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Consortium of SA Ex-Service Organisations' Submission - Feedback in Response to the Commonwealth Government's Proposed Veterans' Legislation Reform Consultation Pathway.

This letter is written on behalf of 19 ex-service and associated veteran entities. Collectively our membership includes the vast majority of the veteran population that reside in South Australia.

In our submission to the Productivity Commission we supported the recommendation harmonising the initial liability process across the three veteran support Acts. However, we strongly recommended that such legislative action should be reinforced by the introduction of a 'No detriment provision' to ensure no veteran is disadvantaged

We have noted in its interim report in August 2022 the Royal Commission into Defence and Veteran Suicide recommended, "The Australian Government should develop and implement legislation to simplify and harmonise the framework for veterans' compensation, rehabilitation and other entitlements."

We have given careful consideration to the issue proposed in the consultation document of establishing an improved Military Rehabilitation & Compensation Act (MRCA) as the sole ongoing scheme and agree in principle with this proposal. It has huge advantages in terms of reducing complexity and advocate training, but there are some significant issues which need grand parenting.

We do not, however, agree that this should remain the title of the new act.

We recommend a new title that is different from the three current acts is chosen. This will reduce any confusion between the "old MRCA" and "new MRCA. We are suggesting that the title be simple and veteran focused. A suggested new name for the Act is the Veterans Compensation Act.

We agree there should be a legislative mechanism for veterans to have a causal connection to their service presumed for certain commonly claimed and accepted conditions. We support the introduction of presumptive acceptance of diagnosed conditions based on the veteran's employment.

We note the commitment by the Government that all existing arrangements will be grand parented to ensure there is no reduction in entitlements currently being or previously received by veterans and current payment rates will be maintained and indexed normally.

We note and support the government commitments to making the existing Veterans' Review Board the first point of administrative appeal for all claims, the merging of the existing Repatriation Commission and the Military Rehabilitation and Compensation Commission and the establishment of a Ministerial Advisory Council providing advice direct to the Minister for Veterans' Affairs.

We agree to the Statements of Principles and two standards of proof being retained in the harmonised legislation.

We have noted that the current MRCA does not have a section in the Act which defines a veteran.





We recommend that this issue is addressed in the definitions section of the new Act

We are suggesting a new procedure which we believe could enhance the processing of veterans' claims by facilitating the introduction of DVA accepting claims as they are advised to them by the Department of Defence. The Department has been providing injury/health reports to DVA on all veterans for several years now.



Instead of veterans claiming for an injury caused by their ADF service it would be less stressful to veterans if the obvious broken leg, back strain and the like be accepted and added to their DVA file. Once they leave the ADF the obvious conditions are already accepted and veterans can get treatment immediately.



The areas of concern for us and for which we are seeking clarity are

Smoking

The MRCA precludes smoking as a factor for all conditions, however the DRCA and VEA allow smoking as factors for several conditions. In particular, for War Like service or where traumas are involving life threatening events, bullying, sexual assault etc. peer group pressure will not be accepted.

We recommend that Veterans with DRCA or VEA service can use smoking as a factor if relevant to new and sequelae claimed conditions.



Special Rate Disability Pension (SRDP)

Special Rate Disability Pension (SRDP) is the MRCA equivalent of what is commonly referred to as TPI under the VEA. SRDP is offset against Incapacity payments, Permanent Impairment payments and Comsuper Class A and B pensions. In many cases when SRDP is offered there is no payment made due to offsetting. Under the VEA TPI Special Rate the disability compensation payment is only offset if you claim for the same condition under the DRCA and accept that payment.

We recommend that all VEA current above General Rate disability compensation payments be retained under the provision of the VEA including EDA, Intermediate and Special Rates and this be included in grand parenting of current benefits.



Extreme Disablement Adjustment (EDA)

The MRCA has no EDA equivalent for Veterans that under VEA can request an Application for Increase when their conditions worsen thus allowing for further increase to 70 impairment points and Lifestyle Rating of 6 in general these are Veterans that are incapable of looking after themselves and require high level of assistance or have been moved to an Aged Care Facility. In general, these are our most vulnerable Veterans and they would receive very little if anything due to their advanced age in most cases.

We recommend the VEA Veterans retain this benefit for future use and it is included into the grand parenting of current benefits.



Incapacity for Service/Work payments Removal of the 5% superannuation deduction

Incapacity for Service/Work payments under the MRCA for some reason have a 5% superannuation deduction. In the consultation workshop in Adelaide on 20 April 2023, we were unable to obtain a reason for this deduction. The only explanation offered was that incapacity payments should be less than a person's wages. This unsatisfactory and indefensible.

We recommend that the new legislation discontinues the 5% superannuation deduction.



Backlog of Initial Liability and Permanent Impairment claims

The 3 current Acts have led to a backlog of Initial Liability and Permanent Impairment claims processing as delegates need to be trained usually under an individual Act and the benefits between the 3 Acts.

We recommend the new act has grand parenting of DRCA and VEA entitlements/benefits with a “No Detriment” clause and no time limit to ensure all VEA/DRCA clients are not disadvantaged.

Currently under the MRCA it can take 3-4 years for a Veterans to have a condition’s Initial Liability (IL) accepted and to receive a Permanent Impairment (PI) payment for that condition. These are considered as two separate claims and require the Veteran to undertake 2 separate medical examinations by their treating health professional if they have one, and if not, they are required to attend a DVA contracted medico-legal health professional appropriate to their claimed condition.

This often leads to Veterans disengaging with DVA due to the lengthy process and feeling they have to repeat what they have already told their health professionals; We have also noted health professionals have complained that this is an additional workload on them.

We recommend that all future claims under the new Act allow the veteran the option to have the PI assessment conducted as part of the IL process to simplify the process and reduce the financial and mental strain on veterans when having to wait 3-4 years to ensure their financial security for them and their families.

Veterans Gold Card

Currently VEA and MRCA provide a Veterans Gold Card (GC) based on the level of impairment to the Veteran in general 60 impairment points. However, SRDP allows for a GC to be granted for 50 impairment points. A GC can also be provided to veterans with qualifying service on reaching 70 years of age and spouses and children of deceased Veterans can receive a GC in several circumstances

We recommend that the new act grandparents VEA GC entitlement for veterans, spouses and children.

Sequelae Conditions

MRCA currently does not have a provision to extend liability to a sequela condition so veterans with known knee condition have to lodge another IL claim for Osteoarthritis although the OA was obviously caused by the previously accepted condition.

There are many conditions that have a time limit from the original causal occurrence/accident to the clinical onset of OA in general 15 to 25 years and so if you do not claim within that time the claim is refused.

We recommend the new act includes a provision to extend liability for conditions known to be a sequela of the original accepted condition. This would reduce the workload on delegates and save veterans the imposition of having to wait for acceptance of an obvious new impairment caused by their accepted condition.

Thank you for considering our submission.

Yours sincerely



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