaining to the ‘Safety, Rehabilitation and Compensation Amendment (Defence Force) Bill, to be referred to forthwith as DRCA; as well as other related compensation matters.

GENERAL

Initial Concerns Stemming from the Explanatory Memorandum

Upon learning of this Inquiry, a significant concern emerged pertaining to the draft Bill by an explicit statement within the Explanatory Memorandum (EM), which in part stated, with reference to Section 5 of the DRCA, the following¹:

- | |
|---|
| <ul style="list-style-type: none">the exclusion of coverage under the DRC Act to persons in receipt of a disability pension under Part II or Part IV of the <i>Veterans’ Entitlements Act 1986</i> or the <i>Papua New Guinea (Member of the Forces Benefits) Act 1957</i>. |
|---|

Figure 1

¹ Explanatory Memorandum, DRCA draft exposure Bill, Pg. 11-12

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

At face value, this statement initially created significant concern as its stated application would have undoubtedly affected the ‘dual eligibility’ of hundreds of thousands of Veterans.² However, upon carefully reading the relevant Section of the draft Bill, and then reviewing the cross-references made within that Section to that of the VEA legislation, the Author has concluded (with some residual reservation) that the extract above was just poorly worded as it does not accurately reflect the relevant Section of the proposed Bill.

To this end, the exceptions made within Sub-Section (6) on pages 12-13 of the proposed Bill itself (i.e. as reflect at Figure 2 below), do appear to protect the ‘dual eligibility’ of those covered under the various preceding periods of VEA/SCRA compensation coverage; coverage which is reflected in the summary at Annex A.

<i>Act not to apply to certain members of the Defence Force</i>	
(6)	Subject to subsections (7) and (8), this Act does not apply in relation to service of a member of the Defence Force in respect of which provision for the payment of pension is made by: (a) the <i>Veterans’ Entitlements Act 1986</i> ; or (b) the <i>Papua New Guinea (Members of the Forces Benefits) Act 1957</i> .
Note:	Compensation and other benefits might also be available for a member of the Defence Force under the MRCA. Generally, an injury, disease or death that is covered by that Act would not be covered by this Act (see section 4AA and subsection 6A(2A) of this Act).
(7)	Subsection (6) does not apply in relation to a veteran: (a) who has rendered operational service on or after the day on which the <i>Military Compensation Act 1994</i> commences; and (b) for whom provision for the payment of pension in respect of service rendered by the person is made by Part II of the <i>Veterans’ Entitlements Act 1986</i> .
(8)	Subsection (6) does not apply in relation to a member of the Defence Force who has rendered service in respect of which provision for the payment of pension is made by Part IV of the <i>Veterans’ Entitlements Act 1986</i> .

Figure 2

However, reservation remains with respect to Section 5 as the amended Section repeals sub-sections 10C and 10D, which for the benefit of the Committee / reader, are captured at Figure 3 below³:

(10C)	Despite subsection (10), this Act applies to a claim lodged before the commencement of this subsection for compensation in respect of an injury of a member of the Defence Force that arose out of, or in the course of, any service that: (a) the member rendered before 13 May 1997; but (b) only became on that day service in respect of which provision for the payment of pension is made by the <i>Veterans’ Entitlements Act 1986</i> (because of the amendments made to that Act by Part 1 or 8 of Schedule 1 to the <i>Veterans’ Affairs Legislation Amendment (Budget and Compensation Measures) Act 1997</i>).
(10D)	Despite subsection (10), this Act applies to a claim lodged before the commencement of this subsection for compensation in respect of an injury of a member of the Defence Force that arose out of, or in the course of, service that: (a) was rendered by the member; and (b) is taken under section 6DB of the <i>Veterans’ Entitlements Act 1986</i> to have been rendered as operational service.
Note:	Part II of that Act provides for payment of pension in respect of that service.

Figure 3

² In addition, it is worth noting here that the Bills Digest did not allude to changes in Section 5 either.

³ *Safety Rehabilitation and Compensation Act - 1988*, Section 5, Subsection 10

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

Item 11 of the EM gives little detail as to the reason for the repeal of these subsections, other than to say that the sub-sections are ‘*no longer relevant to the SRC Act*’. However, at face value, the repeal of these subsections under the DRCA could possibly affect the eligibility of tens of thousands of Veterans, because:

1. 5(10C) would suggest SRCA extends coverage for all those concerned up to and including 13 May 1997 (as opposed to the extinguishment under the Military Compensation Act, as at 7 April 1994); and
2. 5(10D) provides specific SRCA coverage to Naval personnel who rendered ‘Submarine Special Operations’ service over the period ‘1 January 1978 to 31 December 1992.’⁴

Whilst it is unclear to the Author what impact this removal of these sub-sections mean (i.e. they may well be proven to be redundant in some way), it would nevertheless be prudent for the Senate Committee to seek clarification and enquire into why these sub-sections are to be repealed and excluded from the DRCA, as they are extant within current SRCA legislation.⁵

The Perpetuation of Complexity

The foregoing section and the detail contained at Annex A to this document, may help the Committee and the reader more generally appreciate the considerable mishmash of complex parameters and interleaving of periods of eligibility (or not) that Veterans, ESOs and the DVA have had to contend with over time in the framing, assessing and satisfying of compensation claims under any number of schemes.^{6,7}

But here’s the thing the proposed DRCA does nothing to reduce this complexity or introduce beneficial legislation.

Originally, and speaking generally, ADF personnel / veterans were covered separately under the provisions of either the Commonwealth Workman’s Compensation Act 1912 for ‘Peacetime Service’ – arrangements that were repealed completely by the Commonwealth Employee’s Compensation ACT 1930, the latter of which is still embodied within the current day SRCA⁸; and the 1920 Repatriation Act for ‘Operational Service’ - elements of which are still embodied in the VEA 1986 today.

This separate arrangement changed in 1973 (backdated to 7 December 1972) when the Whitlam Government, with the concurrence and acquiescence of the then Opposition and Parliament, introduced ‘dual eligibility’ to both schemes, regardless of service. This enabled ADF personnel and Veterans equal access to provisions under both schemes depending upon the Veteran’s / Veteran’s families’ needs. This system of dual eligibility was introduced in recognition of the fact that training for war can be as dangerous as war itself.

This sentiment was clearly expressed in 1973, by the then Repatriation Minister, who stated:

⁴ *Veterans’ Entitlement Act 1986, Section 6DB (a)*. Subsections (b) and (c) of this Section also warrant mention here.

⁵ This close observation gives rise to the fact, contrary to the advice tendered, that the draft DRCA is not an exact copy of the SRCA. What other exclusions exist?

⁶ The Author has some empathy for the DVA here, as it has not only had to deal with this complexity but it has also had to deal with administering the 2004 MRCA on an ever-decreasing staffing resource base.

⁷ To gain a deeper insight into the significant impact that has befallen DVA resources, the reader is encouraged to refer to Fig 8 of the Author’s submission to the Senate Inquiry into Veteran Suicide & other matters (found at Pg. 14 [here](#)).

⁸ SRCA compensation embodies previous compensation arrangements (i.e. the Commonwealth Employee’s Compensation ACT 1930, and the Compensation (Government Employees) Act 1971) under the provisions contained at Part X of the SRCA, which thankfully, are still reflected in the draft Bill for DRCA.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

‘... Perhaps the most important of these matters is that, for the first time, repatriation benefits will be extended to servicemen and women in the peace-time services. In many respects the regular serviceman’s range of activities, location and potential exposure to personal injury are far less predictable than in the case of a civilian. Recognising these factors, the Government proposes in the Bill to extend to regular servicemen and women repatriation benefits in respect of disabilities arising out of or aggravated by their defence service on or after 7 December 1972.’⁹

Perhaps the most prominent modern-day example of the risks assumed by ADF personnel during peacetime war-training, was the 1996 Black Hawke helicopter accident, which in itself illustrated the significant political meddling and deficiencies that had evolved in military compensation provisions over the preceding decade or so.¹⁰ The evidence submitted by this Author (let alone that of many others) to this Senate Committee for the Veterans’ Suicide Inquiry, doubly reinforces the point being made here.

In addition, it is with considerable anguish that the Author has to advise the Committee/Reader that since his submission to the Veterans’ Suicide Inquiry, another 849 ADF personnel that have been jettisoned out the Defence Force on invalidity grounds.¹¹

But here’s the thing, the draft DRCA legislation does little to reduce the well-known complexity in military compensation and it is not being introduced as beneficial legislation either. This is not a criticism, but instead a recognition that an opportunity presents itself now, to finally fix what is clearly broken.

Over 500 submissions to the Veterans’ Suicide Inquiry must be a solid testament to this!?

In order to reduce the complexity and consequent administrative burden that has now evolved, not only for Veterans but for the DVA also, the Author strongly recommends that the Committee / Parliament consider and take, not least, the following remedial actions:

1. Amend SRCA/DRCA and VEA legislation so as to extend dual eligibility, as was originally intended from 1973, to the effective date of MRCA, that being 1 July 2004. In other words, take this opportunity to completely extinguish the complexity as is reflected in the Table at Annex A.
2. Provide immediate and reciprocal eligibility rights (without application of the veteran or their representative(s)) to SRCA/DRCA/VEA gold card holders under the VEA and the equivalent threshold classification under the current SRCA. In other words, if a VEA Gold Card holder does not currently have dual eligibility, then by virtue of them not applying under the SRCA/DRCA, then facilitate that eligibility as an immediate procedural/administrative action and provide reciprocal rights and arrangements to the other scheme also.

In doing so, the Parliament would finally remediate and extend equitable and contiguous compensation arrangements to all Veterans so that they are covered under the VEA/SRCA/proposed DRCA provisions – provisions which are summarised and shown at Annex B.

⁹ Senator Reginald BISHOP, Minister for Repatriation, when discussing ‘New Benefits’, as proposed in introducing the new Repatriation Bill (No. 3) 1973. Senate speech delivered on the 18th of September 1973.

¹⁰ The meddling of compensation arrangements by the Hawke/Keating Government has unmistakably created the

¹¹ According to the CSC Annual Report of 2016, the Author now estimates, with respect to data shown at Fig. 2&3 of his submission (found [here](#)), that Class A & B invalidity pensions have now risen by an additional 749 (totalling ~7,782); with an additional 80 ADF members being medically discharged on a Class C or pre-existing condition basis.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

A Divergence in Liability Standards Affecting Commonwealth Employees

The proposed DRCA once again highlights the need for a comprehensive look of military compensation provisions, because the 2004 MRCA was heralded as a supposed “beneficial” piece of legislation, but was so poorly received by Veterans and their representatives, that it had to undergo a major review only 4 years after its introduction.¹²

MRCA was purportedly designed to draw upon the “best bits” of both the VEA and SRCA, but in essence it placed considerable emphasis on claims being assessed against the highly prescriptive factors and/or inflexible ‘Heads of Liability’ statements from the VEA – derived from what is known as the ‘Statement of Principles’ (SoPs).

The SoP regime generally demands higher standards of proof than that generally required under the SRCA - and now prospectively the DRCA. This has not only been proven to be detrimental to Veterans in seeking fair and equitable compensation, but it has added to the administrative burden of an under-resourced DVA, which is required to resolutely administer such matters to the letter of the law.

The resultant MRCA delineated but differentiated compensation standards for Military personnel in what the Author now believes might constitute yet another human rights violation¹³, as the Commonwealth now maintains a less onerous and more favourable compensation standard for the vast majority of current and former Commonwealth employees (including that of pre-2004 Military members) to that of another group – being post 1 July 2004 ADF personnel - where the latter continue to assume (like their military forebears) a significantly higher risk to injury and disease in employment terms than is generally expected and or experienced of their civilian counterparts.¹⁴

The issue of inequitable compensation has been raised numerous times in various forums and has been demonstrated by the well-aided example of what is colloquially known as ‘Runners Knee’.^{15, 16}

The SoP for Runner’s Knee and other conditions draws upon very proscriptive ‘factors’ that must be met in order for the DVA to legitimately satisfy a claim. Amongst a number of factors for ‘Runner’s Knee’, the two of the main factors that are generally used by veterans are as follows:

‘... running or jogging on average at least 20 kilometres per week for at least the one month before the clinical worsening of chondromalacia patella; or

.... undertaking weight bearing exercise involving forceful loading of the patellofemoral joint with the knee in a flexed position, at a rate greater than six METs, for at least six hours per week, for at least the one month before the clinical worsening of chondromalacia patella ...’

¹² With considerable angst of the Veteran community and those who represent it, the Rudd Labor Government committed to reviewing the MRCA as an election pledge leading up to the 2007 election. The MRCA Review was subsequently conducted in 2009 -2011. Details of the Review can be found [here](#).

¹³ In addition to the travesty that befalls MSBS retirees, the Author believes that Article 2 (2) of the **International Covenant on Economic, Social and Cultural Rights** (ICESCR) concerns the right to equality and non-discrimination, which includes the right to adequate food, clothing, housing and to the continuous improvement of living conditions and pension benefits to assist persons to meet an adequate standard of living; and Article 7 (‘The right to just and favourable conditions of work’), have been breached in the provision of equitable compensation.

¹⁴ Whilst SoPs apply to VEA claimants, those claimants do have equal access to SRCA to satisfy a rightful claim.

¹⁵ The formal medical term for this condition is ‘chondromalacia patella’ or ‘CMP’.

¹⁶ The current SoP (No. 80 of 2010) can be accessed [here](#).

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

In response to the criticisms of SoPs, and using ‘Runner’s Knee’ as a case in point, the DVA on its own volition commissioned a research study to compare claims under the SRCA and MRCA, and founded and concluded the following¹⁷:

5.34 Concern about the acceptance rate of chondromalacia patellae (also known as CMP, patellofemoral pain syndrome and runner’s knee) had previously been raised with DVA, and has prompted the Department to commission a research study to review and compare CMP claims determined under the MRCA and the SRCA. The study was conducted from April 2008 to June 2009, and examined in detail 249 SRCA and 199 MRCA claims for the 2006 and 2007 calendar years. Of interest are the following findings:

- there was a stark difference in acceptance rates, at 97.6 per cent for SRCA claims and 57.8 per cent for MRCA claims;
- no reasons were found for the difference in acceptance rates (e.g. age of client, type of service), other than the requirement for the use of SoPs under the MRCA; and
- when the authors re-examined SRCA claims and artificially applied the SoPs to them, the SRCA acceptance rate fell to a similar level to that for MRCA claims.

5.35 The study confirmed that the MRCA provisions were being applied as intended; that is, to ensure that ‘sound medical–scientific evidence’ is used in decision making.

Figure 4

Sadly, the statistics derived and conclusion drawn in Fig. 4 demonstrates the inflexible and overly prescriptive nature of an SoP, because in this example, no account is taken of a Veteran who may have run less than 20Km per week, but did so in boots and greens/cams and/or perhaps with the added weight of body armour, webbing and rifle.¹⁸

The difference is stark for modern day ADF personnel who are required to satisfy this standard, but former ADF Personnel (i.e. pre-2004) and other Commonwealth employees - let’s say for example hypothetically: AFP and/or Border Force Officers who may be required to run and maintain a level of fitness – are assessed purely on the grounds of a medical assessment from a duly qualified medical practitioner.

The conclusion drawn from Para. 5.35 failed to acknowledge that the Commonwealth has entered into a differential treatment of compensation for its collective workforce, placing a higher standard of proof upon a class of employee that generally assumes a much higher level of known risk.¹⁹

The MRCA Special Rate Disability Pension (SRDP) – Nothing more than a means-tested Welfare Provision

As the Senate Committee / Reader may or may not know, the 2004 MRCA - SRDP is an extension, in kind, to that of VEA – TPI compensation.

¹⁷ ‘Review of Military Compensation Arrangements’ Chapter 5 - Initial liability and Statement of Principles’, p 21 .
Please see excerpt [here](#)

¹⁸ It would be remiss of me to not also add the weight of ammunition, water, rations, a pack, radio batteries to the potentially infinitesimal list upon which this condition should be satisfied by a more flexible approach to claim determination.

¹⁹ The announcement by the Chief of Army, in October 2016, that over 5,000 ADF soldiers were infirmed in some way should serve as a stark reminder of the realities that ADF personnel face – every day they serve.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

But the application of the SRDP is vastly different in compensation terms to that of the VEA TPI, in that it is offset by a taper rate of 60 cents in every dollar received from a Veteran’s Commonwealth superannuation invalidity pension (or a lump sum from the same source) - superannuation which the Veteran paid into and which is paid out as income protection insurance – but a supposedly ‘beneficial’ element of compensation that extinguishes at age/service pension age.²⁰

To the abhorrence of the Author and many others, the SRDP is now referred to in formal literature as a ‘safety-net payment’ – relegating it from a fixed compensation benefit to being nothing more than essentially a means-tested welfare payment.

The offsetting of the SRDP against Commonwealth Superannuation (on some notion that to not do so would be “double dipping”) is unfounded, because and as the Family Court has determined, a Commonwealth Superannuation Invalidity Pension is not compensation, but instead ‘income insurance’ as was originally intended.²¹

Sadly, the treatment of SRDP effectively means-tests a low level compensation benefit to other tertiary income; a properly indexed compensation payment that is progressively whittened in quantum to superannuation income insurance that is only indexed to the sub-standard CPI factor.

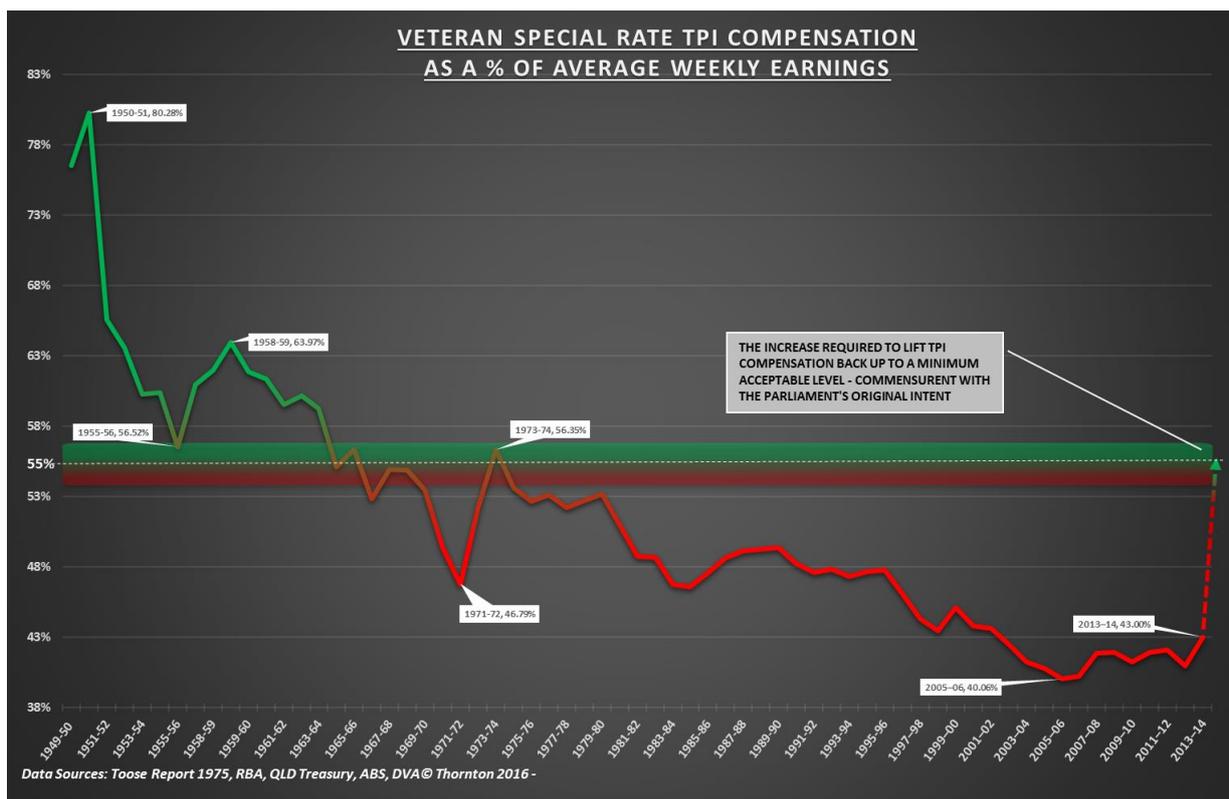


Figure 5

²⁰ To add insult to injury, the invalid member must also continue to contribute notionally, depending which superannuation scheme they belong to - 5% to MSBS and 5.5% to DFRDB.

²¹ Please see the media release here: <http://bit.ly/2fpjVHY>

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

But to add insult to this injury, Fig. 5 once again illustrates the deleterious nature and history of the TPI/SRDP compensation payment and the steps remedial action that the Author believes is needed in order to fix it.²²

The net effect of this offsetting provision is that it now subjects our most disabled modern-day veterans, covered under SRDP provisions, to an ever-eroding standard of living.

As a consequence of the foregoing, it is strongly recommended that the Senate Committee and Parliament seriously consider repealing this offensive offsetting mechanism within the MRCA for SRDP recipients so that it once again mirrors the benefit afforded to older VEA TPI pension recipients.

In addition, and as previous discussed, the overall quantum of the Special Rate TPI pension needs to be fixed, because 65% of the minimum wage for economic loss is not considered to be a fair or equitable level of compensation for a life time of lost earnings. There’s no doubt in the Author’s mind, and the minds of many others, that such circumstances reflect rather poorly upon the Commonwealth.

CONCLUSION

The Senate Committee, and the Parliament more generally, should acknowledge that Military compensation benefits and related income insurances must be protected and fixed when found deficient. It is uncertain to the Author whether the proposed DRCA achieves any of this.

The preceding evidence together with the Author’s evidence submitted to the Veterans’ Suicide Inquiry, let alone the tenor of other submissions also, should be evidence enough that the “unique nature of military service” requires special treatments, legislative protections and enhanced provisions. The evidence clearly demonstrates that such matters are not recognised or acted upon properly by the Parliament.²³

The Parliament should also acknowledge that it requires a dedicated and well-resourced DVA to continue to provide the necessary dedicated care and enhanced administration that our Veteran community deserve. Suggestions that other departments or agencies could do it better is just rubbish in the face of constant bureaucratic bungling that we constantly see every day.

In providing this dedicated service for our Veterans, it is beholden upon the Parliament to force Governments to change their political ways and intent, so as to enable the DVA to recalibrate its approach to its client base accordingly – a client base that has and continues to assume an extremely high risk in the defence of our nation.

PETER THORNTON

About the Author

Peter Thornton is a retired member of the Defence Force and Commonwealth. From time to time, Peter provides independent analysis and commentary on matters relating to Commonwealth / Military Superannuation and Veterans’ compensation issues and research that helps to underpin some of the advocacy and representational activities of national peak bodies. Peter has tertiary qualifications in economics, engineering and management.

²² For further information on this issue, please see pg. 11-12 of the Author’s previous submission [here](#).

²³ The Parliament must recognise that ADF personnel do not have the benefit of industrial action or independent representation at the Fair Work Commission that other Australian employees enjoy. Such is the added nature of the ‘Unique Nature of Military Service’.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

ANNEX A

Comparison Table of VEA and SRCA

If your injury occurred on:	7 Dec 72 - 21 May 86	22 May 86 - 6 Apr 94	7 Apr 94 - 30 Jun 04
Peacetime Continuous Full-Time Service (CFTS)			
Enlisted on or after 7 Apr 94	N/A	N/A	SRCA
Enlisted on or after 22 May 86 (and have completed 3 years continuous service by 6 Apr 94)	N/A	SRCA & VEA	SRCA
Enlisted on or after 22 May 86 (and have not completed 3 years continuous full-time service by 6 Apr 94)	N/A	SRCA	SRCA
Enlisted before 22 May (and have continuous services up to and after 7 Apr 94)	SRCA & VEA	SRCA & VEA	SRCA & VEA
Former Members (prior to 7 Apr 94)	SRCA & VEA	SRCA & VEA	N/A
Part-time Service	SRCA	SRCA	SRCA
Operational Service (warlike service)	VEA	VEA	SRCA & VEA
Peacekeeping Service (non-warlike service)	SRCA & VEA	SRCA & VEA	SRCA & VEA
Hazardous Service (non-warlike service)	No Declared	SRCA & VEA	SRCA & VEA

Notes:

1. For service between 3 January 1949 and 7 December 1972, ADF members are covered under the SRCA only for peacetime service and under the VEA for operational and peacekeeping service. There was no provision for hazardous service at that time
2. Members who enlisted on or after 22 May 1986 and who did not complete 3 years continuous full-time service before 6 April 1994 but were discharged as medically unfit may claim under the VEA
3. ‘Hazardous service’ is service that has been declared, in writing, by the Minister of Defence, to be hazardous.

Source: DVA Factsheet MCS02, dated 9 November 2009

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

ANNEX B

Comparison of DVA Compensation benefits (Appendix E) – as at 20 September 2010.

Tables E1–3 compare compensation benefits under the *Veterans’ Entitlements Act 1986* (VEA), the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) and the *Military Rehabilitation and Compensation Act 2004* (MRCA) in reference to current or former members of the Australian Defence Force, on the assumption that they have eligibility under these Acts (unless otherwise stated, rates are expressed as weekly amounts and are current as at 20 September 2010).

Table E1 Benefits for members and former members				
Benefit	VEA		SRCA	MRCA
Compensation for permanent impairment	Disability pension for life, tax-free, with the rate depending on the degree of incapacity.		Up to \$218,949.61 tax-free lump sum for permanent impairment and non-economic loss.	Up to \$292.08 pw tax-free for life. The rate depends on the degree of impairment.
	Rates	\$pw	Maximum SRCA PI amount + \$68,063.38 for severely injured employees under the <i>Defence Act 1903</i> with a whole person impairment rating of 80% or more, due to paraplegia, quadriplegia, total blindness or any other injury having a similar effect. Dependent child benefit \$71,753.26 under the <i>Defence Act 1903</i> .	This may be converted to an age-based lump sum. In the case of a 30-year-old male, the weekly amount would convert to a lump sum of up to \$387,327.29. This final amount would reduce in the case of an older person. In the case of someone who receives the maximum permanent impairment payment, there is also a lump sum payment of \$75,191.88 to any dependent children less than 16 years or from 16–24 years inclusive in full-time education.
	Special	546.45		
	Intermediate	370.80		
	EDA	301.65		
	General (10% to 100%)	19.42 to 194.15		
Incapacity for service or work	Loss of Earnings Allowance (LOE) is paid where treatment for an accepted disability, or		Weekly, taxable, incapacity payments for loss of earnings at 100%	Weekly, taxable, incapacity payments for loss of earnings paid at 100% of normal

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

	<p>attending a medical appointment in relation to a disability, results in an <i>actual</i> loss of earnings that has not been compensated from another source.</p> <p>LOE tops up the disability pension to the Special Rate of pension, or pays the amount of salary, wages or earnings actually lost, whichever is the lesser amount.</p> <p>Temporary Incapacity Allowance (TIA) is paid where hospital or institutional treatment has resulted in an incapacity for work for a period of at least 28 days.</p> <p>TIA tops up the disability pension to the Special Rate of pension.</p> <p>Note: Both LOE and TIA payments are offset by the fortnightly equivalent of <i>any</i> lump sum received under the SRCA regardless of whether that lump sum was for a VEA accepted disability or not.</p>	<p>of normal weekly earnings, less a 5% notional superannuation contribution, reducing to 75% after 45 weeks in receipt of compensation. Payments cease at age 65.</p>	<p>earnings reducing to 75% after 45 weeks after discharge, which cease at age 65.</p> <p>In the case of more seriously injured, the person may choose to receive a tax-free SRDP of \$546.45 pw payable for life instead of incapacity payments.</p>
Attendant allowance	<p>Paid in cases of ‘service’ accepted multiple amputations, blindness, disease affecting the cerebrospinal system or a condition accepted as being similar in effect or severity.</p> <p>\$72.20 pw (low)</p>	<p>Reimbursement of up to \$398.08 pw for the cost of attendant care reasonably required as a result of the accepted conditions.</p>	<p>Reimbursement of up to \$413.56 pw for the cost of attendant care reasonably required as a result of the accepted conditions.</p>

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

	\$144.60 pw (high)		
Household services	<p>Low-level domestic support services according to assessed need (Gold Card) or assessed need related to accepted disability (White Card).</p> <p>Up to 15 hours pa of garden maintenance (safety-related only) and home maintenance.</p>	Reimbursement of up to \$398.08 pw for the cost of household services reasonably required as a result of the accepted conditions.	Reimbursement of up to \$413.56 pw for the cost of household services reasonably required as a result of the accepted conditions.
Vehicle purchase, modification and maintenance	<p>Vehicle Assistance Scheme including up to \$39,810 for a new vehicle (only available to certain amputees, complete paraplegics, or someone who has a condition accepted as being similar in effect and severity to certain amputees).</p> <p>Modifications necessary for accepted disabilities.</p> <p>Maintenance allowance towards running costs \$2,007.20 pa.</p>	<p>Reasonable cost of any modifications to the vehicle, which are reasonably required as a result of accepted injury.</p> <p>Assistance to purchase a new or second-hand vehicle may be provided for someone whose vehicle cannot be modified or who does not own a vehicle, and will derive real benefit from the vehicle.</p>	<p>Motor Vehicle Compensation Scheme (MVCS) provides compensation in relation to an accepted condition to:</p> <ul style="list-style-type: none"> • modify a motor vehicle; • maintain and/or repair modifications to a motor vehicle; • subsidise the purchase of a new or second-hand vehicle; or • pay other kinds of compensation relating to motor vehicles specified under the MVCS, such as increased insurance due to modifications.

EDA = Extreme Disablement Adjustment; LOE = loss of earnings; MRCA = *Military Rehabilitation and Compensation Act 2004*; MVCS = Motor Vehicle Compensation Scheme; pa = per annum; pw = per week; PI = Permanent Incapacity; SRCA = *Safety, Rehabilitation and Compensation Act 1988*; SRDP = Special Rate Disability Pension; TIA = Temporary Incapacity Allowance; VEA = *Veterans’ Entitlement Act 1986*.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

Table E2 Health, treatment and rehabilitation

Benefit	VEA	SRCA	MRCA
Repatriation Health Card — For Specific Conditions (White Card)	Yes	No — Reimbursement for medical expenses reasonably required as a result of accepted injury.	Ongoing medical expenses arising from the accepted medical condition will be met through either: reimbursement of expenses; or provision of a White Card.
Repatriation Health Card — For All Conditions (Gold Card)	<p>Gold Card if receiving a disability pension at or above 100% of the General Rate of Pension, or 50% disability pension or has 30 impairment points under the MRCA and any amount of service pension, or 70 years old with qualifying service, or an ex-POW.</p> <p>Gold Card for widowed spouse, only where the members’ death has been accepted as service caused.</p> <p>Gold Card for dependent child, only where the members’ death has been accepted as service caused <i>and</i> the child is less than 25 years and still in full-time education.</p>	No — Reimbursement for ongoing medical expenses reasonably required as a result of accepted injury.	<p>Gold Card — if 60 or more impairment points, or if eligible to choose to receive the SRDP.</p> <p>Gold Card — to widowed spouse where:</p> <ul style="list-style-type: none"> • death is service caused; • member was eligible to choose to receive the SRDP at time of death; • member suffered a permanent impairment of 80 or more impairment points at the time of death. <p>Gold Card to dependent child of deceased member, under 16 or between 16 and 25 in full time education where:</p> <ul style="list-style-type: none"> • death is service caused; • member was eligible to choose to receive the SRDP at time of death; • The member suffered a permanent impairment of 80 or more impairment points at

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

			the time of death.
VEA or MRCA supplement	Yes, for holder of a treatment card. Low rate: \$6.00 per fortnight High rate: \$12.00 per fortnight	No allowance, but the cost of all reasonable pharmaceuticals is reimbursed for accepted conditions.	Yes, for holder of a treatment card. Low rate: \$6.00 per fortnight High rate: \$12.00 per fortnight
Cost of attendance for medical treatment	Reimbursement of travel allowance at specified rates.	Reimbursement of travel at specified rates for travel in excess of 50 km return.	Reimbursement of travel at specified rates for travel in excess of 50 km return.
Rehabilitation	Veterans’ Vocational Rehabilitation Scheme — limited in scope and assistance.	All rehabilitation required or deemed appropriate to return the person to their best possible functioning in their home and their work life.	All rehabilitation required or deemed appropriate to return the person to at least the same physical and psychological state and at least the same social, vocational and educational status as he or she had before the injury or disease.
Home modifications	Limited availability under some DVA programs.	Alterations to the home that are reasonably required due to the person’s injury.	Provided through rehabilitation, alterations to the home that are reasonably required due to the person’s injury.
Aids and appliances	Appropriate aids and appliances according to assessed clinical need (Gold Card) or accepted disability (White Card).	All reasonable cost of aids and appliances reasonably required as a result of the person’s injury.	All reasonable cost of aids and appliances reasonably required as a result of the person’s injury.
Workplace modifications	Under Veterans Vocational Rehabilitation Service.	All reasonable costs for necessary alterations requested as a result of the client’s accepted condition.	Provided through rehabilitation program. All reasonable costs for necessary alterations.
Compensation for loss of, or	No	Reimbursement of the cost of replacing property used	Reimbursement of the cost of replacing medical aid used by

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

damage to, property used by employee where employee is NOT injured		by the employee that was lost or damaged as a result of an accident arising out of, and in the course of, employment, but in which the employee was <i>not</i> injured. For example, the cost of replacing glasses broken in a scuffle during the apprehension of a person where the employee was not injured.	the member that was lost or damaged as a result of an accident occurring while rendering defence service, but for which the member has not lodged a claim for injury. For example, the cost of replacing glasses broken in a scuffle during the apprehension of a person where the member was either not injured, or was injured and did not lodge a claim for liability.
--	--	--	---

DVA = Department of Veterans’ Affairs; MRCA = *Military Rehabilitation and Compensation Act 2004*; POW = prisoner of war; SRCA = *Safety, Rehabilitation and Compensation Act 1988*; SRDP = Special Rate Disability Pension; VEA = Veterans’ Entitlement Act 1986.

Table E3 Benefits for dependants			
Benefit or dependant	VEA	SRCA	MRCA
Widow(er)’s benefits	<p>\$362.55 pw tax-free war widow(er)’s pension payable fortnightly for life in respect of death due to service.</p> <p>Up to \$108.30 pw additional income support supplement (means tested).</p> <p>Gold Card for life.</p>	<p>Up to \$442,177.76 tax-free lump sum (shared with child dependants, if any, but minimum of 75% to spouse).</p> <p>Additional payment under the <i>Defence Act 1903</i> of \$48,817.06.</p>	<p>\$362.55 pw tax-free for a wholly dependent partner of a deceased member. The partner may elect to convert the payment to an age-based lump sum.</p> <p>An additional age-based lump sum is provided where the death is service caused. A widow or widower would be eligible for a maximum additional death benefit of \$125,319.80.</p>

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

		<p>Dependent child benefit \$71,753.26 under the <i>Defence Act 1903</i>.</p>	
<p>Dependent children benefits</p>	<p>Fortnightly orphan’s pension (if war/service caused death of parent). Conditions apply if child is older than 16 years (e.g. not eligible if receiving education benefits).</p> <p>\$42.85 pw if service parent deceased. \$85.65 pw if both parents deceased. Gold card while in full-time education.</p>	<p>Up to \$442,177.76 tax-free lump sum shared with all dependants including widow(er), held in trust until child reaches 18 years of age.</p> <p>\$118.06 pw (while younger than 16 years or from 16–24 years inclusive if in full-time education).</p>	<p>\$75,191.88 tax-free lump sum payment for each dependent child younger than 16 years, or from 16–24 years inclusive if in full-time education.</p> <p>\$82.71 pw (while younger than 16 years, or from 16–24 years inclusive, if in full-time education).</p>
<p>Children’s education benefits</p>	<p>Veterans’ Children Education Scheme (VCES) benefits (non-means tested) for eligible children of certain severely disabled members or members whose deaths have been accepted as service caused.</p> <p>VCES has various rates of education allowances:</p> <ul style="list-style-type: none"> • primary education rate of \$234.10 per year. • secondary/tertiary rates range from \$24.05 pw for a 	<p>No — would have to apply for Youth Allowance through Centrelink. Youth Allowance rates and VCES rates are identical for students aged 16 years and over.</p>	<p><i>Military Rehabilitation and Compensation Act</i> Education and Training Scheme (MRCAETS) for dependent children of severely injured members or deceased members where:</p> <ul style="list-style-type: none"> • the member’s death is accepted as service caused; • the member is eligible to choose to receive the SRDP at time of death; or • the member suffers a permanent impairment of

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

Funeral benefit	<p>student aged younger than 16 years and living at home, to a maximum \$194.35 pw for those aged 16–25 years, who are forced to live away from home for educational purposes (based on Centrelink Youth Allowance rates for those 16 years and over).</p>		<p>80 or more impairment points.</p> <p>MRCAETS has various rates of education allowances:</p> <ul style="list-style-type: none"> • primary education rate of \$234.10 per year. • secondary/tertiary rates range from \$24.10 pw for a student 16 years or younger and living at home, to a maximum \$194.35 pw for those aged 16–25 years, who are forced to live away from home for educational purposes (based on Centrelink Youth Allowance rates for those aged 16 years and over).
Bereavement payment (disability pension)	<p>Yes, for service-caused death. Reimbursement up to \$2,000. Also, automatic grants of funeral benefit of \$2,000 to the estates of certain deceased veterans.</p>	<p>Yes, where death is due to service, or to a service-related medical condition. \$10,138.75.</p>	<p>Yes, where death is due to service or to a service-related medical condition. \$10,138.75.</p>
Bereavement payment (disability pension)	<p>Deceased person’s disability pension continues for 6 fortnights if there is a surviving spouse.</p> <p>From 1 July 2008, a deceased single veteran’s estate may be eligible to receive a bereavement payment if the veteran was in receipt of Special Rate of pension or Extreme Disablement Adjustment and dies in indigent circumstances.</p>	<p>No.</p>	<p>The following payments continue for 6 fortnights if there is a surviving spouse or dependent child:</p> <ul style="list-style-type: none"> • weekly permanent impairment payments; • incapacity payments; • SRDP.

Submission by Peter Thornton – The ‘Safety, Rehabilitation And Compensation Legislation Amendment (Defence Force) Bill 2016’

Financial advice	No.	\$1,435.14 payable under the <i>Defence Act 1903</i> .	<p>\$1,503.83 for member offered the choice between SRDP and weekly incapacity payments and permanent impairment payment.</p> <p>\$1,503.83 for a member who has permanent impairment of 50 or more impairment points.</p> <p>\$1,503.83 for wholly dependent partner when offered choice between weekly payment or conversion of that payment to a lump sum.</p>
------------------	-----	--	---

MRCA = *Military Rehabilitation and Compensation Act 2004*; MRCAETS = *Military Rehabilitation and Compensation Act Education and Training Scheme*; pw – per week; SRCA = *Safety, Rehabilitation and Compensation Act 1988*; SRDP = Special Rate Disability Pension; VCES = Veterans’ Children Education Scheme; VEA = Veterans’ Entitlement Act 1986.

Source: <http://www.dva.gov.au/consultation-and-grants/reviews/review-military-compensation-arrangements/implementation-activiti-37>