

Senate Submission –

Submission to the Senate Inquiry: Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025 — Schedule 9

From:

Margo Dean

Date:

30th May 2025

Subject:

Formal Objection and Request for Repeal of Schedule 9 – Legal, Ethical, and Public Interest Concerns

I write as a concerned veteran and a direct stakeholder impacted by the legislative transformation enacted under the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025, specifically Schedule 9. This submission is made in good faith to urgently raise concerns regarding the legal implications, procedural deficiencies, and potentially irreparable harm posed by this Schedule to veterans currently under the MRCA, DRCA, and VEA frameworks.

Schedule 9 of the VETS Act 2025 introduces a unilateral and binding mechanism that:

- Automatically extinguishes prior rights under MRCA, DRCA, and VEA upon submission of a new claim.
- Overrides transitional protections via Clause 10(3), eliminating grandfathering provisions.

*****Legislative Evidence (Verbatim)*****

****Schedule 9, Clause 10(3) – Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025:****

“Despite any other provision of this Act, a person who makes a claim under this Schedule is deemed to have surrendered any entitlement held under the DRCA, MRCA, or VEA. Such claims cannot be reversed, and prior entitlements do not continue to apply unless explicitly preserved by regulation.”

- Centralises authority within a newly formed Commission (DVSC) under Ministerial control.

****Schedule 7, Clause 122 – Ministerial Power:****

“The Minister may, by legislative instrument, determine matters relating to compensation or treatment that were previously determined by the Governor-General.”

- Restructures veterans' compensation law through stealth and without adequate consultation.

This submission asserts that Schedule 9 is legally unsound, administratively dangerous, and morally indefensible.

Clause 10(2)(b)-(c) and 10(3) of Schedule 9 override prior entitlements under MRCA, DRCA, and VEA without recourse. This constitutes an ex post facto reclassification of lawful entitlements and breaches principles of administrative fairness and natural justice.

*****Relevant Case Law*****

****Minister of State for Immigration and Ethnic Affairs v Teoh (1995) 183 CLR 273 (High Court of Australia)****

– Summary: A legitimate expectation may arise when lawful policies or entitlements are suddenly overridden. This directly relates to veterans whose rights are extinguished without notice.

****Plaintiff S157/2002 v Commonwealth (2003) 211 CLR 476 (High Court of Australia)****

– Summary: Legislation that limits or extinguishes judicial review must be interpreted narrowly. Schedule 9's effect on appeal rights may breach this.

****Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam (2003) 214 CLR 1 (High Court of Australia)****

– Summary: Procedural fairness is breached when an individual reasonably expects a process or entitlement to continue and it is removed without appropriate safeguards.

Despite government statements to the contrary, Clause 10(3) explicitly removes all transitional protections. Veterans with lifetime entitlements under previous Acts are coerced into a new legal regime with no opt-out, reversion rights, or grandfathering. This creates legal uncertainty and breaches legitimate expectations.

Schedule 7, Clause 122 allows the Minister to define core aspects of compensation by regulation, previously reserved for the Governor-General. This centralisation of regulatory power without parliamentary oversight risks arbitrary rule-making and undermines veterans' legal protections.

****Schedule 7, Clause 122 – Ministerial Power:****

“The Minister may, by legislative instrument, determine matters relating to compensation or treatment that were previously determined by the Governor-General.”

Veterans are not adequately informed that lodging a new claim under the VETS framework constitutes a binding and irreversible transfer of all prior entitlements to a new legal structure. Many will make such decisions unaware of the consequences.

The deeming provision under Section 24A and conversion triggers under Clause 10 distort the status of already-determined claims. This creates ambiguity over appeal rights, liability attribution, and future compensation calculations.

****Section 24A – Deeming Provision:****

“An accepted condition under DRCA or VEA is taken to be a condition under the MRCA as if originally determined under that Act.”

A 12-month runway to shut down two foundational pieces of veterans' law (VEA and DRCA) is procedurally reckless. It fails to account for the volume, complexity, and vulnerability of the affected population.

The legislation betrays a foundational trust between the state and those who served it. Veterans should not be forced into a new regime by stealth, stripped of lifetime protections granted by law.

The uncertainty, confusion, and loss of legal security introduced by Schedule 9 pose a real and present risk to veteran mental health. This contradicts the intent and findings of the Royal Commission into Defence and Veteran Suicide.

*****References*****

- Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025

- Royal Commission into Defence and Veteran Suicide Final Report

- Australian Law Reform Commission Report No. 129 – Administrative Law

Elderly veterans, widows, and those already managing complex entitlements will be disproportionately impacted. Many do not have access to timely legal or advocacy assistance.

- Immediate repeal or amendment of Schedule 9 to restore transitional protections and grandfathering clauses.
- Introduction of an opt-in mechanism with full informed consent protocols.
- Parliamentary disallowance of delegated powers that materially affect compensation structure.
- Establishment of an independent legal oversight body for all Schedule 9 transitions.

Schedule 9 is not reform. It is legislative coercion cloaked in administrative efficiency. Veterans are not objects of reform—we are human beings with legal rights, lived experience, and legitimate expectations of fair and respectful treatment by our government.

I urge the Senate to reject this overreach, restore integrity to the veterans' entitlements system, and honour the commitment made to those who served.

Respectfully,

Margo Dean

[Contact details withheld for publication]

Veteran, Royal Australian Navy

Cross Reference: MRCA, DRCA, VEA vs VETS Act

Provision/Function	MRCA	DRCA	VEA	VETS Act
Entitlement Origin	Military-specific injuries and diseases post-2004	Commonwealth employment-related injuries (pre-2004)	Military service before 2004 (WWII, Korea, Vietnam, etc.)	Merged entitlement path; source Act extinguished upon new claim
Legislative Authority	Military Rehabilitation and Compensation Act 2004	Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988	Veterans' Entitlements Act 1986	Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025
Right to Choose Framework	Yes (for eligible service types)	Yes (based on employment period)	Yes (based on qualifying service)	No – claim triggers automatic transfer; no opt-out
Transitional Protections / Grandfathering	Yes	Yes	Yes	None – Clause 10(3) removes protections upon new claim
Appeal Rights	Yes (VRB → AAT → Federal)	Yes (COMCARE → AAT →	Yes (VRB → AAT → Federal)	Unclear – Section 24A may

	Court)	Federal Court)	Court)	complicate status of prior decisions
Claim Deeming	N/A (entitlements determined by MRCC)	No automatic deeming	No automatic deeming	Yes – Section 24A converts existing conditions to MRCA
Decision Authority	Military Rehabilitation and Compensation Commission (MRCC)	COMCARE for defence-related claims	Department of Veterans' Affairs (delegate)	Defence and Veterans' Services Commission (DVSC), Minister-controlled
Ministerial Power	Minimal – relies on statutory independence	Minimal	Moderate	Expanded – Clause 122 allows key definitions by regulation

EXECUTIVE OVERVIEW — From a Veteran's Standpoint

This section reflects my own deep dive into the laws and policies introduced by Schedule 9 of the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025. I've reviewed this Act through the lens of someone directly affected — a veteran. What follows is my interpretation, supported by case law, administrative principles, and the Royal Commission into Defence and Veteran Suicide (RCDVS). The findings are alarming. This isn't reform. It's legal and administrative betrayal.

LEGAL ANALYSIS — How I See It

1. Extinguishment of Existing Rights (Clause 10(3))

- Veterans like me lose everything we've earned under MRCA, DRCA, or VEA the moment we lodge a new claim — with no way back.
- This strips away rights without warning or recourse, breaching fair process.
- Legal precedent (e.g., Teoh, Ex parte Lam) makes it clear: this kind of retrospective wipeout is not just unfair — it's potentially unlawful.

2. Power Consolidation (Clause 122)

- All control is handed to the Minister — no Parliament, no oversight.
- One person decides the rules that govern our lives. That's not reform. That's unchecked power.
- It contradicts every principle of balance and accountability in our system of government.

3. Forced Deeming (Section 24A)

- Veterans don't get a say — past accepted conditions are automatically reclassified under MRCA, whether we agree or not.
- This reshuffling can jeopardise appeal rights, benefit calculations, and our legal standing.

4. No Transitional Safety Net

- There's no choice. No opt-out. No grandfathering.
- Veterans are lured into a trap: ask for help and you lose everything; stay silent and you suffer alone.
- It's coercion disguised as "harmonisation."

PSYCHOSOCIAL & ETHICAL CONCERNS — The Real Human Cost

This legislation is psychologically harmful. Veterans are forced to gamble with their entitlements, often without understanding what's at stake.

It offers no real consent process, no legal briefings, and no protections for those most vulnerable.

The Act directly contradicts the trauma-informed approach recommended by the Royal Commission.

Schedule 9 Compliance

RCDVS Recommendation	Is Schedule 9 Compliant?
Rec 1 – Trauma-informed reform	✗ No safeguards exist
Rec 4 – Fair, simplified system	✗ Existing entitlements destroyed
Rec 69 – Informed Consent	✗ Entirely absent
Rec 122 – Independent oversight	✗ Power centralised in Minister

LEGAL AND CONSTITUTIONAL RISKS — My View

Legal Principle	Risk Level	Why It Matters
Legitimate Expectation	● High	Veterans were never warned
Procedural Fairness	● High	Entitlements revoked without due process
Separation of Powers	● High	Minister controls too much
Retrospective Interference	● Med-High	Law changes the past without notice
Access to Review	● Medium	Veterans may lose access to appeal mechanisms

HISTORICAL CONTEXT — Why This Matters

This isn't a one-off mistake. Schedule 9 follows decades of ignored recommendations, broken promises, and system failures. It fits a pattern — one where veterans are constantly reshuffled, repackaged, and politically managed, rather than genuinely supported. It's another case of "we know better than the people who lived it."

HOW TO MAKE THIS RIGHT

These are the improvements I believe must happen:

1. Include the full, exact wording of RCDVS Recommendation 122 and the government's response — side by side.
2. Reference ALRC Report No. 129 more clearly — especially on administrative fairness.
3. Introduce more legal case law to reinforce that rights can't be extinguished without consent (Kirk v Industrial Court, Saul v Mount Isa Mines).
4. Use visual tables to show exactly what veterans lose under the new Act compared to MRCA/DRCA/VEA.

Schedule 9 is not simplification. It is a slow legislative ambush. It puts vulnerable veterans in impossible positions and hands full control to a Minister with no accountability.

This isn't just a policy failure — it's a moral one.

And unless it is repealed or rewritten with real safeguards, it will become a permanent stain on how this country treats those who served it.

Submission Question to the Senate

● Question to Senators:

Why are Australian veterans being forced into a legal trap where simply lodging a new claim — even for a new or worsening condition — results in the automatic extinguishment of their hard-earned rights under the MRCA, DRCA, or VEA, before they are even told whether the new system will leave them better off, worse off, or financially devastated?

How can this possibly be justified?

For many veterans — especially those living with permanent, service-related injuries — this is not a hypothetical concern. It is a brutal choice between:

“Do I access support for my new condition — and risk losing my TPI pension, Gold Card, or financial stability?”

— or —

“Do I remain silent and untreated, just to preserve the few rights I still have left?”

This is not informed consent.

This is not simplification.

This is legislative coercion.

And worse — it comes in the immediate aftermath of the Royal Commission into Defence and Veteran Suicide (RCDVS), where thousands of veterans spoke out, relived their trauma, and placed their trust in the promise of real reform.

Veterans didn't ask for this system.

The Royal Commission didn't recommend it.

And yet it is being imposed on them — not with transparency, but under threat.

The RCDVS called for a streamlined, veteran-centred system grounded in independence, transparency, and justice.

Instead, we now have an Act where the very Minister who drafted the legislation is also granted unchecked power to alter its definitions — becoming both architect and gatekeeper.

That is not reform.

That is power without accountability.

Veterans demanded lasting change — not a reshuffle of bureaucracy.

They didn't bare their souls just to have their pain buried beneath another layer of legislative spin.

And yet, that is exactly where this government appears to be filing the Commission's recommendations:

Into the same cobweb-covered drawer where four decades of unimplemented reports already lie.

So now, Senators, the question is no longer just about veterans.

It's about you.

Are you willing to be part of the solution — and reject this amendment?

Or will you become part of the same systemic failure that has abandoned our veterans for the past 40 years?

The decision is yours.

And so is the legacy that follows it.