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Bills Digest
No. 113 2003–04

**Military Rehabilitation and Compensation
(Consequential and Transitional Provisions) Bill
2003**

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Military Rehabilitation and Compensation (Consequential
and Transitional Provisions) Bill 2003

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26 March 2004

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Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Bill 2003

Date Introduced: 4 December 2003

House: House of Representatives

Portfolio: Veterans' Affairs

Commencement: The formal provisions commence on Royal Assent. The substantive provisions commence at the same time as section 3 of the proposed Military Rehabilitation and Compensation Act 2003.¹

Purpose

To make transitional and consequential amendments related to the proposed Military Rehabilitation and Compensation Act 2003 (the MRCA). These amendments include:

- provisions to determine which legislation will apply to an injury, disease or death that relates to defence service either on or after the commencement of the MRCA or before and on or after that commencement
- provisions to allow a person to choose between making a claim under the MRCA and applying for an increase in pension under the *Veterans' Entitlements Act 1986* (the VEA)
- provisions allowing for offsetting of payments under the VEA and the *Safety, Rehabilitation and Compensation Act 1988* (the SRCA) where payments are received under the MRCA, and
- provisions allowing some determinations made under the VEA or the SRCA to operate as determinations under the MRCA.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Background

As indicated above, this Bill is companion legislation to the Military Rehabilitation and Compensation Bill 2003. This Bill is intended to establish a single, self-contained legislative scheme governing compensation for injuries or conditions arising from service in the Australian Defence Force subsequent to the commencement date of the legislation and recognising the different nature of military service from civilian employment.

Main Provisions

Transitional provisions

Part 2 (clauses 7 to 11) deals with application of the MRCA to injuries, diseases, deaths, losses and damage. The clauses generally provide that the MRCA applies where an injury, disease or death relates to defence service rendered on or after the commencement date, and prior service where it continues after the commencement date, and to treatment provided on or after, the commencement date, and prior treatment where it continues after the commencement date on or after that date.

Clause 9 provides that the MRCA does not apply to an aggravation of, or material contribution to, an injury or disease that is a war-caused or defence-caused injury or disease within the meaning of the VEA if the person elects to apply for an increase in that pension rather than for acceptance of liability under the MRCA.

Parts 3 and 4 (clauses 12 to 214) deal with various situations under which a person may have entitlement to a benefit under a provision of the VEA or the SRCA and under a provision of the MRCA. In most cases the person will only be entitled to the benefit under the MRCA.

Clauses 20 to 22 provide that certain material in force under the VEA or the SRCA has effect under the relevant provisions of the MRCA. For example, declarations of persons as declared members under the SRCA will be taken to have been made under the MRCA on the commencement date.

Clause 23 provides that decisions under or in respect of the Bill will be subject to the review provisions to be established by Chapter 8 of the MRCA.

Amendments of the Veterans' Entitlements Act 1986

Schedule 1 of the Bill includes a number of amendments of the VEA to provide for the commencement of the MRCA. These amendments are primarily designed to ensure that most claims for compensation by members of the Australian Defence Force will arise

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under the MRCA and that persons receiving compensation are not entitled to receive compensation under two pieces of legislation in a way that provides an unfair benefit.

Amendments of the Safety, Rehabilitation and Compensation Act 1988

Schedule 2 of the Bill includes a number of amendments of the SRCA to provide for the commencement of the MRCA. These amendments are primarily designed to provide similarly in relation to the SRCA as the amendments in **Schedule 1** provide in relation to the VEA.

Amendments of other Acts

Schedule 3 includes a number of amendments of other legislation to take account of the operation of the MRCA. In particular, the *Social Security Act 1991* will be amended to take account of amounts received under the MRCA.

Amendments of Income Tax Assessment Acts

Schedule 4 provides for a number of amendments of legislation relating to income tax, principally to deal with the taxation treatment of amounts of compensation to be received under the MRCA. In particular, compensation for the loss of tax-exempt payments will itself be tax-exempt.

Endnote

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- 1 This provision will commence on a date fixed by Proclamation or, if this is not within six months of Royal Assent, the first day after that period.

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