

Chapter 2

Background

Introduction

2.1 This chapter will outline some background information in relation to the inquiry. In particular, it will provide an overview of key entitlements available to veterans under the three main legislative schemes. These are the *Veterans Entitlement Act 1987* (VEA), the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) and the *Military, Rehabilitation and Compensation Act 2004* (MRCA).

Overview of key veteran entitlements

2.2 Arrangements for pensions, compensation, rehabilitation, health care and other benefits for current and former members of the Australian Defence Force (ADF) and their dependents have changed over time. This has resulted in some ADF members and veterans being covered under different and multiple schemes depending on their service. In particular, the VEA and the SRCA may apply to those with service before 1 July 2004. The MRCA was enacted to provide rehabilitation and compensation for a range of persons who served on or after 1 July 2004.

Health services

2.3 Health services to DVA clients are usually provided through Gold and White Cards which allow access to a range of public and private health care services which are provided at the cost of DVA.¹ The *DVA Health Card – All Conditions within Australia* and *DVA Health Card – Totally & Permanently Incapacitated*, known as the Gold Card, provides eligible veterans with access to a wide range of public and private health care services within Australia for the treatment of health care conditions both related and unrelated to war service.

2.4 The *DVA Health Card – Specific Conditions*, known as the White Card, provides eligible veterans with access to a wide range of public and private health care services within Australia for the treatment of disabilities and conditions accepted as war or service related. The White Card is for the treatment of specific conditions according to clinical need.

2.5 Covered health and care related services include medical consultations and procedures as well as medical specialist services listed by the Medical Benefits Scheme (MBS). The DVA does not generally fund health and related care services not listed on the MBS unless under special circumstances.

Veterans Entitlement Act

2.6 DVA explained that the VEA was a consolidation of a number of pieces of legislation, starting in 1920, that had progressively extended eligibility for repatriation

1 There is also a *DVA Health Card – Pharmaceuticals Only*, known as the Orange Card, which provides subsidised pharmaceuticals and medicines under the Repatriation Pharmaceuticals Benefits Scheme (RPBS) for medical conditions according to clinical need.

benefits to veterans of different conflicts. It noted that the VEA 'has a focus of lifetime fortnightly non-taxed, non-means tested disability and widow's pension and health care, with little rehabilitation focus'.² Repatriation Commission is responsible for granting pensions, allowances and other benefits, providing treatment and other services and generally administering the VEA.

2.7 Pensioners under the VEA are the largest group of DVA clients (225,933) and the largest group of these clients receive the service pension (108,944). A service pension can be paid to veterans with qualifying service on the grounds of age or invalidity, and to eligible partners, widows and widowers. It is subject to an income and assets test. The service pension singles rate is \$888.30 and the rate for couple is \$669.60 per fortnight.

2.8 DVA clients under the VEA also include 89,797 disability pensioners. There are four rates of the disability pension. The general rate is linked to an individual's level of assessed impairment using the *Guide to the assessment rates of veterans' pensions* (GARP). The general rate is payable in multiples of 10 per cent (\$55.43 per fortnight) up to 100 per cent (\$485 per fortnight).

2.9 The intermediate rate disability pension is payable where a person is assessed as having a 70 per cent or more disability (using the assessment for the general rate) and it is also assessed that the person is unable to work for at least 20 hours a week (or more than 50 per cent of full-time hours normally worked). The intermediate rate is \$926.20 per fortnight.

2.10 The special rate disability pension is often referred to as the totally and permanently incapacitated (TPI) disability pension. The special rate can be payable where a person is assessed as having a 70 per cent or more disability and is assessed as unable to work for at least eight hours a week. The special rate is \$1,364.30 per fortnight.

2.11 The extreme disablement adjustment (EDA) rate disability pension can be available for veterans who are 65 years of age and who are entitled to a disability pension at 100 per cent general rate but are not eligible to receive a special rate or intermediate rate pension. Work tests are not applied; instead a test requiring 70 medical impairment points or more and at least six out of seven lifestyle points (determined under the GARP) is applied to qualify for EDA. The EDA rate is \$753.60 per fortnight.

Safety, Rehabilitation and Compensation Act

2.12 The SRCA provides compensation coverage to all Commonwealth employees and is administered by Safety, Rehabilitation and Compensation Commission. The SRCA is also administered by DVA, with Part XI extending coverage to ADF members and former members for injuries and illnesses linked to service between

2 *Submission 156*, p. 31.

1 December 1988 and 1 July 2004.³ It originally covered only peacetime Defence service but was extended to operational service from 1994, and applies to service up to 1 July 2004. DVA noted:

The SRCA encompasses the preceding legislation of 1930 and 1971 in that claims relating to injuries/diseases prior to 1988 are compensated under the provisions of the relevant prior scheme. It has a model of lump sum permanent impairment for non-economic effects of injuries/diseases and incapacity payments for economic loss based on pre-injury earnings, a rehabilitation focus, and health care for accepted injuries/diseases.⁴

2.13 Under the SRCA compensation in the form of a lump sum is paid for the functional loss, pain and suffering and the lifestyle effects from injury or disease accepted as related to SRCA service. DVA noted:

The maximum SRCA [permanent impairment] compensation is currently \$251,672 tax-free lump sum for permanent impairment and non-economic loss (indexed). The *Defence Act 1903* provides for payment of a Severe Injury Adjustment (SIA) if an assessed degree of impairment due to specified SRCA injury or disease is at least 80%. SIA provides for a maximum lump sum of \$78,235 with an additional \$85,750 for each dependent child.⁵

2.14 Incapacity payments are economic loss compensation payments for the inability (or reduced ability) to work because of a service injury or illness:

Under the SRCA, weekly, taxable, incapacity payments for loss of earnings are paid at 100% of normal weekly earnings, reducing to 75% after 45 weeks in receipt of compensation with payments ceasing age 65. These payments, both at 100% and 75% of normal weekly earnings, are less a 5% notional superannuation contribution.⁶

2.15 The costs of treatment for accepted conditions are generally met through a White Card which will cover all reasonable medical, hospital, pharmaceutical and other treatment costs related to the compensable injury or disease.

2.16 Persons who receive compensation under the SRCA may also be able to claim compensation under the VEA. There are 'offsetting' provisions intended to prevent compensation being provided under both the SRCA and the VEA for the same injury or disease. Compensation received under the SRCA can affect the disability pension or income support pension received under the VEA.

3 This situation may be altered if the Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Bill 2016 (currently before the House of Representatives) is passed.

4 DVA, *Submission 156*, p. 31.

5 DVA, *Submission 156*, p. 21.

6 DVA, *Submission 156*, p. 22.

2.17 Claims for ADF members under the SRCA are determined by delegates of the Military Rehabilitation and Compensation Commission (MRCC) within DVA.⁷ As at March 2017, there were 51,926 DVA clients under the SRCA. These included 13,226 permanent impairment payees, 1,800 incapacity payees and 751 open rehabilitation cases.⁸

Military Rehabilitation and Compensation Act 2004

2.18 The MRCA was introduced to replace the VEA and SRCA and to provide a rehabilitation and compensation scheme which combined the features of the VEA and SRCA and covered all types of ADF service from 1 July 2004.⁹ Under the MRCA there are a range of benefits available where liability for a service-related condition has been accepted. These include:

- permanent impairment (lump sum) compensation;
- incapacity benefits (due to an inability or reduced ability to work);
- rehabilitation (both vocational and non-vocational);
- medical treatment (including the Gold Card);
- household and attendant care services; and
- compensation for the dependants of deceased members – including bereavement payments, lump sums, funeral expenses, medical treatment (via the provision of a DVA Health Card (Gold)) and compensation for the cost of obtaining financial advice.¹⁰

2.19 Under the MRCA there are three types of service: warlike service; non-warlike service; and peacetime service. Lump sum payments for ADF members who are injured or contract a disease that is related to warlike and non-warlike service are calculated at a higher rate than those members who were injured on peacetime service. However, members who are eligible for maximum permanent impairment compensation get the same amount, irrespective of the type of service which caused the impairment:¹¹

Permanent impairment compensation payments are non-economic loss payments; that is, they are paid to compensate for pain, suffering, functional loss or dysfunction and the effects of the injury or disease on lifestyle. Under the [MRCA], when liability for an injury or disease that results in permanent impairment has been accepted, the MRCA allows compensation

7 DVA, 'Overview of the Safety, Rehabilitation and Compensation Act 1988 (SRCA)', *Factsheet MCS01*, p. 1.

8 DVA, *Stats at a Glance*, March 2017.

9 *Submission 156*, p. 31.

10 DVA, 'Overview of the Military Rehabilitation and Compensation Act 2004 (MRCA)', *Factsheet MRC01*, 13 October 2016, p. 1.

11 DVA, 'Overview of the Military Rehabilitation and Compensation Act 2004 (MRCA)', *Factsheet MRC01*, 13 October 2016, p. 1.

to be paid periodically, currently a weekly amount of \$335. In the case of a 30-year-old male, the MRCA weekly amount can be converted into a lump sum of up to \$448,971.¹²

2.20 For incapacity payment under the MRCA, weekly, taxable, incapacity payments for loss of earnings are paid at 100 per cent of normal earnings reducing to 75 per cent after 45 weeks after discharge and cease at age 65.

2.21 The Special Rate Disability Pension (SRDP) payment provides an alternative form of periodic compensation (instead of incapacity payments) for veterans whose capacity for work has been severely restricted because of conditions suffered due to military service. Veterans eligible for the SRDP are offered a choice in writing and required to obtain financial advice. The choice between the SRDP and incapacity payments cannot be changed. Those eligible for the SRDP receive a Gold Card. Participation in rehabilitation is a precondition to being assessed as eligible for the SRDP.¹³

2.22 As at March 2017, there were 25,224 DVA clients under the MRCA. These included 9,028 permanent impairment payees, 3,121 incapacity payees and 2,040 open rehabilitation cases.¹⁴

Non-liability Health Care

2.23 Non-liability health care is coverage by DVA for health treatments without the need to establish a link to service or recognise liability for providing compensation. Under these arrangements veterans with certain service may be eligible for treatment of cancer (malignant neoplasm), pulmonary tuberculosis and mental health conditions. In the 2016-17 Budget, the Government announced that it would extend non-liability health care for certain mental health conditions to all current and former ADF members, irrespective of their date, duration or type of service.¹⁵ From 1 July 2017, this was extended to treatment of all mental health conditions.

2.24 This could include treatment from a general practitioner, medical specialist, psychologist, social worker, occupational therapist, psychiatrist, hospital services, specialist PTSD programs, pharmaceuticals, or oncologist services as required. Veterans who are eligible are issued with a *DVA Health Card – for specific conditions* (White Card).¹⁶

12 DVA, *Submission 156*, p. 21.

13 DVA, 'Special Rate Disability Pension (SRDP)', Factsheet MRC09, 13 July 2017.

14 DVA, *Stats at a Glance*, March 2017.

15 DVA, *Budget paper no. 2: Budget measures 2016-17*, p. 155.

16 DVA, 'Non-Liability Health Care', *Fact Sheet HSV109*, 1 July 2017, p. 1.

