THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (VETERAN-CENTRIC REFORMS No.1) BILL 2018

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Veterans’ Affairs, The Honourable Michael McCormack MP)
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OUTLINE AND FINANCIAL IMPACT

The Explanatory Memorandum to the Veterans’ Affairs Legislation Amendment (Veteran-centric Reforms No.1) Bill 2018 (the Bill) provides a description of amendments to the Bill being made.

Schedule 1 - Family Support
The amendments made by Schedule 1, amend the Military Rehabilitation and Compensation Act 2004 (MRCA) and would create a new legislative scheme to provide additional support for current and former members and the families of current and former members, including deceased members, of the Australian Defence Force (ADF). The amendments will provide additional childcare arrangements, counselling, household services and attendant care for prescribed current and former ADF members.

Schedule 2 – Veteran Payment
The amendments proposed in Schedule 2 would create the Veteran Payment. Veteran Payment is a form of interim income support available to veterans to bridge the gap between lodging a claim for a mental health injury and the claim being determined. This payment is designed to provide immediate short-term financial assistance to vulnerable people who may be experiencing financial difficulty. Veteran Payment would be subject to satisfying asset and income tests and it would be a requirement for a person receiving Veteran Payment to participate in vocational and psychosocial rehabilitation, including financial counselling and budgeting. The partner of a person receiving Veteran Payment may also be able to receive a payment themselves.

Schedule 3 – Coordinated Veteran Care mental health pilot
The amendments made by Schedule 3, would amend the Veterans’ Entitlements Act 1986 (VEA) and the Military Rehabilitation and Compensation Act 2004 (MRCA) to create a new legislative scheme to provide a new pilot program to improve the mental health support available to veterans in rural and regional areas.

Schedule 4 - Compensation for household and attendant care services where catastrophic injury or disease
The amendments made by Schedule 4 would amend the existing provisions relating to compensation for household and attendant care services where an Australian Defence Force (ADF) member sustains a catastrophic injury or disease under the Military Rehabilitation and Compensation Act 2004 (MRCA). The new provisions will, more specifically, enable the Military Rehabilitation and Compensation Commission (the Commission) to specify the conditions for the purposes of the definition of “catastrophic injury”. The provisions will also allow the Commission to approve weekly amounts of compensation for household and attendant care services it considers reasonable given the individual’s circumstances and needs.
Schedule 5 - Qualifying service
Schedule 5 would amend the relevant provisions within Division 2 of the Veterans’ Entitlements Act 1986 (VEA) that relates to a claim for a qualifying service determination. The amendments will enable the automation of a qualifying service determination prior to or at the time a veteran engages with DVA or makes an application for any benefit or payment.

Schedule 6 – DRCA
The amendments made by Schedule 6, Part 1 would amend the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) to make technical amendments, such as replacing redundant references to Comcare and other bodies and to repeal provisions not related to providing compensation and rehabilitation to current and former ADF members and other eligible persons.

The amendments made by Part 2, would reinsert section 43 into the Safety, Rehabilitation and Compensation Act 1988 (SRCA) to ensure a peacekeeper will not experience any disadvantage.

Schedule 7 – Specialist Medical Review Council
The amendments made be Schedule 7 are consequential amendments related to the Veterans’ Affairs Legislation Amendment (Omnibus) Act 2017. The amendments would change references to ‘the Council’ to ‘the Review Council’. The Review Council refers to the Specialist Medical Review Council.

Schedule 8 – Other amendments
The amendments made by Schedule 8 Item 1, would amend the existing provisions related to eligibility for treatment under the Australian Participants in British Commonwealth Occupation Force (Treatment) Act 2006. This amendment is intended to extend the gold card eligibility for those members of the ADF who served in Japan prior to the British Commonwealth Occupation Force (BCOF).

The amendment made Items 2 and 3 are technical amendments to more accurately reflect and streamline the operation of the legislation.

Financial Impact
Total: $26.8 million
Schedule 1 - Family Support – $7.1 million
Schedule 2 - Veteran Payment – $16.1 million
Schedule 3 - Coordinated Veteran Care mental health pilot – $3.6 million
No financial impact for Schedules 4 to 8.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

**VETERANS’ AFFAIRS LEGISLATION AMENDMENT**
**(Veteran-centric Reforms No. 1) BILL 2018**

The *Veterans’ Affairs Legislation Amendment (Veteran-centric Reforms No. 1) Bill 2018* (Veteran-centric Reform Bill) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Schedule 1 – Family support**

**Human rights implications**

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Schedule**

The amendments made by Schedule 1, amend the *Military Rehabilitation and Compensation Act 1986* (MRCA) to will create a new legislative scheme to provide additional support for families and members and former members of the Australian Defence Force (ADF) who have rendered warlike service, post 1 July 2004. The amendments will provide additional childcare arrangements, brief intervention counselling, additional household services and attendant care for prescribed current and former ADF members. Families have a crucial role in supporting veterans to achieve their rehabilitation goals and return to an active, fulfilling life following ADF service.

New Chapter 5A – Family support in the MRCA will enable the MRCC may make provision for a range of services with the aim of providing much needed support to current and former ADF members, specified family members and specified family members of deceased ADF members. It is intended the MRCC will provide, by legislative instrument, the following kinds of assistance and benefits:

- Childcare up to $10,000 per child per annum (under school age) and/or $5,000 per child per annum (Primary School) and cover child day care and before and after school care.
- Brief Intervention Counselling will be extended so current and former ADF members with a current Rehabilitation Plan, and their family members will be entitled to up to a total of 20 sessions (in addition to any ‘treatment’ provided under the DVA Health Card system) over five years.
- Additional Household services, Home Care and Counselling assistance will provide for the widow/ers of an ADF member to receive financial assistance for a range of services
(for example, garden maintenance; home help/domestic support) to assist them to adjust to life after the death of their partner.

These amendments commence on 1 May 2018.

**Human rights implications**

The Bill engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

The amendment does not derogate from human rights as it does not prohibit or limit access of financial support.

**Conclusion**

The Schedule is compatible with human rights.
Schedule 2 – Veteran Payment

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Schedule

The amendments proposed in Schedule 2 would create the Veteran Payment. Veteran Payment is a form of interim income support available to veterans to bridge the gap between lodging a claim for a mental health injury and the claim being determined. This payment is designed to provide immediate short-term financial assistance to vulnerable people who may be experiencing financial difficulty. These amendments commence on 1 May 2018.

Human rights implications

The Bill engages the right to social security under Article 9, the right to an adequate standard of living under Article 11 and the right to health under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Right to social security

Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

Right to adequate standard of living

Article 11 of the ICESCR states “The States Parties… recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”.

Right to health

Article 12 of the International Covenant on Economic, Cultural and Social Rights refers to the “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

The amendment does not derogate from human rights as it does not prohibit or limit access of financial support.

Conclusion

This Schedule is compatible with human rights.
Schedule 3 – Coordinated Veteran Care mental health pilot

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Schedule

The amendments made by Schedule 3, would amend the Veterans’ Entitlements Act 1986 (VEA) and the Military Rehabilitation and Compensation Act 2004 (MRCA) to create a new legislative scheme to provide a new pilot program to improve the mental health support available to veterans’ in remote and regional areas.

In the 2017-18 Budget, funding was provided over the forward estimates for two new pilots on suicide prevention and to improve the mental health support available to veterans. The Coordinated Veterans’ Care Mental Health Pilot (the CVC Mental Health Pilot) is funded at $3.6 million over forward estimates.

The CVC Mental Health Pilot will target those with anxiety or depression at the mild to moderate status and with co-morbid physical health conditions with pain.

The CVC Mental Health Pilot will build on the existing CVC Program which uses a team-based model of care led by a general practitioner and supported by a practice nurse. In this Pilot, the General Practitioner would assess and diagnose clients, undertake care planning, and refer clients to use an application on a smart device. The application is for veterans with mild to moderate mental health conditions, such as anxiety or depression who also have a physical condition requiring pain management.

The CVC Mental Health Pilot will recruit up to 125 participants each year over 2 years (250 in total) with the aim to provide support to veterans in rural and regional areas where mental health services may be more difficult to access.

These amendments commence on the 28th day after this Act receives Royal Assent.

Human rights implications

The Bill engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

The amendment does not derogate from human rights as it does not prohibit or limit access of financial support.
Conclusion

The Schedule is compatible with human rights.
**Schedule 4 – Catastrophic injury and disease**

**Human rights implications**

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Schedule**

The amendments made by Schedule 4, would amend the existing provisions related to compensation for household and attendant care services where the person has suffered an injury or disease. The new provisions are specific to those members who have suffered a catastrophic injury or disease and will enable the Military Rehabilitation and Compensation Commission (the Commission) to specify the conditions and weekly amount of compensation it considers reasonable in the circumstances.

These amendments commence on the 28th day after this Act receives Royal Assent.

**Human rights implications**

The Bill engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

The amendment does not derogate from human rights as it does not prohibit or limit access of financial support. This amendment operates to ensure members who suffer from a catastrophic injury related to their service are compensated appropriately based on their actual need and circumstances. The amendments provide the Commission a discretion to exceed the financial limits specified in subsections 216(1) and 219(1) of the MRCA where it is reasonable given the member’s circumstances.

**Conclusion**

The Schedule is compatible with human rights.
Schedule 5 – Qualifying service

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Schedule

This amendment will operate to enable DVA and Defence to share information related to a veteran’s qualifying service, so the Commission may make a qualifying service determination based on this information, removing the need for a veteran to make an application for a determination of qualifying service. A qualifying service determination is the first step in the assessment of a veteran’s eligibility for some benefits and payments under veteran legislation.

These amendments commence on the 28th day after this Act receives Royal Assent.

Human rights implications

The Bill engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

The amendment does not derogate from human rights as it does not prohibit or limit access of financial support.

Conclusion

The Schedule is compatible with human rights.
Schedule 6 – DRCA

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Schedule

Schedule 6 Part 1 – Defence-related Claims

The amendments made by Schedule 6, Part 1, would amend the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) to make technical amendments, such as replace redundant references to Comcare and other bodies and to repeal provisions not related to providing compensation and rehabilitation to current and former ADF members and other eligible persons. These amendments will not alter or amend any entitlement or eligibility to treatment or compensation under the Act.

These amendments the day after the Act receives Royal Assent.

Human rights implications

Schedule 6 Part 1 does not engage any of the applicable rights or freedoms.

Conclusion

Schedule 6 Part 1 is compatible with human rights as it does not derogate from human rights as it does not prohibit or limit access of human rights.

Schedule 6 Part 2 – Other amendments

Overview of the Schedule

The amendments made by Schedule 6 Part 2, reinserts section 43 into the SRCA. These were inadvertently omitted during the drafting of the DRCA. At the time of drafting it was thought the provisions in DRCA would provide sufficient compensation cover for peacekeepers. To ensure a peacekeeper does not experience any disadvantage, section 43 (as it was previously drafted) will be re-inserted into the SRCA. This does not reflect a policy change to any entitlement and/or benefits a peacekeeper may receive under the SRCA.

These amendments commence retrospectively on 12 October 2017, the commencement of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA). The purpose of the retrospective commencement is to ensure any person, who may have been disadvantaged, is placed into the same the position as they were prior to the commencement of the DRCA.

Human rights implications
Schedule 6 Part 2 does not engage any of the applicable rights or freedoms.

**Conclusion**

Schedule 6 Part 2 is compatible with human rights as it does not raise any human rights issues.
Schedule 7 – Specialist Medical Review Council

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Schedule

Schedule 5 would amend the relevant provisions within Division 2 of the *Veterans’ Entitlements Act 1986* (VEA) that relates to a claim for a qualifying service determination. The amendments will enable the automation of a qualifying service determination prior to or at the time a veteran engages with DVA or makes an application for any benefit or payment.

These amendments commence the day after the Act receives Royal Assent.

Conclusion

The Bill is compatible with human rights because they do not impermissibly derogate from human rights.
Schedule 8 – Other amendments

Human rights implications

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Schedule

The amendments made by Schedule 8, Item 1, amend the existing provisions related to who is eligible for treatment under the Australian Participants in British Commonwealth Occupation Force (Treatment) Act 2006. The amendment will enable a person to be eligible for medical treatment, if they were a member of the Australian Defence Force and in Japan at any time during the period from the beginning of 16 August 1945 to the end of 30 January 1946. This amendment will extend the eligibility for medical treatment to those veterans who were in Japan prior to the British Commonwealth Occupation Force (BCOF).

The amendment made by Schedule 8, Item 2 will align the pension age in the Veterans’ Entitlements Act 1986 with the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) and the Military Rehabilitation and Compensation Act 2004 (MRCA) this further aligns the pension age within veteran legislation with Commonwealth legislation.

The amendments made by Schedule 8, Items 3-6, are technical amendments to accurately reflect the intent and operation of the legislation. These amendments are related to the pensioner concession card amendments made in the Veterans Affairs Legislation Amendment (Omnibus) Act 2017 as it removes incorrect references and make amendments to more accurately reflect the intent and operation of the provisions.

These amendments commence the day after the Act receives Royal Assent.

Human rights implications

Right to social security and right to health

The Bill engages the right to social security under Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 9 of the ICESCR states “States Parties … recognize the right of everyone to social security, including social insurance”. General Comment 19 by the Committee on Economic, Social and Cultural Rights sets out the essential elements of the right to social security, including “States parties should … ensure the protection of workers who are injured in the course of employment or other productive work”.

The right to health is contained in article 12 of the International Covenant on Economic, Social and Cultural Rights and refers to the “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

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The amendment made by **Item 1** does not derogate from human rights as it does not prohibit or limit access of financial support or social security. This amendment operates to make specified veterans entitled to a gold card for medical treatment due to their service in Japan at the end of hostiles and prior to BCOF.

The amendments made by **Items 2 and 3 - 7** does not derogate from human rights as it affirms the right to health, as they promote the access to the right to health care.

**Conclusion**

The Schedule is compatible with human rights.
**VETERANS’ AFFAIRS LEGISLATION AMENDMENT (VETERAN-CENTRIC REFORMS No.1) BILL 2018**

**Short Title**
Clause 1 provides that the Act is the *Veterans’ Affairs Legislation Amendment (Veteran-centric Reforms No.1) Act 2018*.

**Commencement**
Clause 2 sets out the commencement date of the provisions of the Act. For convenience the commencement information is replicated below.

**Schedules**
Clause 3 provides that legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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<td><strong>Provisions</strong></td>
<td><strong>Commencement</strong></td>
<td><strong>Date/Details</strong></td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>1 May 2018.</td>
<td>1 May 2018</td>
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<tr>
<td>3. Schedule 2, Parts 1 and 2</td>
<td>1 May 2018.</td>
<td>1 May 2018</td>
</tr>
<tr>
<td>4. Schedule 2, Part 3, Division 1</td>
<td>1 May 2018.</td>
<td>However, the provisions do not commence at all if Part 2 of Schedule 2 to the <em>Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018</em> commences on or before that day.</td>
</tr>
<tr>
<td>5. Schedule 2, items 495 and 496</td>
<td>The later of: (a) immediately after the commencement of the provisions covered by table item 3; and (b) immediately after the commencement of Part 2 of Schedule 2 to the <em>Family Assistance and Child Support Legislation Amendment (Protecting Children) Act 2018</em>. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
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<tr>
<td>6. Schedule 2, items 497 and 498</td>
<td>Immediately after the commencement of Schedule 1 to the <em>Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017</em>.</td>
<td>2 July 2018</td>
</tr>
<tr>
<td>7. Schedule 2, item 499</td>
<td>Immediately after the commencement of the <em>Social Services Legislation Amendment (Ending Carbon Tax Compensation) Act 2018</em>. However, the provisions do not commence at all if that Act does not commence.</td>
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This explanatory memorandum uses the following abbreviations:

- **ADF** means the Australian Defence Force
- **BCOF** means the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*
- **Commission** means the Repatriation Commission
- **CVC Mental Health Pilot** means the Coordinated Veterans’ Care Mental Health Pilot
- **Defence** means the Department of Defence
- **DRCA** means the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*
- **DVA** means the Department of Veterans’ Affairs
- **Legislation Act** means the *Legislation Act 2003*
- **MRCA** means the *Military Rehabilitation and Compensation Act 2004*
- **MRCC** means the Military Rehabilitation and Compensation Commission
- **RMA** means the Repatriation Medical Authority
- **SMRC** means the Specialist Medical Review Council
- **SRCA** means the *Safety, Rehabilitation and Compensation Act 1988*
- **The suicide report** means the Senate Foreign Affairs, Defence and Trade Reference’s committee report *The Constant Battle: Suicide by Veterans*
- **VEA** means the *Veterans’ Entitlements Act 1986*
- **Veteran-centric Reforms Bill** means the Veterans’ Affairs Legislation Amendment (Veteran-centric Reforms No.1) Bill 2018
- **VP** means Veteran Payment
Schedule 1 – Family support

Military Rehabilitation and Compensation Act 2004

The amendments made by Schedule 1, amend the Military Rehabilitation and Compensation Act 2004 (MRCA) and will create a new legislative scheme to provide additional support for current and former members and the families of current and former members, including deceased members, of the Australian Defence Force (ADF). The amendments will provide additional childcare arrangements, counselling, household services and attendant care for prescribed current and former ADF members.

Recently the (then) Minister for Veterans’ Affairs announced a range of initiatives in response to recommendation 19 of the Senate Foreign Affairs, Defence and Trade Reference’s committee report The Constant Battle: Suicide by Veterans. Recommendation 19, at 6.109, states: the committee recommends that the Department of Veterans’ Affairs review the support of partners of veterans to identify avenues for assistance. This review should include services such as information, advice, counselling, peer support and options for family respite care to support partners of veterans.

These proposed amendments will support the implementation of three initiatives aimed at addressing recommendation 19. The measures are intended to help families to maintain their connections to community and employment and to improve social function. Members returning from conflict may find settling back into home life stressful which may contribute to suicide or attempted suicide. Spouses/partners and families may experience increased pressure of having to care for a severely incapacitated veteran in addition to the other home duties, child rearing and any work or other activities they may undertake. Spouses/partners and families also require support to develop skills to care for a member who is incapacitated (physically and mentally) and to identify when to seek professional help for a member who may be at imminent risk of self-harm or harm to others.

These amendments to the MRCA will deliver key psychosocial interventions to members with complex needs and to assist in reducing family pressure.

A new Chapter 5A – Family support will be inserted into the MRCA to enable the MRCC to provide a range of services with the aim of providing much needed support to current and former ADF members, specified family members and specified family members of deceased ADF members. It is intended the MRCC will provide, by legislative instrument, the following kinds of assistance and benefits:

- Childcare up to $10,000 per child per annum (under school age) and/or $5,000 per child per annum (Primary School) and cover child day care and before and after school care.
- Brief Intervention Counselling will be extended so current and former ADF members with a current Rehabilitation Plan (within 5 years post-discharge) and their family members will be entitled to up to a total of 20 sessions (over 5 years). The counselling under this amendment will be in addition to any ‘treatment’ provided under the DVA Health Card system.
- Additional Household services, Home Care and Counselling assistance will enable widow/ers of an ADF member to receive financial assistance for a range of services (for
example, garden maintenance; home help/domestic support) to assist them to adjust to life after the death of their partner.

These amendments commence on 1 May 2018.

**Notes of Clauses:**

**Item 1** amends section 3, Simplified outline of this Act, to omit “The Act also provides for compensation and other benefits to be provided for the dependants of some deceased members” and substitutes it to “The Act provides for compensation and other benefits to be provided for the dependants of some deceased members of the Defence Force who have suffered a service injury or disease; and compensation and other benefits to be provided for the dependants of some deceased members; and certain assistance (such as child care, counselling or household services) to members or former members or related persons of members, former members or deceased members”.

This amendment specifies the intent and purpose of the Act. This amendment will complement the amendments made by Item 7 which will insert new Chapter 5A into the Act.

**Items 2** amends section 3, Simplified outline of this Act, to omit in the second paragraph “Chapters 3 to 6 set out what the benefits are.”, and substitutes it to “Chapters 3, 4, 5 and 6 set out what the benefits are. Assistance or benefits under Chapter 5A can be provided before the Commission has accepted such liability.”.

The effect of this amendment to ensure new Chapter 5A is fully explained within the Simplified outline of the Act. This amendment includes a description of the intent of new Chapter 5A to be inserted by Item 7. The Commission referred to in these amendments is the Military Rehabilitation and Compensation Commission and is also abbreviated to the MRCC.

**Item 3** amends subsection 5(1) to insert a new definition of related person. Related person will mean “of a member has the meaning given by subsection 15(2)”.

Currently section 15 relates to the definition of dependant. Items 4 to 6 will reframe the current definition of dependant to define dependant and related person. This is a technical amendment to ensure the new definition is flagged within section 5 of the Act. For clarity, the amendment will not alter the definition of dependant for the purposes of the Act.

**Item 4** amends section 15 (heading) to repeal the heading and amend it to 15 Definitions of dependant and related person. This is a technical amendment to ensure the heading reflects the purpose and intent of the section. The definition of dependant is not altered with this amendment.

**Item 5** amends subsection 15(1) to omit “any person mentioned in subsection (2)” and substitute it to “a related person of the member”. This amendment will alter subsection (1) to define a dependant of a member means a related person of the member. Subsection (2) will specify the family relationships are now defined as a related person for the purposes of the Act. This amendment reframes the current definition to be inclusive of the definition of dependant and related person.
Item 6 amends subsection 15(2) to omit “These are the persons who can be a dependant of a member for the purposed of subsection (1) and amend it to “a related person of a member is”.

This amendment will specify who is a related person of the member for the purpose of the Act. New subsection 15(2) will specify a related person of a member is the members partner, a parent or step-parent of the member, a parent or step-parent of the member’s partner, a grandparent of the member, a child or stepchild of the member, a child or stepchild of the member’s partner, a grandchild of the member, the members brother, sister, half-brother or half-sister, a person in respect of whom the member stands in the position of a parent or a person who stands in the position of a parent to the member.

The new definition of related persons is purposefully broad to reflect the different family structures accepted as family in contemporary Australian society.

Item 7 inserts new Chapter 5A – Family support after Chapter 5. New Chapter 5A inserts new section 268A, Simplified outline and new section 268B Family support.

New section 268A, Simplified outline, specifies “The Commission may make a legislative instrument providing for assistance or benefits of a certain kind (such as child care, counselling or household services) to a member or former member or to a related person of a member, former member or deceased member. The member, former member or deceased member must have rendered warlike service on or after 1 July 2004.”.

The effect of this new section is to set out the purpose and intent of new Chapter 5A. The intent of new Chapter 5A is enable the Commission to provide a range of assistance and services to specify current and former members and a related person to the current, former or deceased member. The new outline makes it clear the provision of assistance or benefits are dependent on the current or former member satisfying the warlike service requirement with warlike service rendered on or after 1 July 2004.

The purpose of this Chapter is to ensure the provision of assistance or benefits are provided quickly and without delay to those who are specified by the Commission in an instrument.

New section 268B, Family support, creates new five subsections to specify the requirements and kinds of assistance or benefits the Commission may grant. Subsection 268B(1) provides “the Commission may, by legislative instrument, make provision for and in relation to the granting of assistance or benefits of a specified kind to a person who is a member of former member or who is or was a related person of a member, former member or deceased member”.

The effect of the new section is to create the legislative framework for the Commission to, by legislative instrument, provide assistance and benefits to current and former ADF members and their families (defined as related person).

The purpose of this new subsection is to enable the Commission to make a legislative instrument to provide assistance or benefits to a person specified under new paragraphs
268B(1)(a) and (b). The new paragraphs specify the assistance or benefits may be provided to current and former members of the Australian Defence Force (ADF) as well as related person of a current or former member of the ADF including deceased members.

The effect of this subsection will allow the Commission to identify the assistance or benefits to be provided to members, former members, related person of a member, former member or a deceased assistance or benefits to provide support. This will enable the Military Rehabilitation Compensation Commission (MRCC) to be flexible to ensure appropriate assistance or type of benefit is directed to the right ADF members and their families in order to deliver the required services.

The intention is the Commission will specify a kind of person to include a former or current veteran who has post 1 July 2004 warlike service and has a current rehabilitation plan in place, their partner and children and the partner, children, parents and siblings of a deceased member who rendered warlike service and committed suicide due to their service.

New subsection 268B(2) will provide “However, the instrument must not provide for the granting of assistance or benefits unless the member, former member of deceased member has rendered warlike service on or after 1 July 2004.”.

Subsection 268B(2) links into the “warlike service” definition in paragraph 6(1)(a) and means service with the Defence Force of a kind determined in writing by the Defence Minister to be warlike service for the purpose of the Act. However, subsection 268B(2) also makes it clear the warlike service for the purposes of this Chapter must have been rendered from the commencement of the MRCA.

The effect of this subsection to ensure returned and certain deceased members who have rendered post 1 July 2004 warlike service are eligible to receive assistance or benefits under this section. The intent is to recognise the unique needs of these members and their families and provide an appropriate level of assistance and benefits to assist their health and employment outcomes and provide needed support to the family so they can support the member.

New subsection 268B(3) and paragraphs 268B(3)(a)-(c) will provide, “without limiting subsection (1), the kinds of assistance or benefits that may be granted include the following: child care, counselling and household services”.

The intent of this subsection is to enable the Commission to make a legislative instrument to provide childcare, counselling and household services to a member, former member, a person who is or was a related person of a member or deceased member. However the kinds of assistance and benefits are not limited to childcare, counselling and household services. It is intended the Commission may, at a later date, prescribe other types of assistance or benefits.

The prescribing by instrument is intended to enable a flexible and responsive mechanism to ensure the needs of a member, former member, a person who is or was a related person of a member or deceased member may be taken into account.
New subsection 268B(4) and paragraphs 268(4)(a)-(c), will provide “without limiting subsection (1), the instrument may make provision for and in relation to the eligibility criteria for the assistance or benefits, and the conditions on which the assistance or benefits are granted and limits (whether financial or otherwise) on the provision of the assistance or benefits.”.

The intent of this subsection is to enable the Commission to prescribe, by instrument, the mandatory criteria, conditions and limits to be satisfied in order to be entitled to receive the assistance or benefit prescribed under subsection 268B(3). The purpose of this subsection is to set eligibility criteria to be met.

New subsection 268B(5) will provide “despite subsection 14(2) of the Legislation Act 2003, an instrument under subsection (1) of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without, modification, any matter contained in an instrument or other writing as in force or existing from time to time.”.

The subsection is required to ensure any determination made under paragraph 6(1)(a) in relation to ‘warlike’ service is applicable to the section. This provision will ensure that where any new or changes to an existing warlike service determination are made they are automatically incorporated into and effective for this section. However for the purposes of these provision warlike service is limited to warlike service rendered on or after 1 July 2004 as prescribed in subsection 268B(2).

All documents incorporated by reference into Department of Veterans’ Affairs’ legislative instruments are available to view online at: http://clik.dva.gov.au/legislation-library. The Department would undertake to place any document incorporated by reference under an instrument made under subsection 268(5) on this web page.

**Item 8** amends paragraph 423(ba) to insert new paragraph 423(bb) in Part 4 – Appropriations. New subsection 423(bb) will provide “assistance or benefits granted under an instrument made under section 268B”.

The purpose of this amendment is to ensure the Consolidated Revenue Fund may be appropriated for the purposes of providing assistance or benefit provided under section 268B.
Schedule 2 – Veteran Payment

Part 1 – Main Amendments

Veterans’ Entitlements Act 1986

On 24 October 2017, the Government announced its response to the Foreign Affairs, Defence and Trade Committee’s Report on the Inquiry into suicide by veterans and ex-service personnel. The response included several measures to be put in place to reduce suicide and self-harm in the veteran community, with a package of new measures to deliver better support for veterans and their families, including Veteran Payment (VP).

VP is a form of interim income support available between lodging a claim for a mental health injury and the claim being determined, to assist vulnerable people who might be in financial difficulty. In addition to the maximum basic rate of $913 for a single person and $713.60 for a partnered person, a person may also be eligible for pension supplement, rent assistance, remote area allowance and Family Tax Benefit Part A.

It will be a requirement for a person receiving VP participate in vocational and psychosocial rehabilitation, including financial counselling and budgeting. The partner of a person receiving VP may also be able to receive a payment themselves. All VP are subject to the person and their partner satisfying the asset and income tests.

Access to health care for a mental health condition is already available. Currently a member with at least one day of ADF service can access free health care for mental health conditions from DVA. This is known as Non Liability Health Care and came into existence on 1 July 2016.

Item 1 would insert new Part IIIAA – Veteran Payment (VP), after Part IIIA, into the VEA. Part IIIAA would relate to VP. New Part IIIAA would insert new section 45SA, simplified outline and section 45SB VP.

New section 45SA, simplified outline, specifies “The Commission may make a legislative instrument providing for a payment to a person who has made a claim for certain mental injuries or mental diseases. The payment is made before the claim is determined. Payments may also be made under the instrument to the partner of the person.”

The effect of this new section is to set out the purpose and intent of new Part IIIAA. The intent of new Part IIIAA is for the Commission to provide a payment to a person with certain mental injuries or mental diseases where they have made a claim and the claim is yet to be determined. The Commission may also make the payment available to the partner of the person.

For the remainder of this Schedule ‘mental health injury’ and ‘mental health disease’ will be abbreviated to “mental health injury”.

New subsection 45SB(1) would create an instrument making power to enable the Commission to make provision for VP when specified criteria are met. These criteria would include:
• a person has made a claim under either the Military Rehabilitation and Compensation Act 2004 (MRCA) or the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) for a mental health injury or disease (within the meaning of the relevant Act)
• the person is incapable of undertaking remunerative work for more than 8 hours per week
• the person is an Australian resident and is in Australia on the day the claim in the first dot point is made
• the person has not reached pension age for persons other than veterans (see subsections 5QB(2) – (5) of the VEA), and
• the MRCC has not determined liability for the mental health injury claim.

In addition, the partner of a person receiving VP may also be able to receive a VP themselves under subsection 45SB(2). A partner would be eligible for VP where:
• their partner (the person who made a claim under either the MRCA or the DRCA for a mental health injury) is receiving VP, and
• they are an Australian resident and in Australia on the day the claim referred to above is made.

Subsection 45SB(3) would enable the legislative instrument to make provision for a payment to the partner of a person receiving VP in specified circumstances. Those circumstances are where the person receiving VP (the primary person) dies and was receiving VP immediately prior to their death and the partner was also receiving VP immediately before the primary person’s death.

Subsection 45SB(4) would set out a non-exhaustive list of the sorts of matters the legislative instrument may specify. The sorts of matters the instrument is expected to cover include the:
• duration of VP to enable VP to be paid up to 14 days before a claim under either the MRCA or the DRCA for a mental health injury is made. Because DVA payments are paid in arrears, there could be a delay of up to 14 days in making a VP. However, persons likely to benefit from VP may need to receive the payment almost as soon as they lodge their claim. In addition, the instrument may specify VP is payable for a specified period after the MRCC determines the MRCA or the DRCA mental health injury claim. This would enable a smooth transition to either incapacity payments (if liability is accepted) or to another form of income support (if liability is not accepted).
• conditions/further eligibility criteria to require a person receiving VP to participate in vocational and psychosocial rehabilitation, including financial counselling and budgeting.

Subsection 45SB(5) would state the Commission may need to be satisfied with respect to any further matters specified in the legislative instrument.

Subsection 45SB(6) would state the rate of VP is to be worked out in accordance with the Rate Calculator in Schedule 6 of the Veterans’ Entitlements Act 1986.

Subsection 45SB(7) would preclude a person from receiving VP and another type of income support payment or compensation at the same time under the Veterans’ Entitlements Act 1986, Military Rehabilitation and Compensation Act 2004 or the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988. This would include a service pension or war widow / widower’s pension, incapacity payments and a Special Rate Disability Pension.
This is consistent with the treatment of existing income support payments across the Commonwealth. Other mutual exclusion provisions are discussed later in this Explanatory Memorandum.

In addition, subsection 45SB(8) would preclude a partner receiving VP and compensation as a wholly dependent partner under the MRCA at the same time. However, where a person receives compensation as a wholly dependent partner under the MRCA and is eligible for VP in their own right (rather than as the partner of a person receiving VP), the preclusion would not apply.

Subsection 45SB(9) would preclude a person from receiving VP (either as the primary person or the partner of a person receiving VP) and a payment under the ABSTUDY Scheme at the same time.

Subsection 45SB(10) would exempt an instrument made under subsection 45SB(1) from subsection 14(2) of the Legislation Act 2003. This would mean where a document is incorporated by reference into the instrument under subsection 45SB(1), it would be incorporated in its form “from time to time,” not just at the date of incorporation. It is important to have this flexibility to ensure if any documents are incorporated into the instrument, their benefit to VP recipients is not delayed.

All documents incorporated by reference into Department of Veterans’ Affairs’ legislative instruments are available to view online at: http://clik.dva.gov.au/legislation-library. The Department would undertake to place any document incorporated by reference under an instrument made under subsection 45SB(1) on this web page as well.

**Item 2** would amend section 199 of the VEA to add VP. Section 199 is the appropriation power under the VEA and this amendment would ensure the Consolidated Revenue Fund is appropriated to pay VP.

**Item 3** is an application provision and would mean VP may be payable in relation to a claim made on or after 1 May 2018 under either the MRCA or the DRCA for a mental health injury.

In addition, VP could be payable in relation to those claims lodged before 1 May 2018 under the MRCA or the DRCA for a mental health injury where the claim has not been determined before 1 May 2018.
Part 2 – Consequential amendments

Veteran Payment (VP) is a new form of Commonwealth income support payment. It needs to interact with many other provisions across Commonwealth Acts to work effectively. The amendments in Part 2 would ensure VP is treated consistently with the way in which service pension is treated. This does not, however, mean VP is a form of pension. VP is intended to be a short-term interim form of financial support while a person’s claim for a mental health injury is determined.

Amendments to the Veterans’ Entitlements Act 1986

Amended definitions:

Items 216 – 218 would amend the definitions of “partnered (partner getting neither pension nor benefit),” “partnered (partner getting pension or benefit)” and “partnered (partner getting pension)” in paragraphs 5E(b), (c) and (d) where the person is a member of a couple and the person’s partner either is / is not receiving VP.

Items 219 – 224 would amend subsections 5G(3) and (4), which relate to Papua New Guinea residents for the purposes of Australian residence definitions. Under subsection 5G(2), certain persons resident in Papua New Guinea immediately before it became an independent sovereign State are taken to be Australian residents, so long as they continue to reside in Papua New Guinea.

Subsections 5G(3) and (4) deal with the situation where a person in receipt of service pension or income support supplement is taken to be an Australian resident under subsection 5G(2), and their partner or non-illness separated spouse was resident in Papua New Guinea before it became a sovereign State. In those circumstances, the partner or non-illness separated spouse is taken to be an Australian resident for the purposes of Parts III, IIIA and IIIAB of the Veterans’ Entitlements Act 1986.

Items 219 and 222 would add VP, so the partner or non-illness separated spouse of a person would be taken to be an Australian resident for the purposes of Parts III, IIIA, IIIAB and IIIAA of the Veterans’ Entitlements Act 1986 where the person is in receipt of VP is taken to be an Australian resident under subsection 5G(2).

Items 220 and 223 would amend paragraphs 5G(3)(b) and 5G(4)(b) to replace “pensioner’s” with “person’s.” This change would accommodate the addition of VP, which is not a pension.

Items 221 and 224 would amend subsections 5G(3) and 5G(4) to add Part IIIA, which is the new Part of the VEA where VP is located (see item 1 above).

Items 225 – 227 would amend subsection 5GA(5), which, along with subsection 5GA(6), defines “tax-exempt pension supplement.” The amendments add VP to subsection 5GA(5), table item 1 of subsection 5GA(5) and the note after subsection 5GA(5). This definition is relevant to the taxation treatment of the supplementary amount of VP.

Item 228 would amend note 2 to the definition of “ordinary income” in subsection 5H(1). The amendment would add VP, so the note would advise readers the receipt of periodic
compensation may result in a reduction of the person’s rate of service pension, income support supplement or VP under Part IIIC. Where this happens, the payments are not treated as ordinary income.

**Item 229** would add VP to subsection 5H(8), thereby ensuring VP is not counted as income for the purposes of the VEA.

**Item 230** would add VP to subparagraph 5H(8)(w)(i) which would ensure a person in receipt of VP who also receives a payment related to their part-time training or in part-time work experience under the Labour Market Program, does not have the Labour Market Program payment counted as income for the purposes of the Veterans’ Entitlements Act 1986.

**Items 231, 232 and 233** would amend subsections 5JA(4), 5JB(3) and 5JBA(10) to add VP. These subsections provide, in certain circumstances, the Commission may determine an income stream is not asset-test exempt.

**Items 234 and 235** would amend subsection 5L(9) and paragraphs 5L(9)(a), (b) and (c) to add VP. Section 5L contains assets test definitions, and subsection 5L(9) sets out what constitutes a pension year for a person receiving an income support payment. This definition feeds into sections 52E–52J, which deal with dispositions of assets.

**Item 236** would add VP to subsection 5L(12). This subsection sets out when a person’s asset is an unrealisable asset for the purposes of applying the VEA to an income support payment, including VP.

**Item 237** would amend paragraph 5LA(4)(b) to add VP. Section 5LA contains a definition of “principal home” for the purposes of the asset test. Subsection 5LA(4) sets out to whom the extended land use test applies. The amendment would ensure VP recipients can take advantage of this test, subject to meeting other prescribed conditions.

**Item 238** would add VP to the list of income support payments which are “compensation affected pensions” by adding new paragraph 5NB(1)(d). VP is a compensation affected pension where it is payable and the person has not reached pension age within the meaning of subsection 5QB(2), (3), (4) and (5). These subsections replicate subsections 23(5A), (5B), (5C) and (5D) of the Social Security Act 1991.

**Item 239** would amend the definition of “Australia” in subsection 5Q(1), by adding “Part IIIAA.” VP would be located in new Part IIIAA, and it is therefore necessary to add a new reference this new Part to the definition of Australia. To claim VP, a person must be an Australian resident and in “Australia” on the day the claim referred to in paragraph 45SB(1)(a) is made (see **Item 1**).

**Item 240** would add VP to paragraph (b) of the definition of “comparable foreign pension” in subsection 5Q(1).

**Item 241** would amend paragraph (a) of the definition of “pension supplement amount” in subsection 5Q(1). The Rate Calculators in Schedule 6 have been amended to include new method statements for working out the rate of a person’s VP. Therefore, the “pension supplement amount” with respect to VP needs to refer to these two new subpoints.
Item 242 would insert a definition of VP into the subsection 5Q(1) of the VEA to mean “a payment made under an instrument made under section 45SB”.

Items 243 – 247 would amend subsections 5R(11) and (12) and paragraphs 5R(11)(a) and 5R(12)(a) and (c). Subsections 5(11) and (12) enable the Commission to make a determination, despite a person’s absence from a remote area, and subject to certain conditions being met, enabling the person’s income support payment, including VP, to continue to include remote area allowance for the period specified in the determination.

Other amendments to the Veterans’ Entitlements Act 1986

Items 248 – 250 would add VP to subparagraph 27A(1)(c)(ii) and paragraph 27A(1)(d) and amend steps 4 and 5 of the method statement at subsection 27A(2). Section 27A sets out how to calculate arrears of pension and takes into account (where the person is a member of a couple) any income support payment, including VP, a person’s partner received during the arrears period.

Items 252, 255, 258 and 262 would amend subparagraphs 36H(2)(a)(iii), 37H(2)(a)(iii), 38H(2)(a)(ii) and 45M(2)(B); and items 253, 256, 259 and 263 would amend subsections 36H(2)(b), 37H(2)(b), 38H(2)(b) and 45M(2)(c) by adding VP. Usually, to claim age service pension, invalidity service pension or partner service pension, a person must be an Australian resident and in Australia on the day on which the claim is lodged. There is an exception, however, where the person is outside Australia and already receiving an income support payment. The effect of these amendments would be to allow a person outside Australia and who is receiving VP to make a claim for age service pension, invalidity service pension or partner service pension.

Items 264 and 265 would amend paragraphs 45NC(1)(c) and (d) by adding VP. The effect of these amendments would be, where a war widow or war widower was receiving a service pension or VP immediately before being granted a pension under Part II or Part IV of the VEA, it is not necessary for them to make a claim for income support supplement. This is because the Commission will already have the information required to determine the income support supplement claim, by virtue of the service pension or VP.

Item 266 would amend the note after subsection 45R(1) to add VP. Section 45R is concerned with the date of effect of a determination about income support supplement. The note after subsection 45(1) would state income support supplement is not payable to a person who is receiving a service pension, veteran payment or social security pension or benefit.

Amendments to Part IIIB of the Veterans’ Entitlements Act 1986

Part IIIB of the VEA contains provisions applicable to both service pensions (Part III) and income support supplement (Part IIIA). New Part IIIAA – Veteran Payment would be inserted into the VEA. It is therefore necessary to make some consequential amendments to the general provisions in Part IIIB, to ensure they also apply to VP in Part IIIAA.

Item 267 would amend the heading of Part IIIB to “Part IIIB – Provisions applying to service pension, income support supplement and veteran payment”. The effect of this amendment would be to add veteran payment to the title.
**Item 268** would add VP to subparagraphs 48(1)(c)(i) and (ii). Section 48 sets out when a person disposes of ordinary income. This can include where a person engages in a course of conduct to diminish, directly or indirectly, the rate of their ordinary income and the Commission is satisfied the purpose, or the dominant purpose, of the person engaging in the course of conduct was to obtain, or enable the person’s partner to obtain, an income support payment, including VP.

**Item 269** would add VP to paragraphs 48E(a) and (b). Section 48E provides, in certain circumstances, Division 7 of Part IIB (income tests – disposal of ordinary income) does not apply to a disposition of ordinary income occurring either:

- more than 5 years before the time when the person or their partner became eligible to receive an income support payment, including VP or
- less than 5 years before the person or their partner became eligible to receive an income support payment, including VP and before the time where the Commission is satisfied the person who disposed of the ordinary income could reasonably have expected they or their partner would become eligible to receive VP.

**Item 270** would amend section 50 by providing a person’s rate of VP can be adjusted if the person or their partner receives payments under the New Enterprise Incentive Scheme (NEIS). This is consistent with other income support payments under the VEA.

**Items 271 – 275** would add references to VP to parts of section 50A. The effect of the amendments to subsection 50A(1) would be where a person receives both VP and NEIS, the rate of VP would be reduced. The effect of the amendments to subsection 50A(2) would be where a person receives both VP and NEIS and their partner receives partner service pension or VP, the partner’s payment would be reduced. The effect of the amendments to subsection 50A(3) would be where a person receives both VP and NEIS and their partner receives age or invalidity service pension or VP, the partner’s payment would be reduced.

**Items 276 – 278** would amend subsections 50B(1) and (3) and paragraphs 50B(2)(a) and (b) to provide for a person’s income support payment rate reduction, due to a NEIS payment, to only be equal to the amount of the NEIS payment. Where a person’s partner’s rate of payment is to be reduced because of a NEIS payment, the amount of rate reduction for both the person and the person’s partner is 50 per cent of the NEIS payment.

**Item 279** would add VP to subparagraphs 52E(c)(i) and (ii). Section 52E sets out when a person disposes of assets. This can include where a person engages in a course of conduct to diminish, directly or indirectly, the value of the person’s assets and the Commission is satisfied the purpose, or the dominant purpose, of the person engaging in the course of conduct was to obtain, or enable the person’s partner to obtain, an income support payment, including VP.

**Item 280** would add VP to paragraphs 52JE(a) and (b). Section 52JE provides, in certain circumstances, Subdivision BB of Division 11 of Part IIB (disposition of assets in a tax year - individuals) does not apply to a disposition of assets occurring either:

- more than 5 years before the time when the person or their partner became eligible to receive an income support payment, including VP or
- less than 5 years before the person or their partner became eligible to receive an income support payment, including VP and before the time where the Commission is
satisfied the person who disposed of the ordinary income could reasonably have expected they or their partner would become eligible to receive VP.

**Items 281 and 282** would amend subparagraphs 52Y(1)(a)(i) and (ii) to enable a VP recipient to be able to access the financial hardship rules, subject to satisfying the conditions set out in 52Y(1).

**Items 283 – 286** would make amendments to subsections 52Z(1), (2) and (8) by adding VP. Section 52Z deals with the application of the financial hardship rules. The amendment to subsection 52Z(1) would ensure the value of a person’s, or the person’s partner’s, unrealisable asset is disregard when working out the person’s VP rate.

The amendment to subsection 52Z(2) would provide for the person’s adjusted annual rate of ordinary income to be deducted from the person’s VP maximum payment rate. Subsection 52Z(8) states where the sum of the service pension, income support supplement or veteran payment would otherwise be payable to a person and the person’s annual rate of income exceeds the maximum payment rate, the rate so payable is to be reduced by the amount per year of the excess.

**Item 284** would amend the heading of subsection 52Z(2) to “Deduction from maximum payment rate”.

**Items 287 and 288** would amend parts of section 52ZMA, which relates to a debt resulting from commutation of an asset-test exempt income stream, contrary to subsection 5JA(2), 5JB(2) or 5JBA(2). **Item 287** would add references to VP in paragraphs 52ZMA(1)(b) and (d) and **item 288** would add a reference to VP in subsection 52ZMA(2).

The effect would be:
- where a person receives VP while in receipt of an asset-test exempt income stream; and
- any of the income stream is commuted contrary to the contract or governing rules under which the income stream was provided; and
- more VP was paid to the person than would have been the case if the income stream had not been asset-test exempt,
there may be a debt due to the Commonwealth.

**Item 289** would amend subparagraphs 52ZZX(10)(a)(ii) and (b)(ii). This section deals with the disposal of assets to a company or trust before 1 January 2002. Subparagraphs 52ZZX(10)(a)(ii) and (b)(ii) relate to when a person has a purpose of obtaining an income support advantage. With these amendments, this would now include where a person has a purpose of obtaining VP, consistent with other income support payments under the *VEA*.

**Item 290** would amend subparagraphs 52ZZZC(8)(a)(ii) and (b)(ii). This section deals with the disposal of income by a company or trust. Subparagraphs 52ZZZC(8)(a)(ii) and (b)(ii) relate to when the purpose of the disposal was to obtain an income support advantage. With these amendments, this would now include where a person has a purpose of obtaining VP, consistent with other income support payments under the *VEA*.

**Item 291** would amend subparagraphs 52ZZZP(3)(a)(ii) and (b)(ii). This section deals with anti-avoidance. Subparagraphs 52ZZZP(3)(a)(ii) and (b)(ii) relate to when the purpose was
to obtain an income support advantage. With these amendments, this would now include where a person has a purpose of obtaining VP, consistent with other income support payments under the VEA.

**Items 292 – 294** would amend paragraphs 52ZZZT(5)(a) – (c). Section 52ZZZT deals with when the Commission may obtain tax information, and subsection 52ZZZT(5) about the purposes for which a tax file number may be used.

Paragraphs 52ZZZT(5)(a) – (c) would be amended to include a reference to VP, meaning the tax file number of a person in receipt of VP could be used to detect cases where VP

- has been paid when it should not have been, to verify the eligibility of a person for VP and
- to establish whether the rate of VP paid to a person is correct.

**Items 295 – 297** would amend subparagraph 52ZZZW(1)(b)(ii) and notes 3 and 4 after subsection 52ZZZW(1). Section 52ZZZW relates to the effect of certain transfers to special disability trusts. Subsection 52ZZZW(1) sets out when transfer of an asset to a special disability trust is taken not to be a disposal of the asset for the purposes of section 52E. The amendment would add a reference to VP to subparagraph 52ZZZW(1)(b)(ii). The pension age referred to in this subparagraph is for persons other than a veteran (see subsections 5QB(2), (3), (4) and (5)). The amendments to notes 3 and 4 are consequential to the amendment made by item 295.

**Items 298 – 301** would amend subparagraph 52ZZZN(1)(b)(ii), subsection 52ZZZN(1) and notes 3 and 4 after subsection 52ZZZN(1). Section 52ZZZN deals with the timing of transfers of assets by immediate family members of a special disability trust prior to a person reaching pension age. Adding VP would mean, a transfer of an asset where neither the immediate family member nor their partner is receiving VP, would only be taken to have been transferred to the trust when the person reached pension age within the meaning of subsections 5QB(2), (3), (4) and (5). The amendments to notes 3 and 4 are consequential to the amendment made by item 298.

**Item 302** would add new subsection 53D(4A). This amendment would ensure, where a person receives Age or Invalidity Service Pension and they are entitled to treatment for all conditions (ie, they hold a Gold Card), they transfer to VP for a period and then transfer back to Age or Invalidity Service Pension, they continue to receive treatment for all of their conditions whilst receiving VP. They would also not be subject to the income and assets test in section 53E while on VP. Instead, they would be subject to the income and assets tests in Modules E and F of Schedule 6.

**Items 303 - 306** would amend subsection 54(2) and paragraphs 54(1)(a) and (b) and 54(3)(a). Section 54 relates to recipient obligations and when the Secretary of the Department of Veterans’ Affairs may require a person to give notification of an event or change of circumstances. **Items 303 and 304** would add VP to paragraphs 54(1)(a) and (b), which empowers the Secretary to require a person to give notification of an event or change of circumstances. **Item 305** would amend subsection 54(2). This amendment is consequential to adding VP to paragraphs 54(1)(a) and (b) because the current expression, “pension,” would not include a VP recipient. **Item 306** would amend paragraph 54(3)(a) to add a reference to VP. This would ensure a notice to inform the Department of a change cannot specify an
event or change or circumstances, unless the event of change of circumstances might affect the payment of VP.

**Items 307 – 311** would amend the heading to section 54A, subsection 54A(2) and paragraphs 54A(1)(a), (b) and (d) to include VP. **Item 307** would amend the heading to section 54A to include a reference to VP because the current expression, “pension,” would not cover a VP recipient. **Items 308 - 310** would add VP to paragraph 54A(1)(a), (b) and (d), which empowers the Secretary of the Department of Veterans’ Affairs to require a person to give particular information relevant to the payment of VP. **Item 311** would amend subsection 54A(2). This amendment is consequential to adding VP to subparagraph 54A(1)(a) because the current expression, “pension,” would not cover a VP recipient.

**Items 312 – 314** would amend subsections 54AA(1) and (2). Section 54AA empowers the Secretary of the Department of Veterans’ Affairs to require a person to give information, produce documents or appear before an officer. Adding VP to subsection 54AA(1) (**items 312 and 313**) would enable the Secretary to request a VP recipient to give information, produce documents or appear before an officer relating to a matter affecting, or which may affect, the payment of VP. **Item 314** would amend subsection 54AA(2). This amendment is consequential to adding VP to subparagraph 54AA(1)(a) because the current expression, “pension,” would not cover a VP recipient.

**Items 315 and 316** would amend section 54BA, which currently relates to the Secretary of the Department of Veterans’ Affairs being able to require a person to whom a service pension or income support supplement is being paid, or the person’s partner, to take action to obtain a comparable foreign pension. **Item 315** would amend the heading to section 54BA so it would apply to VP, in addition to service pension or income support supplement. **Item 316** would amend paragraphs 54BA(1)(a) and (1A)(a) to add a reference to VP. The effect would be to require a person in receipt of VP to obtain a comparable foreign pension. The Department is not aware of any other country having a similar payment to VP at this stage. However, it is possible another country may enact a similar type of payment in the future.

**Items 317 and 318** would amend section 55 which provides a pension may be suspended or forfeited when a pensioner is in gaol or in psychiatric confinement following criminal charge or conviction. **Item 317** would amend the heading to section 55, and **item 318** subsection 55(1) so VP is also included. The effect would be a person in receipt of VP may have their payment suspended or forfeited if they are in gaol or in psychiatric confinement following criminal charge or conviction.

**Item 319** would amend paragraph 55A(1)(a) to add a reference to VP. The amendment would mean an instalment of a person’s VP could to be redirected to a partner or child (if any) of the VP recipient if the payment is not payable to the person because they are in gaol or psychiatric confinement following criminal charge or conviction.

**Items 320 – 326** would amend section 56, which deals with variation and termination of service pension, income support supplement or veteran payment. **Items 320 – 322** would amend paragraph 56(1)(a), subparagraphs 56(1)(e)(i) and (ii) and subsection 56(1) by adding references to VP. Subsection 56(1) deals with the situation where a person’s circumstances change or an event occurs, resulting in the person ceasing to be eligible for VP or VP would cease being payable to the person but for section 56. **Item 323** would amend subsection
so if a person ceased to be eligible for VP under 56(1), the payment of VP would be cancelled.

**Items 324 – 326** would amend paragraph 56(3)(a) and (e) and subsection 56(3) by adding references to VP. Subsection 56(3) deals with the situation where a person’s circumstances change or an event occurs, resulting in the person’s rate of VP being reduced.

**Items 327 – 330** would amend section 56A, which deals with automatic termination where a VP recipient is not complying with section 54 notice obligations. **Items 327 – 329** would amend paragraph 56A(1)(a), subparagraphs 56A(1)(e)(i) and (ii) and subsection 56A(1) by adding references to VP. Subsection 56A(1) deals with the situation where a person does not notify the Department about a change to their circumstances or an event occurs, resulting in the person ceasing to be eligible for VP or VP would cease being payable. Where either circumstance occurs a person’s VP payment would be cancelled (item 330).

**Items 331 – 333** would amend paragraphs 56B(a) and (e) and section 56B by adding references to VP. Section 56B deals with the situation where a person does not notify the Department about a change to their circumstances or an event occurs, resulting in the person’s rate of VP being reduced.

**Items 334 – 342** would amend section 56C which relates to a rate increase determination, by adding references to VP. The effect would be where the Commission is satisfied a person is being paid VP at a rate lower than what is provided for under the VEA, the Commission must, subject to section 56DA, determine the rate is to be increased to the rate specified in the determination. Further, where the rate of VP has been determined to be nil and the Commission is satisfied the rate of the person’s VP is no longer nil, the Commission must, subject to section 56DA, determine the rate at which the payment is payable to the person is the rate specified in the determination.

**Items 343 -345** would amend section 56D which deals with rate reduction determinations, by adding references to VP. Just as the Commission must increase the rate of a person’s VP if it is being paid at less than the rate provided for by the VEA, so too, must the Commission reduce the rate of a person’s VP payment if it is being paid at more than the rate provided for by the VEA.

**Items 346 – 348** would amend subsections 56DA(1) and (2) to add references to VP. Subsection 56DA(1) states determinations under section 56C or 56D are not to be made where the amount by which the rate of VP would be increased or reduced under the determination would be less than $26 per annum. However, subsection 56DA(2) states 56DA(1) does not apply where the increase or reduction is necessary as a result of a matter or change in circumstances declared by the Commission to be disregarded for the purposes of this subsection.

**Items 349 – 350** would amend subsection 56E(1) to add references to VP. Section 56E enables the Commission to suspend or cancel VP where the Commission is satisfied VP is not payable under the VEA.

**Items 351 and 352** would amend subsection 56EA(1) and paragraph 56EA(1)(a) to add references to VP. The amendments would enable the Commission, where a person is given a
notice under section 54A or 54AA and does not comply with the requirements set out in the notice, to determine VP is to be cancelled or suspended.

**Items 353 and 354** would amend subsection 56EB(1) and paragraph 56EB(1)(a) to add references to VP. The amendments would enable the Commission, where a person is given a notice under subsections 54BA(1) or (1A) or section 54AA and where the Commission is satisfied the person or their partner have not taken reasonable action to obtain a comparable foreign pension within the period specified in the notice, to determine VP is to be cancelled or suspended.

**Items 355 – 357** would amend section 56EC. **Item 355** would amend the heading to section 56EC to add a reference to VP. **Items 356 and 357** would also add VP references to subsection 56EC(1) so where VP is not payable to the person because the rate of payment has been determined to be nil or has been reduced to nil under section 56 or 56A, the Commission may determine VP is to be cancelled.

**Items 358 and 359** would amend paragraphs 56F(a) and (b) by adding reference to VP. This would ensure, where the Commission suspends a person’s VP under section 56E, 56EA or 56EV and later becomes satisfied VP is payable to the person, the Commission may end the suspension.

**Items 360 – 364** would amend paragraphs 56H(5)(b), (6)(b), (7)(b), (8)(b), (9)(a) and (c) by adding references to VP. Section 56 sets out how to determine the date of effect of an adverse determination (a determination under section 56D, 56E, 56EA, 56EB or 56EC.) The effect of the amendments would be the date of effect of a determination about VP (for example, a suspension or cancellation or rate reduction due to a false statement or misrepresentation) could, in certain circumstances, take effect from an earlier date than the day on which the determination is made.

**Items 365 and 366** would amend section 56J by adding references to VP. **Item 365** would amend the heading so it would read “payment may be cancelled at a recipient’s request,” rather than “pension may be cancelled at pensioner’s request.” With the addition of VP, the words, “pension” and “pensioner” no longer cover VP. **Item 366** would enable the Commission to cancel a person’s VP where the person requests the Commission to do so.

**Items 367 – 369** would amend section 56K by adding references to VP. Section 56K enables the Commission to cancel or suspend a person’s payment where instalments have not been drawn for a continuous period of 6 months. **Item 367** would amend the heading to section 56K to change “pension” to “payment.” This is necessary as VP is not a pension. **Item 368** would replace the word “pensioner” with “person” in section 56K. Again, with the addition of VP, the word “pensioner” no longer accurately describes a person receiving VP. **Items 369** would add VP to section 56K.

**Item 370** would amend subsection 56L(1) to add a reference to VP so where the Commission suspends VP under section 56K it may end the suspension at any time.

**Items 371 – 374** would amend subsections 56M(1) and (2) to add references to VP. Section 56M sets out the effect of cancelling or suspending a person’s VP. The amendment would mean, where the Commission determines a person’s VP is to be cancelled, it ceases to be payable from the day on which the determination took effect. Similarly, where the
Commission determines a person’s VP is to be suspended, it is not payable during the suspension period.

**Items 375 and 376** would amend paragraphs 56N(a) and (b). Section 56N relates to changes to payments made by a computer. The amendments would add references to VP so where the rate of VP is reduced or is cancelled or suspended because of the operation of a computer program approved by the Commission, the change is taken to have been made because of a determination by the Commission for this reason.

**Items 377 – 380** would amend section 57, which deals with the right to review certain decisions. **Item 377** would amend the heading to section 57. Instead of referring to “claimants and service pensioners” having a right to seek review, the heading would now refer to “persons.” This change is necessary because VP recipients are not service pensioners, nor do they submit a formal claim for VP. **Item 378** would add new subsection 57(1A). This would give a person the right to seek review of a decision by the Commission where the Commission determines a person is not eligible for VP.

**Item 379** would amend subsection 57(2) by replacing the word, “pensioner,” with “person.” With the addition of VP to section 57, the word “pensioner” no longer accurately describes a person receiving VP.

**Item 380** would add VP references to paragraphs 57(2)(a) to (d). This would mean where a person is dissatisfied with a decision of the Commission to cancel or suspend, terminate the suspension of, reduce or increase the rate of or refuse a request for an increase in the rate of VP, they could seek review of the decision.

**Item 381** would amend paragraphs 57B(3)(a) and (b) to add references to VP. Section 57B deals with the Commission’s powers where there is a request for review. Generally, if the Commission sets aside a decision, it substitutes a new decision. However, subsection 57B(3) would not require the Commission to substitute another decision where the decision set aside is to cancel, suspend or reduce the rate of VP under section 56D or 56E or to increase the rate of VP under section 56C.

**Items 382 – 385** would amend section 57C by adding references to VP. Section 57C relates to the date of effect of certain review decisions. Where the Commission sets aside a decision and substitutes a decision granting or increasing the rate of VP, then the substituted decision would take effect from a date specified by the Commission. However, the date specified must not be earlier than the date from which the Commission could have granted VP or increased the rate when the original decision was made. Where the Commission sets aside a decision to suspend VP, the suspension may end from a date specified by the Commission, which may be an earlier date than the date of the Commission’s decision to set aside the suspension.

**Items 386 and 387** would amend paragraphs 57H(1)(a) and (b) by adding references to VP. This would mean where the Commission reviews a decision for a grant of VP or sets aside the decision to cancel or suspend VP, it must pay the person who requested the review expenses incurred by the person in providing certificates, reports or other documents from a medical practitioner, hospital or similar institution in which they received medical treatment.
Item 388 would amend the heading to Division 17 of Part IIIB. Instead of referring to the “administration of pension payments,” the new heading would read, “Administration of payments.” With the addition of VP, the word “pension” no longer reflects all of the types of payments to which Division 17 applies.

Item 389 would amend the heading to Subdivision A of Division 17 of Part IIIB. Instead of referring to the “general administration of pension payments,” the new heading would read, “General administration of payments.” With the addition of VP, the word “pension” no longer reflects all of the types of payments to which Subdivision A of Division 17 applies.

Items 390 – 392 would amend section 58 which deals with the application of Subdivision A. Item 391 would ensure Subdivision A of Division 17 applies to VP. Item 390 is a consequential amendment, necessary because of item 392. Item 392 creates new subsection 58(2) which states for the purposes of Subdivision A of Division 17, pension includes VP.

Items 393 and 394 would amend section 58A. Item 393 would amend the note after subsection 58A(3F) to refer to subsections (6) – (9), rather than the current (7) and (9), which is consequential to the amendment made by item 394. Item 394 would add new subsection 58A(8), which would deal with how to calculate the rate of VP where an amount of an instalment of VP is payable.

Items 395 – 403 would amend parts of section 58D so a person’s VP could be paid to another person (“agent”) in certain circumstances. Existing references to words such as “pensioner” and “pension” have been changed so where a person would like their VP paid to another person, the Commission may do so.

Item 404 would amend the heading to Subdivision B of Division 17 of Part IIIB. Instead of referring to the “payment of pension outside Australia,” the new heading would read, “Payments outside Australia.” With the addition of VP, the word “pension” no longer reflects all of the types of payments to which Subdivision B of Division 17 applies.

Item 405 would amend the heading to section 58K to include a reference to VP. Item 406 would amend section 58K(1) by adding new paragraph 58K(1)(e). This would enable a person receiving VP to continue to receive VP if outside of Australia.

Item 407 would amend the heading to section 58L. Instead of referring to the “payment of pension outside Australia,” the new heading would read, “manner of payment outside Australia.” With the addition of VP, the word “pension” would no longer reflect all of the payments to which section 58L would apply.

Item 408 would amend section 58L by adding reference to VP. Section 58L deals with the manner of payments outside Australia. Adding VP would ensure VP could be paid to a person physically outside Australia in the manner and in instalments determined by the Commission.

Item 409 would amend table items 1 and 1A in the table at section 59A by changing the reference “Table B” to “Table B-1” instead. This is a consequential amendment made by item 476.
**Item 410** would add new table items 1B and 1C to the table at section 59A. These new table items set out how the maximum basic rates of VP for a person who is partnered and a person who is not partnered are to be indexed and adjusted. They refer to new Table B-2 of Module B in Schedule 6 (inserted by item 476).

**Item 411** would insert new section 59LB, which would provide for adjustment of VP maximum basic rates.

**Item 412** would amend subsection 59M(1) by inserting new paragraph 59M(1)(g) relating to VP. Section 59M alerts the reader to the situation where a person may be entitled to, or receives, compensation and has not reached pension age or qualifying age. In those situations, VP may be affected by Part IIIC – compensation recovery.

**Item 413** would amend paragraph 59Q(7)(b) by changing the reference “Table B” to “Table B-1” instead. This is a consequential amendment made by item 476.

**Item 414** would add new subsection 85(14). This amendment would ensure where a person receives Service Pension and they are entitled to treatment for all conditions (ie, they hold a Gold Card), they transfer to VP for a period and then transfer back to Service Pension, they continue to receive treatment for all of their conditions whilst receiving VP.

A person not entitled to a Gold Card before receiving VP would generally not be entitled to medical treatment under the *VEA*, *the MRCA* or the *DRCA* while they receive VP. The exception is Non-Liability Health Care which is for all mental health conditions for all ADF members and for those members who meet certain periods of service for treatment of tuberculosis and malignant cancer.

**Item 416** would amend paragraphs 118AA(a) and (b) by adding a reference to VP. This would ensure a VP recipient could receive education entry payment, subject to meeting other criteria. One of those criteria is the VP recipient has not reached pension age within the meaning of subsections 5QB(2), (3), (4) and (5).

**Items 417 and 418** would amend paragraphs 118A(2)(b) and 118B(3)(b) by adding a reference to VP. This would ensure a person receiving VP is not entitled to Veterans Supplement. Veterans Supplement is a fortnightly amount paid to some veterans, war widow/ers and orphans to ensure they are not out of pocket following pension reform changes in September 2009. People in receipt of an income support payment from either DVA or Centrelink are not eligible for Veterans Supplement as they receive an equivalent payment with their income support payment.

**Items 419 and 420** would amend paragraphs 118V(1)(f), (2)(f) and (3)(f) by adding references to VP. Section 118V relates to eligibility for a seniors health card. Similar to other income support payments, a person should not receive a seniors health card whilst in receipt of VP.

**Items 421 – 423** would amend paragraphs 119(1)(a), (b) and (e) by adding references to VP. This would ensure where the Commission is considering, hearing or determining and making a decision in relation to the grant of VP, it is not bound to act in a formal manner and is not bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks just.
Item 424 would amend subsection 122(1) to clarify “pensioner” includes a person receiving VP. Subsection 122(6) defines “pension” to include “other pecuniary benefit,” which would include VP.

Items 425 – 428 would amend aspects of section 126, which deals with what happens to a person’s claim where the person dies before the claim is determined by the Commission. The amendments would ensure where a VP recipient dies, their legal personal representative can take the same action with respect to a variation, suspension or cancellation of VP as the person could have taken, had they not died. The amendments would also ensure, where there is a legal personal representative of a deceased VP recipient, another person shall not be appointed by the Commission unless certain criteria have been met.

It is expected the legislative instrument to be made under subsection 45SB(1) would deal with the situation where a person has asked the Commission to determine their eligibility for VP and dies before the determination is made.

Items 429 and 430 would amend subsection 128A(1) and subparagraph 128A(4)(a)(i) to add references to VP. Section 128A deals with the provision of tax file numbers.

Items 431 – 433 would amend paragraphs 132(1)(a), (c) and (d) and subsection 132(2) by adding references to VP. Section 132 relates to payment of travelling expenses in certain cases. The amendments would mean, where a person’s VP eligibility is being considered and they have to travel to discuss the matter with the Commission or attend a medical examination or investigation at the request of the Commission, they would be entitled to travelling expenses in connection with the travel as prescribed under the regulations.

Items 434 – 442 would amend aspects of section 202 which deals with trustees for pensioners. The amendments would broaden the language of section 202 to make it applicable to persons receiving VP. This would mean, where the Commission is satisfied, having regard to the age, infirmity, ill health or improvidence of a VP recipient, it is desirable to make the VP payable to another person as trustee for the VP recipient, the Commission can appoint a person to be trustee, or assume the office of trustee itself.

Items 443 – 449 would amend aspects of section 202A which deals with the Commission or a public servant acting as a trustee. Similar to the amendments to be made to section 202, these amendments would broaden the language of section 202A to make it applicable to persons receiving VP. Section 202A sets out what the trustee may or must not do in relation to the instalments of VP.

Items 450 – 452 would amend subsection 202B(1) and paragraphs 202B(2)(a) and (b) to add references to VP. Section 202B stipulates what another person (other than the Commission or a public servant) may do with respect to instalments of VP.

Item 453 would amend paragraph 204(1)(a) by adding a reference to VP. Section 204 deals with debt recovery relating to payment of a comparable foreign pension. The effect of the amendments would be, where a person receives VP and another amount was paid as a lump sum to the person or their partner (if the person is a member of a couple) so the VP amount would have been reduced, then the amount by which the VP would have been reduced is a debt due by the person to the Commonwealth.
Amendments relating to recovery provisions

**Items 454 – 462** would amend aspects of section 205AA, which enables recovery of overpayments by way of deductions from other pensions, benefits or allowances under the *VEA*, as well as other Acts administered by the Minister for Veterans’ Affairs, such as the *MRCA* or the *DRCA*.

This power already exists with respect to all of DVA’s existing pensions and allowances and also extends to pensions, benefits or allowances under the *Social Security Act 1991*. These amendments would add VP to the existing power so overpayments could be recovered. For example, a person in receipt of a social security benefit or allowance starts to receive VP and there is an overlap of two weeks in the payment of both amounts before the social security benefit or allowance is ceased. In those circumstances, DVA would offset the social security overpayment against the person’s VP.

In the course of making these amendments to section 205AA, the opportunity has been taken to tidy up some of the existing language. References to “new pension or allowance” would be simplified to “new payment” and references to “existing pension, benefit or allowance” would be simplified to “existing payment.”

**Item 463** would amend subsection 208(1)(a) by adding a reference to VP. This would mean, where a person intentionally makes a false or misleading statement in connection with the consideration of their, or another person’s, eligibility for VP, they may have committed an offence.

**Amendments to the Rate Calculators in the Veterans’ Entitlements Act 1986**

The provisions in Schedule 6 of the *VEA* have been amended to take account of VP. Importantly, Module A would be amended to provide for two new method statements for calculating a person’s rate of VP.

With the addition of the maximum basic rate for veteran payment by **item 470**, some consequential amendments are required to existing SCH6-B1 to make it clear SCH6-B1 of Schedule 6 applies to service pension and income support supplement. **Item 464** would amend the heading to Schedule 6 by adding VP, to read: “Schedule 6 – Calculation of rates of service pension, income support supplement and veteran payment.”

**Item 465** would amend the heading to clause 4 of Schedule 6 to add veteran payment to read: “Application for income tax purposes of reductions in respect of service pension, income support supplement and veteran payment.”

**Item 466** would amend the heading to subclause 4(1) of Schedule 6 by adding VP, to read: “Service pension and veteran payment.”

**Item 467** would add a reference to VP in subclause 4(1) of Schedule 6.

**Item 468** would add a new note at the end of subclause 4(1) of Schedule 6. The note clarifies section 60A applies to a person receiving service pension or income supplement, but does not apply to a person receiving VP. Section 60A enables a person receiving service pension or income supplement to receive their minimum pension supplement amount on a quarterly
basis, rather than fortnightly. Because VP is intended to be a short term payment to assist vulnerable veterans before their mental health injury claims are determined, it was not considered appropriate to provide an election to receive pension supplement on a quarterly basis.

**Item 469** would amend subpoint SCH6-A1(1) of Schedule 6 by amending “pension” to “service pension, income support supplement or veteran payment.” This is necessary because VP is not a “pension.”

**Item 470** adds the two new method statements for calculating a person’s rate of VP at the end of SCH6-A1(1) of Schedule 6.

The first new method statement, method statement 7, applies to working out the rate of VP for a person who is not permanently blind. Method statement 7 replicates most of existing method statement 1, which applies to a person’s rate of service pension where the person is not permanently blind and is not a war widow / war widower. The only change between the steps in method statement 1 and method statement 7 is, at step 11, the result in method statement 1 is a person’s rate of service pension and, in method statement 7, it is a person’s rate of veteran payment.

The notes after the method statement steps would generally be replicated, with the following changes:

- there are references to veteran payment rather than service pension
- note 3 has not been replicated because the pension loan scheme will not apply to VP recipients
- note 4A has not been replicated because the transitional provisions in clause 30 of Schedule 5 will not apply to VP recipients, and
- note 9 has not been replicated because the advance payment provisions will not apply to VP.

The second new method statement, method statement 8, applies to working out the rate of VP for a person who is permanently blind. Method statement 8 replicates most of existing method statement 2, which applies to a person’s rate of service pension where the person is permanently blind and is not a war widow / war widower. The only changes between the steps in method statement 2 and method statement 8 are references to veteran payment rather than service pension, and step 7 refers to a person’s rate of veteran payment, rather than their rate of service pension.

The notes after the method statement steps would generally be replicated, with the following changes:

- there are references to veteran payment rather than service pension, and
- note 3 has not been replicated because the advance payment provisions will not apply to VP.

**Item 471** would amend SCH6-A3 of Schedule 6 to add a reference to new method statement 8 to ensure a permanently blind person’s service pension or veteran supplement is not subject to an ordinary/adjusted income test (compare Module E) or an assets test (compare Module F).
**Item 472** would amend the heading to SCH6-B1 of Schedule 6 by adding the words “for service pension or income support supplement” so the heading would read: “maximum basic rate for service pension or income support supplement.”

**Item 473** would also insert the words “for service pension or income support supplement” into SCH6-B1 of Schedule 6 to make it clear SCH6-B1 only applies to the maximum basic rate for service pension or income support supplement. **Item 474** would amend SCH6-B1 to change the title of existing Table B to Table B-1.

**Item 475** would amend the table heading at point SCH6-B1 of Schedule 6 by adding the words “for service pension or income support supplement” to the heading to read: “maximum basic rates for service pension or income support supplement.”

**Item 476** would add new SCH6-B2 of Schedule 6 to Module B. SCH6-B2 would provide for the maximum basic rate for VP, using the amounts in Table B-2 and depending on a person’s family situation. The annual rate of VP for a partnered person would be $18,553.60, or $713.60 per fortnight. The annual rate of VP for a person who is not a member of a couple (single) or a member of an illness separated or respite care couple is $23,764 or $914.00 per fortnight. Note 2 after Table B-2 provides for the maximum basic rates to be adjusted 6 monthly in line with service pensions, and refers the reader to new subsection 59LB (inserted by item 411.)

**Item 477** would add a note after SCH6-BA2 of Schedule 6 to clarify section 60A applies to a person receiving service pension or income supplement, but does not apply to a person receiving VP. Section 60A enables a person receiving service pension or income supplement to receive their minimum pension supplement amount on a quarterly basis, rather than fortnightly. Because VP is intended to be a short term payment to assist vulnerable veterans before their mental health injury claims are determined, it was not considered appropriate to provide an election to receive pension supplement on a quarterly basis.

**Item 478** would add veteran payment to point SCH6-C1 of Schedule 6 to ensure points SCH6-C2 to SCH6-11 and point SCH6-C15, which relate to rent assistance, apply to a person receiving veteran payment.

**Item 479** would ensure points SCH6-C13 and SCH6-14 also apply to a person receiving veteran payment. Point SCH6-C13 sets out how to work out the effect of a person’s disability pension and permanent impairment compensation on the rate of rent assistance. Point SCH6-14 sets out how to work out a person’s disability income.

**Item 480** would add the words “veteran payment” to clarify points SCH6-C13 and SCH6-14 apply to a person receiving veteran payment.

**Items 481 and 482** would add VP to paragraph SCH6-C5(b) and subparagraph SCH6-C5(c)(i) of Schedule 6. Point SCH6-C5 sets out when a person has a partner with a rent increased pension. This amendment would ensure VP is counted as one of the partner’s possible income support payments.

**Item 483** would amend point SCH6-C9 of Schedule 6 by adding VP. This would mean annual rent is the annual rent paid or payable by the person whose veteran payment rate is being calculated for the purposes of rent assistance.
**Item 484** adds VP to point SCH6-C12 of Schedule 6. Currently, SCH6-C12 states SCH6-C13 and SCH6-14 only apply to service pension. SCH6-C13 and SCH6-14 (discussed above) should also apply to VP.

**Item 485** would add VP to the paragraph SCH6-E1(a) of Schedule 6 definition of “ordinary/adjusted income” to mean ordinary income for the purpose of calculating the rate of VP.

**Item 486** would amend the note after step 2 in the method statement at point SCH6-E12 of Schedule 6. “Pension rate” would be changed to “rate of service pension, income support supplement or veteran payment” to accommodate VP, as it is not a pension.

**Item 487** would amend the heading of subpoint SCH6-E11(1) of Schedule 6 by removing the word, “pension.” This would accommodate VP, as it is not a pension.

**Item 488** would amend the note after step 2 in the method statement at point SCH6-F1 of Schedule 6. “Pension rate” would be changed to “rate of service pension, income support supplement or veteran payment” to accommodate VP, as it is not a pension.

**Item 489** would amend the heading of point SCH6-F4(1) of Schedule 6 by removing the word, “pension.” This would accommodate VP, as it is not a pension.

**Item 490** would amend point SCH6-G1 of Schedule 6 to replace, “included in a person’s rate of pension” with “included in a person’s rate of service pension, income support supplement or veteran payment.” This would accommodate VP, as it is not a pension.

**Item 491** would amend subparagraph SCH6-G1(a)(i) of Schedule 6 to replace “pension” with “service pension, income support supplement or veteran payment.” This would accommodate VP, as it is not a pension. Subject to meeting the other conditions specified in SCH6-G1, a person receiving VP would also be entitled to remote area allowance.

**Item 492** would amend subparagraphs SCH6-G1(a)(ii) and (iii) of Schedule 6 and is consequential to the change made by item 491.

**Item 493** would amend paragraph SCH60G4(b) of Schedule 6 to add a reference to VP. This would mean, where a person who is a member of a couple is qualified for remote area allowance and their partner is not receiving VP and has an FTB child or a regular care child, then the child is considered to be an FTB child or regular care child of the person for the purposes of Module G in the Rate Calculator.

**Definitions of “Veteran Payment”**

With the addition of the new VP to the VEA and the need for consequential amendments to other legislation, a definition of VP has been inserted into several pieces of legislation. The definition refers to a veteran payment made under an instrument made under subsection 45SB of the VEA.

**Item 13** would amend clause 1 of Schedule 1 of the Aged Care Act 1997 to add a definition of VP.
Item 23 would amend clause 1 of Schedule 1 of the *Aged Care (Transitional Provisions) Act 1997* to add a definition of VP.

Item 25 would amend subsection 3(1) of the *A New Tax System (Family Assistance) Act 1999* to add a definition of VP.

Item 53 would amend section 6 of the *Paid Parental Leave Act 2010* to add a definition of VP.

Item 68 would amend subsection 23(1) of the *Social Security Act 1991* to add a definition of VP.

Item 214 would amend subsection 3(1) of the *Student Assistance Act 1973* to add a definition of VP.

**Amendments relating to taxation of Veteran Payment**

To ensure the taxation treatment of VP is similar to other DVA income support payments, amendments are required to the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*.

**Income Tax Assessment Act 1936**

Items 45 and 46 would amend paragraphs 202CB(7)(b) and 202CE(8)(b) of the *Income Tax Assessment Act 1936*. The amendment to paragraph 202CB(7)(b) would add VP. This would mean subsections 202CB(2) to (4), which deal with when a recipient is taken to have stated their Tax File Number (TFN) in a TFN declaration, would not apply to a TFN declaration given to the Secretary of DVA by a VP recipient. The amendment to paragraph 202CE(8)(b) would add VP. This would mean subsection 202CE(3), which deals with when the Commissioner for Taxation is not satisfied a recipient has a TFN, would not apply to a TFN declaration given to the Secretary of DVA by a VP recipient.

**Income Tax Assessment Act 1997**

Item 47 would add new table item 21AA.1 to the table at section 52-65 of the *Income Tax Assessment Act 1997*. This would mean the supplementary amount of VP is tax exempt. The supplementary amount of veterans’ affairs’ payments is set out in section 52-70 of the *Income Tax Assessment Act 1997* and includes so much of the payment as is included by way of rent assistance, remote area allowance and the tax-exempt pension supplement for the payment, for example. In addition, any payment made because of a person’s death (see subitem 5(3)) would also be tax exempt.

Item 48 would add new table item 21AA to the table at section 52-75 of the *Income Tax Assessment Act 1997*. This table lists the provisions of the VEA under which payments are made. With the addition of VP, a new table item to reflect this addition is required.
A New Tax System (Family Assistance) Act 1999

Item 24 would amend the definition of “receiving” in paragraph 3(1)(c) of the A New Tax System (Family Assistance) Act 1999 to include VP. The definition of “receiving” is important because the concept of a person being in receipt of a range of income support payments is part of the eligibility criteria for the special grandparent rate of child care benefit (as referred to in section 50S of the A New Tax System (Family Assistance) (Administration) Act 1999) and, from 2 July 2018, to the eligibility criteria for ACCS (grandparent) (under section 85CJ of the A New Tax System (Family Assistance) Act 1999). VP will be added to the income support payments to trigger eligibility for the special grandparent rate of child care benefit and additional child care subsidy (grandparent) (ACCS (grandparent)) to align it with a service pension or an income support supplement under the VEA.

Item 26 is consequential to item 24 and adds VP to subsection 3AA(2).

Item 27 would add VP to subparagraphs 1(2)(a)(ii) and (b)(ii) of Schedule 1 of the A New Tax System (Family Assistance) Act 1999. Clause 1 sets out the overall rate calculation process, with subsection (2) providing how a person’s FTB Part A rate is to be calculated. Adding VP ensures a VP recipient’s FTB Part A is calculated under Part 2 of the Schedule.

Item 28 would add VP to paragraph 19B(b) of Schedule 1 of the A New Tax System (Family Assistance) Act 1999. This would ensure a permanently blind person receiving VP has a nil maintenance income excess and their income and maintenance tested rate is the same as their income tested rate.

Item 29 would add VP to subclause 28B(2) of Schedule 1 of the A New Tax System (Family Assistance) Act 1999. Usually, a person’s FTB Part B rate is nil if their or their partner’s adjusted taxable income is more than $100,000. The effect of adding VP to subclause 28B(2) is to exempt a person from the general rule their or their partner’s adjusted taxable income is more than $100,000 then their FTB Part B rate is nil.

Items 30 and 31 would amend clause 38K of Schedule 1 of the A New Tax System (Family Assistance) Act 1999 by adding VP. This would preclude a person from receiving rent assistance under both family assistance and veterans’ entitlements laws. This is consistent with other income support payments under the VEA.

Item 32 would amend clause 38L of Schedule 1 of the A New Tax System (Family Assistance) Act 1999 by adding VP. This would ensure, where a person or their partner receives VP, then the person’s income excess is nil and their income tested rate is the same as their maximum rate.

Item 33 would add VP to subparagraph 7(a)(ii) of Schedule 2 of the A New Tax System (Family Assistance) Act 1999. Clause 7 of Schedule 2 deals with the method of calculating taxable income percentage for the purposes of a session of care provided to a child in an income year. The amendment would ensure a VP recipient’s taxable income percentage is 100 per cent, consistent with other income support payments under the VEA.

Item 34 would amend clause 7 of Schedule 3 of the A New Tax System (Family Assistance) Act 1999 by adding new paragraph (haaa) to refer to VP. Clause 7 of Schedule 3 specifies certain payments as tax free pensions or benefits in an income year. A person’s maximum basic rate of VP will be taxable, but the supplementary component will be tax-exempt.
Item 35 would amend paragraphs 10(4)(b) and (d) of the *A New Tax System (Family Assistance)(Administration) Act 1999* by adding VP. This would mean a claim for payment of FTB for a past period is not effective where the period is in either of the two income years before the one in which the claim is made and at any time during the period either the person or their partner received VP and, at the time the claim is made the person or their partner receives VP if the claim is not accompanied by a claim for FTB for instalment. This is consistent with other income support payments under the VEA.

Item 36 would amend paragraph 21(3)(b) of the *A New Tax System (Family Assistance)(Administration) Act 1999* by adding VP. Section 21 deals with requests for cessation of an instalment determination. Other income support payments are listed in paragraph 21(3)(b). This amendment would ensure VP is treated consistently with those other income support payments.

Item 37 would add VP to subsection 32AI(1) of the *A New Tax System (Family Assistance)(Administration) Act 1999*. In certain circumstances this would mean a VP recipient could be exempted from the general requirement they are not entitled to be paid FTB on the basis of an estimated income due to previously having two consecutive years of zero entitlement to FTB due to underestimation of income.

Items 38 and 39 would amend paragraph 50S(1)(a) of the *A New Tax System (Family Assistance)(Administration) Act 1999* by adding VP (from 1 May 2018, noting section 50S will be repealed from 2 July 2018 when ACCS (grandparent) will replace the special grandparent rate of child care benefit). Section 50S sets out when a person is eligible for the special grandparent rate (with respect to child care benefits). Adding VP ensures where a person or their partner receives VP, is the grandparent or great-grandparent of the child and is the principal carer of the child, then they may be able to be eligible for the special grandparent rate (if they meet other criteria in section 50S and for eligibility for child care benefit).

Item 40 would add VP to paragraph 78D(1)(c) of the *A New Tax System (Family Assistance)(Administration) Act 1999*. Adding VP ensures a person receiving VP does not have to pay an interest charge under section 78 (no repayment arrangement in effect) or 78A (failure to comply with or termination of repayment arrangement) in certain circumstances.

**Amendments to mutually exclude certain Commonwealth income support payments**

Consistent with Commonwealth policy, where a person is in receipt of a Commonwealth income support payment, they should not receive a second Commonwealth income support payment at the same time. These amendments would ensure a person who receives VP does not also receive a second Commonwealth income support payment at the same time, and vice versa. For example, a person would not be able to receive both VP and newstart allowance. Currently, a person receiving a DVA service pension is unable to receive both the pension and another Commonwealth income support payment at the same time.
**Veterans’ Entitlements Act 1986**

In addition to the mutual exclusion provisions, subitem 5(7) would insert a provision to restrict a person from receiving both VP and other types of payments under the *VEA* or the *DRCA* at the same time.

**Items 251, 254, 257 and 261** would amend sections 36C and 37C; and paragraphs 38C(1)(a) and 45D(1)(b) of the *VEA* by inserting new paragraphs to add VP. These amendments would ensure a person who is in receipt of VP cannot also receive an age service pension, invalidity service pension, partner service pension or income support supplement under the *VEA* at the same time.

In addition, item 260 would amend paragraph 45B(1)(c) by adding VP. Section 45B sets out circumstances in which income support supplement may not be payable (even although a person is eligible for income support supplement), because the person is receiving another type of income support payment.

**Item 415** would add new subsection (3) to section 118 of the *VEA*, which would preclude a person from receiving both VP and a payment under the Veterans’ Children Education Scheme at the same time.

As noted above, subitem 5(8) would prevent a partner from receiving VP, where the partner is a wholly dependent partner within the meaning of the MRCA and would not otherwise be eligible for VP in their own right under subitem 5(1).

As noted above, subitem 5(9) would prevent a person from receiving both VP and a payment under the ABSTUDY scheme.

**Military Rehabilitation and Compensation Act 2004**

**Items 49, 50 and 52** would amend subsections 222(5), 246(4) and 301(4) of the *MRCA* by inserting a new paragraph to add VP. These amendments would ensure a person who is in receipt of VP cannot also receive a MRCA supplement at the same time. A MRCA supplement is a fortnightly payment and replaced telephone (and internet) allowance and pharmaceutical allowance to eligible MRCA claimants.

**Item 51** would add new subsection (7) to section 258 of the *MRCA*, which would preclude a person from receiving both VP and a payment under the Military Rehabilitation and Compensation Act Education and Training Scheme 2004 at the same time.

**Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006**

**Item 41** would amend subsection 23C(4) of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* to preclude a person receiving both VP and a pharmaceutical supplement under the Act at the same time. Pharmaceutical supplement is a fortnightly payment similar to Veterans Supplement and MRCA Supplement.
Social Security Act 1991

Items 69, 70, 77, 78, 83, 84, 86, 87, 93, 94, 95, 96, 97, 98, 99, 100, 102, 104, 112, 113, 116, 117, 125, 126, 129, 130, 132, 133 would amend subsections 47(1), 103(1), 151(1), 202(1), 321(1), 368(1), 408CF(1), 500S(1), 614(1), 686(1), 735(1), 771HI(1) and 787(1); and paragraphs 47(2)(b), 103(2)(b), 151(2)(b), 202(2)(b), 321(2)(b), 368(2)(b), 408CF(2)(b), 500S(2)(b), 552(2)(a), 578(2)(a), 614(2)(b), 686(2)(b), 735(2)(b), 771HI(2)(b) and 787(2)(b) respectively of the Social Security Act 1991 so a person cannot receive both VP and an income support payment under the Social Security Act 1991 at the same time.

Items 69 and 70 would prevent a person from receiving both VP and an age pension at the same time.

Items 77 and 78 would prevent a person from receiving both VP and a disability support pension at the same time.

Items 83 and 84 would prevent a person from receiving both VP and a wife pension at the same time.

Items 86 and 87 would prevent a person from receiving both VP and a carer payment at the same time.

Items 93 and 94 would prevent a person from receiving both VP and a bereavement allowance at the same time.

Items 95 and 96 would prevent a person from receiving both VP and a widow B pension at the same time.

Items 97 and 98 would prevent a person from receiving both VP and a widow allowance at the same time.

Items 99 and 100 would prevent a person from receiving both VP and a parenting payment at the same time.

Item 102 would prevent a person from receiving both VP and youth allowance at the same time.

Item 104 would prevent a person from receiving both VP and an austudy payment at the same time.

Items 112 and 113 would prevent a person from receiving both VP and a newstart allowance at the same time.

Items 116 and 117 would prevent a person from receiving both VP and a sickness allowance at the same time.

Items 125 and 126 would prevent a person from receiving both VP and a special benefit at the same time.

Items 129 and 130 would prevent a person from receiving both VP and a partner allowance at the same time.

Items 132 and 133 would prevent a person from receiving both VP and a special needs pension at the same time.
Farm Household Support Act 2014

Item 44 would amend paragraphs 38(2)(a) and (b) to prevent a person from receiving both VP and Farm Household Allowance at the same time. Farm Household Allowance provides eligible farmers and their partners experiencing financial hardship with assistance through planning and training for long-term financial improvements as well as income support for up to three cumulative years.

Amendments to the Social Security Act 1991

Amended definitions


Item 55 would amend the definitions of “partnered (partner getting neither pension nor benefit),” “partnered (partner getting pension or benefit)” and “partnered (partner getting pension”) in subparagraphs 4(11)(b)(iii), (c)(iii) and (d)(iii) of the Social Security Act 1991 to include VP. Section 4 of the Social Security Act 1991 deals with family relationships definitions with respect to couples and subsection 4(11) outlines standard family situation categories. The amendments would ensure any VP received by a partner is taken into account with respect to the person’s family situation.

Item 56 would amend the definition of “recipient child” for the purposes of section 5A of the Social Security Act 1991 which relates to when a single person is sharing accommodation. A recipient child would include a child in receipt of VP. This is relevant for subsection 5A(4) which provides a person is not to be treated as a single person sharing accommodation solely because the person shares the accommodation with one or more recipient children of the person.

Item 57 would amend paragraph 8(8)(s) of the Social Security Act 1991 by adding VP. Subsection 8(8) of the Social Security Act 1991 sets out amounts not considered income for the purposes of this Act. Including VP in paragraph 8(8)(s) would ensure where a VP recipient is also in part-time training or engaged in part-time work experience under a Labor Market Program then their payment under the program is not counted as income for the purposes of the Social Security Act 1991.

Item 58 would amend subparagraph 8(8)(y)(i) of the Social Security Act 1991 by adding VP. This paragraph would ensure a recipient’s VP payment is not counted as income for the purposes of the Social Security Act 1991.

Item 59 would amend the definition of “pensioner couple” in subsection 9(1) of the Social Security Act 1991 by adding VP. Section 9 deals with definitions about financial assets and income streams. This would ensure where a member of a couple receives VP, then the couple falls within the definition of pensioner couple.

Items 60 - 63 would add VP to paragraphs 11(10)(a), (d) and (f), and subparagraphs 11(10)(e)(ii), (iii) and (iv) of the Social Security Act 1991. Section 11 deals with assets test definitions and subsection 11(10) “pension year – disposal of assets.” This is relevant to
section 1123 and 1128 which deal with disposal of assets and would mean, in certain circumstances, receipt of VP would be relevant to a “pension year.”

**Item 64** would amend the definition of “income support payment” in subsection 23(1) of the *Social Security Act 1991* by adding VP. The term income support payment would refer to seven different types of payments. The term income support payment is used in many provisions in the *Social Security Act 1991*, conveniently providing a shorthand description of the seven types of payments.

**Item 65** would amend paragraph (d) of the definition of “payday” in subsection 23(1) of the *Social Security Act 1991* to include a reference to VP. **Item 66** would amend paragraph (b) of the definition of “payday” in subsection 23(1) of the *Social Security Act 1991* to include a reference to VP.

**Item 67** would amend the definition of “social security recipient status” for the purpose of the definition of “long-term social security recipient” in subsection 23(1) of the *Social Security Act 1991* by adding VP.

**Bereavement payments**

**Items 71, 72, 79, 80, 81, 89, 90, 91, 101, 103, 105, 114, 118, 127, 131, 134, 135 and 136** would amend subparagraphs 82(1)(d)(ii), 82(5)(b)(iii), 146F(1)(d)(ii), 146F(5)(b)(iii), 237(1)(d)(ii), 237(5)(b)(iv), 514A(1)(c)(ii), 567(1)(e)(ii), 592(1)(e)(ii), 660LA(1)(e)(ii), 728PA(1)(e)(ii), 768A(1)(e)(ii), 771NU(1)(c)(i), 822(1)(d)(ii) and 822(5)(b)(iii); and paragraphs 83(1)(b), 146G(1)(b), 238(1)(b), 552(2)(a) and 823(1)(b) of the *Social Security Act 1991*, respectively, by adding VP.

This means a person receiving age pension, disability support pension, carer payment, special needs age pension, wife pension, benefit PP (partnered), youth allowance, austudy payment, newstart allowance, sickness allowance, special benefit or partner allowance under the *Social Security Act 1991* who was a member of a couple and the person’s partner was receiving VP immediately before they died, is qualified for bereavement payments to cover the bereavement period.

In addition, **item 88** would amend subparagraph 236A(i)(b)(iii) of the *Social Security Act 1991* by adding in VP. This would mean where a person remains qualified for carer payment and immediately before the person died either they or their partner was not receiving VP, then a lump sum is payable to the person.

**Items 74, 82, 92 and 137** would amend sub-subparagraphs 91(1)(b)(ii)(C), 146Q(1)(b)(ii)(C), 246(1)(b)(ii)(C) and 830(1)(b)(ii)(C) of the *Social Security Act 1991* by adding in VP. Where a person dies and certain conditions are met, these provisions enable the Secretary of the Department of Social Services to pay to such person as the Secretary thinks appropriate an amount equal to the amount payable to the person who died on the payday after their death.
Other amendments

Items 75 and 76 would amend subparagraphs 92C(e)(iv) and 92L(b)(iv), of the Social Security Act 1991 by adding VP. Section 92C deals with qualification for the pension bonus and section 92L with cancellation of membership of the pension bonus scheme. The Pension Bonus Scheme registration date closed on 1 July 2014 and it is unlikely many people would be affected by these amendments. For the sake of completeness, however, the amendments have been included.

Items 85, 106, 119 and 128 would amend paragraphs 198(7)(a), 593(4)(a) and 729(6)(a); and subparagraph 771HA(1)(c)(i) of the Social Security Act 1991 by adding in VP. These provisions deal with qualification for, and payability of, carer payment, newstart allowance, special benefit and partner allowance.

Items 120 – 123 would amend paragraph 729(6)(b) and the note after subsection 729(6) of the Social Security Act 1991 to include references to VP. Currently, paragraph 729(6)(b) and the note after subsection 729(6) just refer to “pension.” They also need to refer to “social security pension, service pension, income support supplement or veteran payment,” which are referred to in paragraph 729(6)(a).

Items 111, 115 and 124 would amend subparagraphs 612(1)(b)(i) and (2)(b)(i), 681(1)(b)(i) and (2)(b)(i), 734(1)(b)(i) and (2)(b)(i) of the Social Security Act 1991 by adding in VP. These sections relate to the value of assets of members of couples and provide for different attribution of assets, depending on whether a person’s partner is or is not receiving an income support payment.

Items 107 – 110 would amend paragraph 593(4)(b) and the note after subsection 593(4) of the Social Security Act 1991 to include references to VP. Currently, paragraph 593(4)(b) and the note after subsection 593(4) just refer to “pension.” They also need to refer to “social security pension, service pension, income support supplement or veteran payment,” which are referred to in paragraph 593(4)(a).

Items 138 - 141 would amend elements of section 1061PJ of the Social Security Act 1991 which deals with payments attracting the pensioner education supplement. Item 138 would amend paragraph 1061PJ(1)(b) to change “pension” to “payment.” This is necessary because VP would be added to the list of payments attracting the pensioner education supplement and therefore the word payment is needed to cover both pensions and VP payable under the Veterans’ Entitlements Act 1986. “Pension” alone would not cover VP.

Items 139 and 140 would make similar amendments to the heading of subsection 1061PJ(3) as well as 1061PJ(3) itself, so the reference to pension is replaced by payment. Finally, item 141 would add new subparagraph (bb) to subsection 1061PJ(3), thereby including VP as one of the payments attracting the pensioner education supplement.

Item 142 would add VP as new subparagraph 1061PZG(1)(b)(iv) of the Social Security Act 1991. This section deals with the rate of pensioner education supplement, enabling the receipt of VP to be taken into account when working out a person’s pensioner education supplement fortnightly rate.

Item 143 would add VP to paragraph 1061TA(2)(a) of the Social Security Act 1991. Section 1061TA deals with when utilities allowance is payable. A person receiving VP on an utilities
test day would not be paid the utilities allowance under the *Social Security Act 1991*. This is consistent with other income support payments under the *VEA*.

**Item 144** would add VP to paragraph 1061ZG(1)(f) of the *Social Security Act 1991*. Section 1061ZG sets out the qualification rules for senior health card. Similar to the way in which service pension and income support supplement are treated, a person receiving VP would not qualify for a seniors health card.

**Items 145 – 169** deal with amendments to the various rate calculators under the *Social Security Act 1991*.

**Items 145, 146, 147, 148, 149, 150, 154, 155, 159, 160, 165 and 166** would amend the headings at points 1066A-D3, 1066B-D3, 1067G-C2, 1067L-C2, 1068-D5 and 1068B-E3; and paragraphs 1066A-D(3), 1066B-D(3)(c), 1067G-C2(c), 1067L-C2(c), 1068-D5(c) and 1068B-E3(c), respectively. The heading change would remove the words, “and not a service pensioner.” With the addition of VP at paragraphs 1066A-D3(c), 1066B-D3(c), 1067G-C2(c), 1067L-C2(c), 1068-D5(c) and 1068B-E3(c) (**items 146, 148, 150, 155, 160 and 166**), the words, ’service pensioner” no longer accurately describe subsections 1066A-D3, 1066B-D3, 1067G-C2, 1067L-C2, 1068-D5 and 1068B-E3.

**Items 146, 148, 150, 155, 160 and 166** would add VP to paragraphs 1066A-D3(c), 1066B-D3(c), 1067G-C2(c), 1067L-C2(c), 1068-D5(c) and 1068B-E3(c). Subject to other conditions being met, this would ensure pharmaceutical allowance is added to a person’s maximum basic rate where their partner is not receiving VP. This is consistent with other income support payments under the *Veterans’ Entitlements Act 1986*.

**Items 151, 156, 161 and 163** would amend points 1067G-H2, 1067L-D2, 1068-G2 and 1068B-D2 of the *Social Security Act 1991*. Those points deal with what constitutes the ordinary income of members of certain couples. The amendments would add VP to the sections so if a person’s partner receives VP, it can be taken into account when assessing the amount of ordinary income of the person. This is consistent with other income support payments under the *VEA*.

**Items 152, 157, 162 and 164** would amend paragraphs 1067G-H27(b), 1067L-D26(b), 1068-G10(b) and 1068B-D23(b) of the *Social Security Act 1991* by adding VP. Those points deal with partner income excess and it is relevant in determining whether a person has a partner income excess, whether the person’s partner receives an income support payment.

**Item 153** would add VP as a table item in the table at 1067G in Module L of the Youth Allowance Rate Calculator. This table provides a list of pensions, benefits, allowances and compensation payable under veterans’ legislation.

**Item 158** would amend table items 4 and 4B at point 1068-B1 which relates to the maximum basic rate under the benefit rate calculator B. VP would be added, ensuring it is not taken into account in calculating a person’s rate where they have not received VP for a continuous period of 9 months, has not turned 60, receive sickness allowance and is a member of a couple.

**Items 167 – 169** amend table items 4, 5 and 6 with respect to rates of rent assistance. **Item 167** would amend subsection 1070L(2) and relates to the rate of rent assistance for carer
payments with certain age, disability support and wife pensions, item 168 would amend 1070N(2) and deals with the rate of rent assistance for disability support pension (person aged under 18) and item 169 would amend subsection 1070P(2) and is about the rate of rent assistance for disability support pension (person aged between 18 – 21.) In each of these amendments, table items 4, 5 and 6 would be amended, to account for the circumstance where a person’s partner is receiving VP. The difference between the table items within each table is the number of dependent children.

Item 170 would add VP to paragraph 1070W(b) of the Social Security Act 1991. Section 1070W sets out when a person has a partner with a rent increased pension. The amendment would include where a partner receives VP. This is consistent with other income support payments under the VEA.

Items 171 - 175 would amend paragraphs 1106(2)(a) and (b) and 1123(2)(a) and (b) of the Social Security Act 1991 by adding VP. These sections deal with the disposal of ordinary income and assets. Subsections 1106(2) and 1123(2) relate to when a person has a purpose of obtaining a social security advantage. With these amendments, this would now include where a person has a purpose of obtaining a VP, consistent with other income support payments under the VEA.

Item 176 would amend table items 17, 18, 24 and 25 in the table at subsection 1188C(5) of the Social Security Act 1991. Section 1188C relates to reductions to rates of payments under the Social Security Act 1991 where the recipient or their partner is also receiving payments under the Community Development Employment Projects Scheme. The amendments would add VP to the table items listed above.

Items 177 – 188 would amend subsections 1208L(10), 1208R(8) and 1209D(3) of the Social Security Act 1991 by adding VP. These subsections relate to when a person has a purpose of obtaining a social security advantage, in the context of disposal of assets or income by a company or trust and anti-avoidance. With these amendments, this would now include where a person has a purpose of obtaining a VP, consistent with other income support payments under the VEA.

Items 189 – 192 would amend subsections 1209Z(1) and 1209ZB(1) of the Social Security Act 1991 by adding VP. These sections deal with the effect of certain transfers to special disability trusts and transfers by the immediate family members prior to reaching pension age.

Item 193 would add VP to paragraph 1228(2)(a) of the Social Security Act 1991. This section enables the Commonwealth to recover overpayments arising under other Acts or schemes by means of deductions to payments under the Social Security Act 1991. This would mean, where a person was paid VP and they should not have been, and they receive a social security payment, the VP overpayment could be deducted from the payment under the Social Security Act 1991. This is consistent with other income support payments under the VEA.

Item 193 would also add VP to paragraph 1229E(1)(b) of the Social Security Act 1991. This would mean, where a person would otherwise have been liable to pay an interest charge, but they receive VP immediately before they are liable to pay the interest charge, then they are exempted from paying the interest charge.
Amendments to other Acts

Amendments to the Aged Care Act 1997

Items 4 – 13 would make consequential amendments to some of the residential care subsidy provisions in the Aged Care Act 1997, as a result of the introduction of VP.

Items 4 – 8 would amend aspects of section 44-24 of the Aged Care Act 1997, which relates to a care recipient’s total assessable income. Item 4 would create new subsection 44-24(3A), which would set out what constitutes a care recipient’s total assessable income, when entitled to VP. This new subsection is modelled on existing provisions setting out how to determine a care recipient’s total assessable income when entitled to either service pension (44-24(2)) or income support supplement (44-24(3)). It would be calculated by adding the amount of the care recipient’s VP minus their minimum pension supplement amount (see subsection 5GA(3) of the Veterans’ Entitlements Act 1986) and their ordinary/adjusted income (see Module E of the Rate Calculator of the Veterans’ Entitlements Act 1986.)

Item 5 would amend subsection 44-24(4) of the Aged Care Act 1997 by adding a reference to VP. Subsection 44-24(4) relates to the total assessable income of a care recipient entitled to an income support payment, other than a DVA payment. With the creation of VP, it is necessary to add it to subsection 44-24(4) to ensure it is not counted as an income support payment.

Item 6 would amend subsection 44-24(5) of the Aged Care Act 1997 by adding a reference to new paragraph (3A)(b). Subsection 44-24(5) provides for the Subsidy Principles to specify amounts to be taken, in relation to specified kinds of care recipients, to be excluded from determinations under subsection 44-24(1), or paragraphs 44-24(2)(b), (3)(b) or (4)(b). With the creation of VP, it is necessary to add it to subsection 44-24(5) to ensure the Subsidy Principles may exclude amounts with respect to VP.

Item 7 would amend subsection 44-24(7) of the Aged Care Act 1997 by adding a reference to new subparagraph (3A)(b). Subsection 44-24(7) modifies how a person’s ordinary/adjusted income is worked out for the purposes of the Aged Care Act 1997 by allowing certain amounts not be included in such a calculation under the Veterans’ Entitlements Act 1986 to be included for the purposes of working out a care recipient’s total assessable income under section 44-24. With the creation of VP, it is necessary to add it to subsection 44-24(5) to ensure it is treated consistently with service pension and income support supplement.

Item 8 would amend subsections 44-24(9), (10) and (12) of the Aged Care Act 1997 by adding a reference to new subparagraph (3A)(b). Those subsections deal with administrative matters with respect to determinations made under subsection 44-24(1) or paragraphs 44-24(2)(b), (3)(b) or (4)(b) such as a care recipient must be notified in writing about the determination, the date effect of the determination and the determination is not a legislative instrument. With the creation of VP, it is necessary to add it to subsections 44-24(9), (10) and (12).

Item 9 would amend subsections 44-26A(2) and (3) of the Aged Care Act 1997 by adding a reference to VP. Section 44-26A deals with the value of a person’s assets. Subsections 44-26A(2) and (3) relate to income streams purchased on or after 20 September 2007 with
respect to calculating the value of the person’s assets. With the creation of VP, it is necessary
to add it to subsections 44-26A(2) and (3).

**Item 10** would amend paragraph 44-26A(4)(a) of the *Aged Care Act 1997* by adding a
reference to VP. Section 44-26A deals with the value of a person’s assets and paragraph
44-26A(4)(a) including an amount in the determination if certain parts of the *Veterans’
Entitlements Act 1986* applied for the purposes of the *Aged Care Act 1997*. With the creation
of VP, it is necessary to add it to paragraph 44-26A(4)(a).

**Items 11 and 12** would amend parts of section 85 of the *Aged Care Act 1997*, which deals
with reviewable decisions. **Item 11** would add new paragraph 44-24(3A)(b) to the table of
reviewable decisions at subsection 85-1. This would ensure a determination about a care
recipient’s total assessable income when entitled to VP would be able to be reviewed.

**Item 12** would amend subparagraph 85-5(3)(a)(ii) of the *Aged Care Act 1997*, which sets out
how to request a reconsideration of a reviewable decision. Currently, a request to review a
determination under subsection 44-24(1) or paragraphs 44-24(2)(b), (3)(b) or (4)(b) must be
made within 90 days, or such longer period as the Secretary of the Department of Health
allows, after the day on which the person first received notice of the decision. New
paragraph 44-24(3A)(b) would also be added to subparagraph 85-5(3)(a)(i), giving a person
90 days within which to request review of a decision about their total assessable income
when entitled to VP.

**Amendments to the Aged Care (Transitional Provisions) Act 1997**

**Item 14** would amend subsections 44-10(1A) and (1B) of the *Aged Care (Transitional
Provisions) Act 1997* by adding a reference to VP. Section 44-10 deals with the value of a
person’s assets. Subsections 44-26A(1A) and (1B) relate to income streams purchased on or
after 20 September 2007 with respect to calculating the value of the person’s assets. With the
creation of VP, it is necessary to add it to subsections 44-26A(1A) and (1B).

**Item 15** would amend paragraph 44-10(1C)(a) of the *Aged Care (Transitional Provisions)
Act 1997* by adding a reference to VP. Section 44-10 deals with the value of a person’s assets
and paragraph 44-10(1C)(a) with including an amount in the determination if certain parts of
the *Veterans’ Entitlements Act 1986* applied for the purposes of the *Aged Care (Transitional
Provisions) Act 1997*. With the creation of VP, it is necessary to add it to paragraph
44-10(1C)(a).

**Item 16** would create new subsection 44-24(3A), which would set out what constitutes a care
recipient’s total assessable income, when entitled to VP. This new subsection is modelled on
existing provisions setting out how to determine a care recipient’s total assessable income
when entitled to either service pension (44-24(2)) or income support supplement (44-24(3)).
It would be calculated by adding the amount of the care recipient’s VP minus their minimum
pension supplement amount (see subsection 5GA(3) of the *Veterans’ Entitlements Act 1986*)
and their ordinary/adjusted income (see Module E of the Rate Calculator of the *Veterans’
Entitlements Act 1986*).

**Item 17** would amend subsection 44-24(4) of the *Aged Care (Transitional Provisions) Act
1997* by adding a reference to VP. Subsection 44-24(4) relates to the total assessable income
of a care recipient entitled to an income support payment, other than a DVA payment. With
the creation of VP, it is necessary to add it to subsection 44-24(4) to ensure it is not counted as an income support payment.

**Item 18** would amend subsection 44-24(5) of the *Aged Care (Transitional Provisions) Act 1997* by adding a reference to new paragraph (3A)(b). Subsection 44-24(5) provides for the Aged Care (Transitional Provisions) Principles to specify amounts to be taken, in relation to specified kinds of care recipients, to be excluded from determinations under subsection 44-24(1), or paragraphs 44-24(2)(b), (3)(b) or (4)(b). With the creation of VP, it is necessary to add it to subsection 44-24(5) to ensure the Aged Care (Transitional Provisions) Principles may exclude amounts with respect to VP.

**Item 19** would amend subsection 44-24(7) of the *Aged Care (Transitional Provisions) Act 1997* by adding a reference to new subparagraph (3A)(b). Subsection 44-24(7) modifies how a person’s ordinary/adjusted income is worked out for the purposes of the *Aged Care (Transitional Provisions) Act 1997* by allowing certain amounts not be included in such a calculation under the *Veterans’ Entitlements Act 1986* to be included for the purposes of working out a care recipient’s total assessable income under section 44-24. With the creation of VP, it is necessary to add it to subsection 44-24(7) to ensure it is treated consistently with service pension and income support supplement.

**Item 20** would amend subsections 44-24(9), (10) and (12) of the *Aged Care (Transitional Provisions) Act 1997* by adding a reference to new subparagraph (3A)(b). Those subsections deal with administrative matters with respect to determinations made under subsection 44-24(1) or paragraphs 44-24(2)(b), (3)(b) or (4)(b) such as a care recipient must be notified in writing about the determination, the date effect of the determination and the determination is not a legislative instrument. With the creation of VP, it is necessary to add it to subsections 44-24(9), (10) and (12).

**Items 21 and 22** would amend parts of section 85 of the *Aged Care (Transitional Provisions) Act 1997*, which deals with reviewable decisions. **Item 21** would add new paragraph 44-24(3A)(b) to the table of reviewable decisions at subsection 85-1. This would ensure a determination about a care recipient’s total assessable income when entitled to VP would be able to be reviewed.

**Item 22** would amend paragraph 85-5(3)(b) of the *Aged Care (Transitional Provisions) Act 1997*, which sets out how to request a reconsideration of a reviewable decision. Currently, a request to review a determination under subsection 44-24(1) or paragraphs 44-24(2)(b), (3)(b) or (4)(b) must be made within 90 days, or such longer period as the Secretary of the Department of Health allows, after the day on which the person first received notice of the decision. New paragraph 44-24(3A)(b) would also be added to paragraph 85-5(3)(b), giving a person 90 days within which to request review of a decision about their total assessable income when entitled to VP.

**Amendments to the Child Support (Registration and Collection) Act 1988**

**Item 42** would insert new subparagraph 72AC(1)(b)(iva) of the *Child Support (Registration and Collection) Act 1988* to add VP. This new subparagraph provides deductions could be taken from a recipient’s VP where they owe a child support debt. This is consistent with other income support payments under the *VEA*. 
Amendments to the *Disability Services Act 1986*

**Item 43** would amend subsection 22(4) (paragraph (d) of the definition of pensioner or beneficiary) of the *Disability Services Act 1986* to add VP. This may entitle a VP recipient to a Commonwealth funded rehabilitation program, subject to certain conditions. This is consistent with other income support payments under the VEA.

**Amendments to the Paid Parental Leave Act 2010**

**Item 54** would amend paragraph 178(c) of the *Paid Parental Leave Act 2010* to add VP. Under Division 4 of Part 4-3 of Chapter 4 of the *Paid Parental Leave Act 2010*, the Commonwealth can recover a debt under the Act, and charge interest on the debt. Section 178 exempts certain people from the interest charge. The amendment would add VP to the list thereby exempting VP recipients from the interest charge under sections 174 or 175 of the *Paid Parental Leave Act 2010*. This is consistent with other income support payments under the VEA.

**Amendments to the Social Security (Administration) Act 1999**

**Automatic cancellation and variation of social security pensions and benefits**

**Items 194 and 195** would amend subparagraph 90(1)(b)(ii) and subsection 90(1), respectively, of the *Social Security (Administration) Act 1999* by adding VP. Where a person is receiving a social security pension or benefit and VP becomes payable to them, the social security pension or benefit would be cancelled the day before VP becomes payable to the person. This is consistent with other income support payments under the VEA.

**Items 196 and 197** would amend paragraph 91(2)(b) and subsection 91(2), respectively, of the *Social Security (Administration) Act 1999* by adding VP. Where a person who is a member of a couple is receiving parenting payment and, as a result of VP becoming payable to them, the rate at which parenting payment is payable to the person becomes nil, the parenting payment would be cancelled the day before VP becomes payable to the person. This is consistent with other income support payments under the VEA.

**Item 198** would amend subparagraph 96(5)(b)(iii) of the *Social Security (Administration) Act 1999* by adding VP. The effect would be where a person’s disability support pension has been suspended under either subsection 96(1) or (3) and the person has a partner who is receiving VP, then for the period of the suspension, the partner is taken to be partnered. This is consistent with other income support payments under the VEA.

**Items 199 - 203** would amend subparagraphs 98(1)(b)(ii) and 98(2)(b)(ii); and paragraphs 98(1)(c) and 98(2)(c) of the *Social Security (Administration) Act 1999* by adding VP. This would mean a person receiving a social security payment and whose partner starts to receive VP, resulting in the person’s social security payment being reduced because of the partner’s VP, would have their reduced rate of social security payment start on the day their partner receives VP. This is consistent with other income support payments under the VEA.

**Items 204 - 206** would amend the heading to section 101, paragraph 101(b) and section 101 of the *Social Security (Administration) Act 1999* by adding VP. The heading amendment (item 204) is necessary because VP is not covered by the word, “pension.” **Items 205 and 206** would mean a person who is a member of a couple and who receives a parenting
payment and whose rate of parenting payment is reduced because they start to receive VP, would have their reduced rate of parenting payment start on the day they receive VP. This is consistent with other income support payments under the VEA.

**Item 207** would amend subparagraph 110(5)(b)(i) of the *Social Security (Administration) Act 1999* by adding VP. Section 110 relates to the date of effect of favourable determinations. In the context of subsection 110(5), this would mean, where a favourable determination is made following the death of a person’s partner and before the partner dies they were not receiving VP and within 4 weeks of the partner’s death the person notifies the Department of Social Services, the determination takes effect on the day on which the partner died, rather than when the Department was notified. This is consistent with other income support payments under the VEA.

**Income management**

**Items 208 – 213** would amend certain definitions for the purposes of the income management regime in Part 3B of the *Social Security (Administration) Act 1999* by adding VP. This is consistent with other income support payments under the VEA.

**Item 208** would amend the definition of, “category H welfare payment,” in section 123TC of the *Social Security (Administration) Act 1999* by adding VP. **Item 209** would amend the definition of, “category R welfare payment,” in section 123TC of the *Social Security (Administration) Act 1999* by adding VP. **Item 210** would amend the definition of, “Part 3B payment nominee,” in section 123TC of the *Social Security (Administration) Act 1999* by adding VP. This is consistent with other income support payments under the VEA.

**Item 212** would add subsection (2) to section 123TK of the *Social Security (Administration) Act 1999*. This would make it clear a person is an “eligible recipient” of a veteran payment while the person is receiving the payment. This is consistent with other income support payments under the VEA.

**Item 213** would amend the definition of “schooling requirement payment,” in section 124D of the *Social Security (Administration) Act 1999* by adding VP. This is consistent with other income support payments under the VEA.

**Amendments to the Student Assistance Act 1973**

**Item 215** would amend paragraph 41D(1)(e) of the *Student Assistance Act 1973* by adding VP. Under Division 2 of Part 6 of the *Student Assistance Act 1973*, the Commonwealth can recover a debt under the Act, and charge interest on the debt. Section 41D exempts certain people from the interest charge. The amendment would add VP to the list thereby exempting VP recipients from the interest charge under the *Student Assistance Act 1973*. This is consistent with other income support payments under the VEA.

**Part 3 – Contingent amendments**

**Items 494 - 496** would amend parts of section 61A of the *A New Tax System (Family Assistance) Act 1999* to include VP. Section 61A deals with a reduction in Family Tax Benefit (FTB) child rate unless health check requirements are satisfied. Section 61A is the subject of amendment in the Family Assistance and Child Support Legislation Amendment (Protecting Children) Bill 2017, which is currently before the Parliament.
Items 494 - 496 would add a reference to VP in subparagraphs 61A(1)(b)(ii) and (2)(b)(ii), 61A(1)(a)(ii) and paragraph 61A(3)(b) of the A New Tax System (Family Assistance) Act 1999 to include VP. Item 494 amendments would mean clause 38A of Schedule 1 (ie, the FTB Part A supplement) is disregarded if a person’s child does not meet the health check requirement.

The amendments to be made by items 42 and 43 would mean, in circumstances where a person is entitled to be paid a FTB, receives VP (and certain other circumstances are met) and their child does not meet the health check requirement, their FTB child rate can be reduced.

Items 497 and 498 would add new subparagraph (v) to subsection 85CJ(1)(d) of the A New Tax System (Family Assistance) Act 1999 (to commence from 2 July 2018). This amendment would enable an individual to receive (ACCS) (grandparent) for a session of care provided by an approved child care service to a child where either the individual or their partner receives VP (if they meet the other criteria in section 85CJ). This additional child care assistance is available to grandparents and great-grandparents of a child where they are the primary carer of the grandchild or great grandchild.

Item 499 would amend section 22 of the Social Security Act 1991. This amendment would ensure where a person:

- receives an income support payment at a rate greater than nil and energy supplement was used to work out the rate, and
- transfers to VP and then transfers back to the other income support payment,

they will be taken to be a “transitional energy supplement person.” This would mean, where they were entitled to Energy Supplement before transferring to VP, they retain the Energy Supplement eligibility payment when they transfer back to the underlying payment.
Schedule 3 – Coordinated Veteran Care mental health pilot

_Military Rehabilitation and Compensation Act 2004_ and _Veterans’ Entitlements Act 1986_

The amendments made by Schedule 3, will amend the _Veterans’ Entitlements Act 1986_ (VEA) and the _Military Rehabilitation and Compensation Act 2004_ (MRCA) to create a new legislative scheme to provide a new pilot program to improve the mental health support available to veterans’ in rural and regional areas.

In the 2017-18 Budget, funding was provided over the forward estimates for two new pilots on suicide prevention and to improve the mental health support available to veterans. The Coordinated Veterans’ Care Mental Health Pilot (the CVC Mental Health Pilot) is funded at $3.6 million over forward estimates.

The CVC Mental Health Pilot will build on the existing CVC Program which uses a team-based model of care led by a General Practitioner and supported by a practice nurse. In this Pilot, the GP would assess and diagnose clients, undertake care planning, and refer clients to use an application on a smart device. The pilot is for veterans with mild to moderate mental health conditions, such as anxiety or depression, who also have a physical condition requiring pain management.

The CVC Mental Health Pilot will recruit up to 125 participants each year over 2 years (250 in total) with the aim to provide support to veterans in rural and regional areas.

These amendments commence on the 28th day after this Act receives Royal Assent.

**Notes of Clauses:**

**Item 1** amends the _Military Rehabilitation and Compensation Act 2004_ (MRCA) to add new section 287A at the end of Division 4 of Part 3.

**Item 2** amends the _Veterans’ Entitlements Act 1986_ (VEA) to add a new section 90AA after section 90 in Part V.

As the two provisions, sections 287A in the MRCA and 90AA in the VEA, mirror each other and will operate in the same way the below notes on clauses will address both sections. Where the sections vary a separate note on the clause will be provided.

New subsections 287(1) of the MRCA will provide “Despite any other provision of this Part, a person is entitled to services under the program established by the Commonwealth and known as the Coordinated Veterans’ Care mental health pilot only if the person is included in a class of persons determined in an instrument under subsection and the Commission has determined, in writing, that this sections applies to the person.”.

New subsections 90AA(1) of the VEA will provide “Despite section 90, a person is entitled to services under the program established by the Commonwealth and known as the Coordinated Veterans’ Care mental health pilot only if the person is included in a class of
persons determined in an instrument under subsection and the Commission has determined, in writing, that this sections applies to the person.”.

New subsection (2) provides “the Commission may, by legislative instrument determine a class of persons for the purposes of paragraph (1)(a).

Subsection 287(1) and (2) of the MRCA and subsection 90AA(1) and (2) of the VEA are worded similarly and their operation will be similar. Subsections (1) and (2) will enable the Commission to make a determination in relation to a class of persons who may be identified as being entitled to services under the Coordinated Veterans’ Care mental health pilot.

The Coordinated Veterans’ Care mental health pilot is a program to provide cognitive behaviour treatment via a smart device application in combination with a care plan. The program is intended to provide mental health support to those veterans with a chronic mild to moderate mental health condition, which could include anxiety or depression combined with a co-morbid physical health condition requiring pain management.

Ideally the person will be in an area identified as regional or rural. The program will recruit up to 125 participants each year over two years with a total of 250 participants.

New subsection (3) provides “despite subsection 14(2) of the Legislation Act 2003, an instrument under subsection (2) of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without, modification, any matter contained in an instrument or other writing as in force or existing from time to time.”.

The subsection enables any determination made under new subsection (3) to incorporate legislative instruments already made and registered. The intention is to enable future flexibility to enable the Commission to make a determination to ‘picks up’ other registered legislative instruments.

All documents incorporated by reference into Department of Veterans’ Affairs’ legislative instruments are available to view online at: http://clik.dva.gov.au/legislation-library. The Department would undertake to place any document incorporated by reference under an instrument made under Subsection 287(1) and (2) of the MRCA and subsection 90AA(1) and (2) of the VEA on this web page.

New subsection (4) prescribes a “determination under paragraph (1)(b) is not a legislative instrument.”.

Subsection (4) exempts a declaration made under paragraph (1)(b) from the Legislation Act 2003. The intent of this amendment is to ensure those persons selected by the Commission and named in the determination are able to participate within the pilot promptly and without delay.

This paragraph will have the effect of avoiding disallowance of the determination, however, an additional level of scrutiny is counterproductive to the timely roll out of the pilot and
unnecessary given the person is selected based on the advice of a doctor who has identified his or her patient as an ideal candidate for the pilot.
Schedule 4 – Compensation for household and attendant care services where catastrophic injury or disease

*Military Rehabilitation and Compensation Act 2004*

The amendments made by Schedule 4 would amend the existing provisions relating to compensation for household and attendant care services where an Australian Defence Force (ADF) member sustains a catastrophic injury or disease under the *Military Rehabilitation and Compensation Act 2004* (MRCA). The new provisions will enable the Military Rehabilitation and Compensation Commission (the Commission) to specify the conditions for the purposes of the definition of “catastrophic injury”. The provisions will also allow the Commission to approve weekly amounts of compensation for household and attendant care services it considers reasonable in individual circumstances.

It is intended the definition of catastrophic injury and disease, as well as the framework for the provision of household and attendant care services for those injuries or diseases under the MRCA will be broadly consistent with those contained in section 29A of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA).

The definition of catastrophic injury or disease is expected to include injuries and diseases where ADF members require a high degree of attendant care and/or household services as a result of service-related conditions such as, but not limited to, serious neurological injury, paraplegia and quadriplegia. However, the exact list of conditions would be determined by the Commission.

Currently, members with a catastrophic injury receive household and attendant care services according to their individual needs via an exceptional circumstances determination made under subsection 287(2) of the MRCA. These amendments will remove the requirement for an exceptional circumstances determination to be made, thereby minimising any delay in the provision of appropriate household and attendant care support for seriously injured current and former ADF members.

The amendments also ensure entitlements for household and attendant care services for ADF members under the MRCA are equivalent to ADF members covered under the DRCA and civilians with coverage under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA).

These amendments commence on the 28th day after this Act receives Royal Assent.

**Notes of Clauses:**

**Item 1** amends the heading at section 213 from ‘Definitions of household and attendant care services to ‘213 Definitions’. This amendment specifies defined terms applicable to injuries and diseases; and catastrophic injuries. This amendment is a technical consequential amendment to support the amendments made below.

**Item 2** amends section 213 to renumber the paragraph. This is a consequential technical amendment to support the amendments made below.
Item 3 amends section 213 to insert new definition of catastrophic injury or disease applicable to Division 3 of Part 7 in Chapter 4 of the MRCA. The new definition provides a catastrophic injury means an injury or disease, where the conditions as determined in an instrument made under subsection (2) are satisfied.

This new provision will provide a catastrophic injury or disease is one where a specified condition, to be determined, by the Commission, has been satisfied under new subsection 213(2). This is a similar approach as adopted within the Safety, Rehabilitation and Compensation Act (Defence-related Claims) Act 1988 (DRCA). New subsection 213(2) will be inserted by Item 4 below.

Item 4 amends section 213 by adding new subsection 213(2). New subsection 213(2) provides the Commission may by legislative instrument determine conditions for the purposes of the definition of catastrophic injury or disease in subsection (1).

This new subsection provides a new head of power for the Commission to specify in a legislative instrument the conditions to be satisfied in order for an injury or disease to be a catastrophic injury or disease for the purposes of the definition. This section is critical to the operation of new subsections 216(2) and 219(2) as these sections enable the Commission to determine the financial compensation, household and attendant care services, applicable to catastrophic injury or disease.

Item 5 amends section 216 to renumber the paragraph. This is a consequential technical amendment to support the amendments made below.

Item 6 amends section 216 by adding new subsection (2). New subsection 216(2) provides where the service injury referred to in paragraph 214(1)(a) is a catastrophic injury or disease, the weekly amount of compensation under section 214 the Commonwealth is liable to pay for household services is such amount as the Commission determines to be reasonable in the circumstances.

New subsection 216(2) enables the Commission to determine the financial compensation a person with a catastrophic injury or disease may receive for household services. The Commission has a discretion to determine the financial compensation according to a person’s circumstances. This subsection enables the Commission to decide the financial compensation a person with a catastrophic injury or disease receives may be greater than the financial limits specified in subsection 216(1).

Service injury and service disease is defined in the MRCA at section 5 as ‘the meaning given by section 27, subsections 29(1) and (2) and section 30’.

Item 7 amends section 219 to renumber the paragraph. This is a consequential technical amendment to support the amendments made below.

Item 8 amends section 219 by adding new subsection (2). New subsection 219(2) provides if the service injury referred to in paragraph 217(1)(a) is a catastrophic injury or disease, the weekly amount of compensation under section 217 the Commonwealth is liable to pay for
attendant care services is such amount as the Commission determines to be reasonable in the circumstances.

New subsection 219(2) enables the Commission to determine the financial compensation a person with a catastrophic injury or disease may receive for attendant care services. The Commission has a discretion to determine the financial compensation according to a person’s circumstances. This subsection enables the Commission to decide the financial compensation a person with a catastrophic injury or disease receives may be greater than the financial limits specified in subsection 219(1).

**Item 9** amends subsection 345(2) to add new paragraph 345(2)(da) to provide a determination under subsection 213(2) (conditions for the purposes of the definition of *catastrophic injury or disease* in subsection 213(1)).

New paragraph 345(2)(da) will specify the determination made under subsection 213(3) is not an original determination and therefore not subject to review by a review body.

The intent of paragraph 345(2)(da) is to put it beyond doubt the MRCC is the determining body for the purposes of making a determination to specify the conditions defined as catastrophic injury or disease. This amendment will provide a level of certainty and ensure there is a consistency in the consideration as to what conditions are appropriate for the inclusion of a catastrophic injury or disease.

Currently members with a catastrophic injury receive a higher level of household and attendant care services via an exceptional circumstances determination made under subsection 287(2) of the MRCA. This amendment will remove the requirement for an exceptional circumstances determination to be made, in relation to a member where they have a catastrophic injury, minimising any delay in the provision of an appropriate level of household and attendant care.

It is intended the injuries and diseases of members who are currently subject to a special determination under section 287 of the MRCA will be prescribed by the MRCC under new subsection 213(1). The current level of assistance and benefits members who have a current subsection 213 special determination will be preserved. This amendment is not intended to diminish or reduce any current assistance or benefit provided under an existing special determination.

**Item 10** are both consequential technical amendments to paragraphs 404(1)(f) and (g) to update references given the above amendments. These amendments are consequential due to sections 216 and 219 being renumbered by items (5) and (7) above. Paragraph 404 relates to indexation and ensures the compensation amounts specified in paragraphs 216(1)(b) and 219(1)(b) are subject to indexation.

**Item 11** is the application provision in relation to this Schedule. The amendments to section 216 and 219 apply in relation to compensation of a week beginning on or after the day on which the first instruments made under subsection 213(2) commences (whether the catastrophic injury or disease arose before, or after the commencement of this item).
This application provision determines where the Commission makes an instrument under subsection 213(2), to determine a condition for the purposes of the definition of catastrophic injury or disease, compensation may be payable from the week beginning from when the instrument is made.

This application provision will enable members who may have suffered a catastrophic injury or disease to make a claim for household services and attendant care services even if the injury occurred prior to the commencement of the instrument. Members who have a catastrophic injury or disease and who may not have made a claim for household and/or attendant care services may make a claim where the injury or disease was suffered on or after 1 July 2004.
Schedule 5 – Qualifying service

Veterans’ Entitlements Act 1986

Schedule 5 would amend the relevant provisions within Division 2 of the Veterans’ Entitlements Act 1986 (VEA) relates to a claim for qualifying service. The amendment will create an additional way for a qualifying determination to be made.

The automated qualifying service determination will primarily be based on information the Department of Defence (Defence) provides DVA. The process is intended to remove the need for a veteran to make a claim for qualifying service prior to the qualifying determination being made. It is intended for Defence to provide DVA information about a veteran’s service which may provide evidence of eligibility for qualifying service. Once it has been confirmed the veteran has rendered qualifying service this will satisfy the requirements necessary to allow the Commission to make a determination qualifying service has been rendered. This will remove a step in the process a veteran must currently complete in order to make an application for some benefit or payment.

This is the first legislative amendment to support the implementation of the veteran-centric reforms and is part of the broader improvement strategy to ease the transition process for veterans. The veteran-centric reforms aim is to put veterans and their needs to the front of Departmental systems reform including legislation and policy. The recent data sharing improvements between Defence and DVA will improve the ability to share client information and over time streamline the information processes related to a client’s eligibility for benefits and payments.

It is intended to record only positive automated qualifying service determinations within DVA systems with the veteran being notified they satisfy the qualifying service requirement. Where the automated process is unable to make a positive qualifying service determination (this may be due to incomplete data or service records) no automated qualifying service determination, in respect to the veteran, will be made. This amendment will not alter the right of the veteran, at any time, to make a manual application for a qualifying service determination in order to determine their eligibility for benefits and payments.

These amendments commence on the 28th day after this Act receives Royal Assent.

Notes of Clauses:

Items 1 will amend paragraph 35(1)(a) of the Veterans’ Entitlements Act 1986 (VEA). This amendment substitutes the words ‘claims for’ with ‘establishing’. This amendment supports the automation of the qualifying service determination process. The amendments will remove the requirement for a veteran to make an application for a qualifying service determination, however, a veteran may still do so if they chose to.

Item 2 amends the heading of Division 2 of Part III to ‘Division 2 – Establishing qualifying service’. This is a consequential amendment to amendments made below.
**Item 3** amends the heading of Subdivision A of Part III to ‘Subdivision A – Pathways to establishing qualifying service’. This is a consequential amendment to amendments made below.

**Item 4** amends Section 35B to prescribe the pathways to establish qualifying service. The amendment will substitute section 35B and insert new section 35BA.

New subsection 35B(1) will provide two pathways to establish qualifying service. To establish a veteran has rendered qualifying service either a make a proper claim must be made for a determination the veteran has rendered such service; or there must be a determination in force under section 35BA in respect of the veteran.

The intent of this subsection is to allow two ways qualifying service may be established either through making a claim or by a determination in force under section 35BA.

Subsection 35B(2) will provide two pathways to establish qualifying service for the purposes of paragraph 38(1)(aa) or (e) a person’s partner or deceased partner has rendered qualifying service. To establish qualifying service a proper claim must be made for a determination the person’s partner or deceased partner has rendered such service; or there must be a determination in force under section 35BA in respect of the person’s partner or deceased partner.

This subsection will enable the partner of a veteran, including the partner of a deceased veteran, to make an application for a qualifying service determination or where there is a determination in force under section 35BA, they may rely on the determination.

Note 1 provides a veteran must have rendered qualifying service to be eligible for age service pension or invalidity service pension as provided in subsection 36(1) and 37(1).

Note 2 provides a claim is not required for a determination under section 35BA.

Note 3 provides the definition of qualifying service is in section 7A.

New subsection 35BA(1), will provide the Commission may make a written determination a specified veteran has rendered qualifying service if the Commission is satisfied the veteran has rendered such service.

The intent of this subsection is to provide a new mechanism to enable a qualifying service determination to be made without the veteran making a claim for qualifying service. In the circumstances where the Commission is satisfied the veteran has rendered qualifying service they may make a determination in respect of the veteran.

Note 1 provides a claim in not required for a determination under this section.

Note 2 provides the definition of qualifying service is in section 7A.

New subsection 35BA(2) will provide the Commission must give a copy of the determination to the veteran or any person described 38(1)(aa) or (e) in relation to the veteran.
Section 38(1)(aa) and (e) provides a person who is a member of a couple or a widow/er, whose partner is/was a veteran who has/had rendered qualifying service and is qualified for an aged pension under the *Social Security Act 1991* may be eligible for a partner service pension.

New subsection 35BA(2) will enable the widow/er to establish their deceased partner rendered qualifying service to establish their eligibility for a range of benefits and/or payments.

New subsection 35BA(3) “a determination by the Commission under this section that the veteran has rendered qualifying service is proof, for all purposes of this Act, that the veteran has rendered qualifying service”.

This subsection makes it clear where the Commission has made a determination regarding a veteran’s qualifying service the determination is exhaustive for the purpose of the Act.

New subsection 35BA(4) will clarify a determination under this section is not a legislative instrument under the *Legislation Act 2003*.

**Item 5** is a technical amendment inserting a reference to section 35H within section 35J. This amendment will provide where there is a determination made by the Commission, a veteran has qualifying service, this is proof for all the purposes of the Act, the veteran has rendered qualifying service.

**Item 6** is a saving provision and clarifies where a veteran has made a claim for a qualifying service determination prior to the commencement date of the amendment, the validity of the claim is not affected.

This saving provision will ensure an application for a determination made prior to this amendment is a valid application and the amendment will not adversely affect their application. It is intended the Commission will make a qualifying service determination under section 35BA, in relation to veterans with qualifying service prior to the commencement of this amendment.
Schedule 6 – Defence-related claims

Amendment to the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

The amendments made by Schedule 6 Part 1, will amend the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) to make technical amendment, such as replace redundant references to Comcare and other bodies and to repeal provisions not related to providing compensation and rehabilitation to current and former ADF members and other eligible persons. In addition this amendment will enable the Military Rehabilitation and Compensation Commission (MRCC) to provide information to the Chief of the Defence Force for the reconsideration or review of a determination made regarding the liability of injury, disease or death of an employee. This amendment will align the information sharing provisions under the DRCA with those under the Military Rehabilitation and Compensation Act 2004 (MRCA).

These amendments commence the day after the Act receives Royal Assent.

Amendment to the Safety, Rehabilitation and Compensation Act 1988

The amendments made by Part 2, reinsert section 43 into the Safety, Rehabilitation and Compensation Act 1988 (SRCA). These were omitted during the drafting of the DRCA. To ensure a peacekeeper does not experience any disadvantage section 43 (as it was previously drafted) will be re-inserted into the SRCA. This does not reflect a policy change to any entitlement and/or benefits a peacekeeper may receive under the SRCA.

These amendments commence retrospectively and commence on 12 October 2017, the commencement of the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA). The purpose of the retrospective commencement is to ensure any person, who may have been disadvantaged, is placed into the same the position as they were prior to the commencement of the DRCA.

Notes of Clauses:

Schedule 6 Part 1 – amendments commencing the day after Royal Assent

Amendments to repeal redundant definitions

The below amendments will remove redundant definitions in the DRCA as these are not required for a military specific Act. These amendments do not alter any policy, benefits or entitlement under the DRCA.

Item 4 amends subsection 4(1) (definition of adoption).

Item 7 amends subsection 4(1) (definition of Chairperson).

Item 8 amends subsection 4(1) (definition of Comcare subsidiary).
Item 9 amends subsection 4(1) (definition of Commission).

Item 11 amends subsection 4(1)(paragraph (e) of the definition of Commonwealth authority).

Item 12 amends subsection 4(1) (definition of excluded injury).

Item 13 amends subsection 4(1) (definition of exempt authority).

Item 14 amends subsection 4(1) (definition of licence).

Item 15 amends subsection 4(1) (definition of licenced authority).

Item 16 amends subsection 491) (definition of licenced corporation).

Item 17 amends subsection 4(1) (definition of licensee).

Item 19 amends subsection 4(1) (definition of principal officer, in relation to a licensed corporation).

Amendments to definitions

The below amendments will amend the below definitions to ensure they reflect the intent and operation of the DRCA, a military specific Act. The amendments are technical in nature and will amend redundant references and clauses to reflect the intent of the DRCA. These amendments do not alter any policy, benefits or entitlement under the DRCA.

Item 5 amends subsection 4(1) (paragraph (a) of the definition of approved Guide) to omit “Comcare” and substitute “the MRCC”.

Item 6 amends subsection 4(1) (definition of approved program provider) to repeal the definition and substitute it to approved program provider has the same meaning as in section 41 of the MRCA.

Item 10 amends subsection 4(1) (subparagraph (d)(ii) of the definition of Commonwealth authority) omit applies;", substitute “applies.”

Item 11 amends subsection (4)(1) (paragraph (e) of the definition of Commonwealth authority) repeal the paragraph.

Item 18 amends subsection 4(1) (definition of pre-determined period) to omit “Comcare” and substitute “MRCC”.

Item 20 amends subsection 4(1) (definition of rehabilitation authority) to repeal the definition and substitute rehabilitation authority to mean “in relation to an employee and a defence-related claim, means the rehabilitation authority applicable under subsection 39(3) of the MRCA.

Item 21 amends subsection 4(1) (definition of relevant authority) to repeal the definition and substitute relevant authority to mean “in relation to an employee by whom or in respect of
whom a defence-related claim has been made, and in relation to dependants of the employee – the MRCC; or in relation to liability to pay an amount, a debt being due or the receipt of an amount – the Commonwealth.

**Item 22** amends subsection 4(1) (paragraph (a) of the definition of *suitable employment*) to omit “or a licensee”.

**Item 23** amends subsection 4(1) (paragraph (a) of the definition of *suitable employment*) to omit “or the licensed corporation, as the case may be”.

**Item 28** amends subsection 5B(1) (definition of *disease*) to omit “or a license”.

**Item 56** amends subsection 4(1) (definition of *numbers of kilometres travelled*) to omit “Comcare” and substitute it to “MRCC”.

**Item 187** amends subsection 60(1), (definition of *determination*) to omit “34,”.

**Item 261** amends subsection 114B(15) (definition of *working day*) to omit “Comcare or a licenced authority” and substitute it to “the MRCC”.

**Repeal a Part, Division, Section, Subsection or Paragraph**
The amendments are technical in nature and will remove redundant provisions so they reflect the intent of the DRCA. These amendments do not alter any policy, benefits or entitlements under the DRCA.

**Item 25** repeals subsection 4(14).

**Item 26** repeals section 4A.

**Item 78** repeals section 23A.

**Item 117** repeals paragraph 33(2)(e).

**Item 122** repeals subsection 40(2).

**Item 142** repeals paragraph 48(8)(a).

**Item 189** repeals subsection 60(3).

**Item 191** repeals paragraph 62(2)(c).

**Item 192** repeals subsection 62(2A).

**Item 194** repeals paragraphs 64(1)(c) and (d).

**Item 195** repeals the subsection 67(1A).

**Item 210** repeals paragraphs 67(8A)(a) and (b).

**Item 211** repeals subsection 67(8B).
Item 221 repeals subsection 111(2A).

Item 274 repeals section 117.

Item 290 repeals section 121A.

Item 292 repeals section 124A.

Item 305 repeals section 128A.

Item 318 repeals subsections 143(2), (3) and (4).

Item 324 repeals subsection 146(1).

Item 328 repeals section 153.

Item 329 repeals Division 4 of Part XI.

**Amendments omitting references to Comcare and substituting MRCC**

These items omit references to Comcare and replace it with the Military Rehabilitation and Compensation Commission (MRCC). The references to Comcare are redundant as Comcare will no longer have any function under the DRCA. The MRCC will fulfil all legislative responsibilities under the DRCA as the statutory body authorised to perform a wide range of functions including the making of determinations in relation to a compensation and rehabilitation an employee may receive. These amendments do not alter any policy, benefits or entitlements under the DRCA.

Omit “Comcare”, substitute “the MRCC”.


Omit “Comcare determines”, substitute “the MRCC determines”.

Items 53, 63 and 99 amend subsections 16(1), 29(5) and paragraph 17(4)(a).

Omit “Comcare shall”, substitute “the MRCC must”.

Items 58, 72 and 110 amends subsections 16(8), 19(4) and 30(1).

Omit “Comcare for”, substitute “the MRCC for”.

Items 61, 64 and 66 amends subsections 17(3), 17(5) and paragraph 17(4)(b).
Omit “Comcare’s opinion”, substitute “the opinion of the MRCC”
Item 73 amends paragraph 19(4)(f).

Omit “determined by Comcare”, substitute “determined by the MRCC”
Item 77 amends subsection 22(1).

Omit “Comcare, a/the licensee”, substitute “the MRCC”
Items 89 and 90 amends subsection 28(4).

Omit “Comcare considers”, substitute “the MRCC considers”
Items 94, 102 and 105 amends subsections 29(1), 29A(1) and 29A(3).

Omit “Comcare proposes”, substitute “the MRCC proposes”
Item 152 amend subsection 50(4B).

Omit “Comcare makes”, substitute “the MRCC makes”
Item 154 amend subsection 50(5).

Omit “taken over by Comcare”, substitute “taken over by the MRCC”
Item 156 amends subsection 50(7).

Omit “to Comcare and Comcare”, substitute “to the Commonwealth and the Commonwealth”
Item 157 amends subsection 50(7).

Omit Comcare must pay”, substitute “The Commonwealth must pay”
Item 159 amends subsection 50(7).

Omit “Comcare may”, substitute “the MRCC may”
Items 162, 164, and 308 amends subsections 51(1), 51(2), and 129A(1).

Omit “to Comcare” (wherever occurring), substitute “to the Commonwealth”
Item 163, 165 amends subsections 51(1) and (2).

Omit “an amount to Comcare”, substitute “an amount to the Commonwealth”
Item 166 amends subsection 51(4).

Omit “Comcare may recover”, substitute “the MRCC may, on behalf of the Commonwealth, recover”
Items 167, 232, 263 and 267 amend subsections 51(4), 112B(2), 114C(1) and 114D(1).

Omit “due to Comcare”, substitute “due to the Commonwealth”
Item 168 amends subsection 51(4).

Amendments omitting references to Comcare and substituting Commonwealth

Under the DRCA, the Commonwealth will adopt the role and responsibilities Comcare provides in under SRCA. As the DRCA is a military service specific Act all liability and responsibility for specific actions will become the responsibility of the Commonwealth. These amendments do not alter any policy, benefits or entitlements under the DRCA.
Omit “Comcare”, substitute “the Commonwealth”

Omit “Comcare is liable”, substitute “the Commonwealth is liable”
Items 52, 55, 60, 62, 66, 76, 93, 101 and 104 amend sections 16(1), 16(6), 17(3), 17(5), 22(1), 29(1), 29A(1), 29A(3) and paragraph 17(4)(a).

Omit “Comcare is not liable”, substitute “The Commonwealth is not liable”
Items 57 and 98 amend subsections 16(7) and 29(5).

Omit “liability of Comcare”, substitute “liability of the Commonwealth”
Item 113 amends subsection 32(1).

Omit “Comcare stating”, substitute “the MRCC stating”
Item 245 amends subsection 114A(1).

Omit “to Comcare”, substitute “to the Commonwealth”.
Items 264 and 269 amend subsections 114C(1) and 114D(1).

Amendments omitting references to licensee and licensed corporation

Currently, a licensee means “a Commonwealth authority or a corporation that is licensed, or is taken to be licensed, under Part VIII of the SRC Act”. A licensed corporation means “a corporation that is the holder of a licence that is in force under Part VIII of the SRC Act.”. The SRC Act is the Safety, Rehabilitation and Compensation Act 1988 (SRCA) and is administered by the Department of Jobs and Innovation. The definition of licensee will be omitted by Item 7.

While the DRCA was based on the SRCA, these amendments will ensure the DRCA relates exclusively to current and former ADF members and removes any redundant references inherited by the SRCA which relate to Commonwealth employees.

These below amendments remove redundant references to licensee, licensed corporation, licensed corporation and Commonwealth authority as they not required in the DRCA.

Omit “or a licensee”
Items 28 – 31 amend subsections 5B(2), 6(1), 6(1C).

Omit “or a licensed corporation”
Items 24, 32, 33, 35, 37, 39, 40, 42, 43, 46, 47 and 50 amend subsections 7(2) – (3), 7(7), 8(3), 8(4), 8(6), 8(9), 8(9B), 9(1), 9(2), paragraphs 4(9)(b), 7(1)(c), 8(7)(a), 8(10)(a) –(b), 9(3)(b) and 15(1)(a).

Omit “or the licensed corporation”
Items 36, 44 and 45 amends subsection 8(3) and subparagraphs 8(10)(b)(i) - (ii).
Amendments omitting references to authorities, Commonwealth authorities, relevant authorities and responsible authorities and makes the relevant substitutions or omission if required

The DRCA was based on the SRCA as it was in force on pre 12 October 2017 and covered current and former ADF members. From 12 October 2017 (commencement of the DRCA) the DRCA provides compensation and rehabilitation along with other entitlements and benefits for current and former ADF members. These amendments will further ensure the DRCA relates exclusively to current and former ADF members and aims to remove any redundant references inherited by the SRCA.

The below amendments remove redundant references to authorities, Commonwealth authority, relevant authorities and responsible authorities and make suitable substitutions or omissions as the provision may require. These amendments do not alter any policy, benefits or entitlement under the DRCA.

Omit “, a Commonwealth authority or a licensed corporation”
Item 34 amends paragraph 7(9)(c).

Omit “that authority” (last occurring), substitute “the Commonwealth”
Item 48 amends section 11 to omit the last occurring “that authority” and substitutes it to “the MRCC”.

Omit “, a Commonwealth authority, a licensed corporation”
Items 126, 127, 128 – 133 and 135 amend subsections 44(1), 44(3), 45(1), 45(5), paragraphs 44(1)(a), 45(1)(b), 45(2)(a), 46(1)(b) and 47(1)(b).

Omit “responsible authority”, substitute “Commonwealth”
Items 196, 199, 203, 208, 212, 216 and 217 amend subsections 67(2), 67(8), 67(9), 67(13), 67(14) and paragraphs 67(3)(h) and 67(4)(h).

Omit “a determining authority”, substitute the “MRCC”
Items 198, 200, 201, 204, 205, 206 and 207 amends subsection 67(3), 67(4), 67(5), 67(6), 67(7) and paragraphs 67(3)(a) and 67(4)(a).

Omit “authority”, substitute the “MRCC”
Items 198 and 202 amends paragraphs 67(3)(b), (d) - (g), 67(4)(b) and (d) – (g).

Omit “the authority”, substitute the “MRCC”
Items 213 and 215 amends paragraph 67(11)(a), subparagraphs 67(11)(b)(ii) and (iii).

Omit “a responsible authority”, substitute “Commonwealth”
Item 216 amends subsection 67(13).

Omit “a relevant authority”, substitute “the Commonwealth”
Items 220, 222, 223, 238, 275, 282, 286, and 312 amend subsections 111(2), 111(5), 112(1), 118(2), 120(1) and paragraphs 113(a), 119(4)(a) and 137(1)(a).

Omit “or a relevant authority”
Item 224 amends subsection 112(2) to omit reference to a relevant authority.

Omit “relevant authority shall”, substitute “Commonwealth must”

Item 240 amends section 113.

Omit “to the relevant authority and of the relevant authority”, substitute it to “to the Commonwealth and of the Commonwealth”

Item 242 amends section 113.

Omit “the relevant authority may recover”, substitute “the MRCC may, on behalf of the Commonwealth, recover”

Item 276 amends subsection 118(2).

Omit “the authority”, substitute “the Commonwealth”

Item 278 amends subsection 118(2).

Omit “A relevant authority that has received a claim”, substitute “If the MRCC has received a claim, the MRCC”

Item 279 amends subsection 118(3).

Omit “by a relevant authority”, substitute “by the Commonwealth”

Item 280 amends subsection 119(3).

Omit “to the relevant authority”, substitute “to the Commonwealth”

Item 281 amends subsection 119(3).

Omit “the relevant authority”, substitute “the Commonwealth”

Items 283, 285, 294, amends paragraph 119(4)(d) and subsections 119(6) and 125(1).

Omit “debtor to the relevant authority”, substitute “debtor to the Commonwealth”

Item 284 amends subsection 119(4).

Omit “the relevant authority”, substitute “the MRCC”

Items 287 – 289, amends subsections 120(2) – (4).

Omit “or of a Commonwealth authority”

Items 293, 296, 298 and 303 amend section 128 and subsections 125(1) – (2) and 127(1).

Omit “by the relevant authority”, substitute “the MRCC”

Items 299 and 301 amends subsections 127(1) and 127(2).

Omit “of the relevant authority”, substitute “of the Commonwealth”

Item 300 amends section 127(1).

Omit “of that relevant authority”, substitute “of the Commonwealth”

Item 302 amends subsection 127(2).

Omit “relevant authority”, substitute “Commonwealth”

Item 304 amends section 128.
Omit “relevant authority”, substitute “MRCC”
Item 313 amends paragraph 137(1)(c).

Omit “relevant authority must”, substitute “MRCC must”.
Item 314 amends subsection 137(1).

Amendments omitting references to Comcare or/and the authority.
Under the DRCA the Commonwealth will provide the same role Comcare provides under the SRCA. As the DRCA is a military service specific Act all liability and responsibility for specific actions will become the responsibility of the Commonwealth. These amendments do not alter any policy, benefits or entitlement under the DRCA.

Omit “Comcare or authority”, substitute “the MRCC”
Item 214 amends paragraphs 67(11)(a).

Omit “Comcare or the authority, as the case may be,”, substitute “the MRCC”
Items 247, 251 and 253 amend subsections 114B(2), 114B(3), 114B(5).

Omit “Comcare or the authority”, substitute “the MRCC”
Item 249 amends paragraph 114B(2)(b).

Omit “Comcare or the authority”, substitute “the MRCC”
Items 250 and 254 amends subparagraphs 114B(2)(c)(i) - (ii) and 114B(5)(ii).

Omit “Comcare or a licenced authority receives”, substitute “the MRCC”
Item 252 amends subsection 114B(5).

Omit “Comcare or a licensed authority”, substitute “The MRCC”
Items 255 and 260 amends subsections 114B(6) and 114B(13).

Omit “Comcare or the licensed authority”, substitute “MRCC”
Item 256 amends subsection 114B(8).

Omit “Comcare or the authority”, substitute “the MRCC”
Item 257 amends subsection 114B(9), (10) and (11).

Omit “Comcare or a licensed authority” and substitute it to “the MRCC”
Item 258 amends subsection 114B(12).

Omit “Comcare or the authority, as the case may be,”, substitute “the MRCC”
Item 259 amends paragraph 114B(12)(b).

Amendments omitting references to “SRCA injury” and substituting “DRCA injury”
These amendments are to make it clear to the reader any SRCA injury is now a DRCA injury. While the DRCA come into force on 12 October 2017 it retrospectively operates from 1 December 1988 therefore there is no variation or difference in the entitlements from the change in Act names.
**Items 319, 320, 321, 322 and 323** amend subsection 114B(1), 114B(2), 114B(3) and 114B(5) and paragraphs 114B(1)(a) and (b), subparagraphs 114B(1)(c)(i), (ii) and (iii)

**General amendments**

**Item 2** amends section 2, Commencement, to repeal and substitutes the section to include a table, Commencement information. The table contains 3 columns to specify the provisions, commencement and date/details. The table specifies the whole of the Act commenced on 12 October 2017. This amendment makes it clear the entire Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 commenced on 12 October 2017.

Note 1 makes it clear the date of 12 October 2017 is the 28th day after the Safety, Rehabilitation and Compensation (Defence-related Claims) Act first received Royal Assent.

Note 2 ensures the table relates only to the provision of the Act as originally enacted and does not apply to any later amendments.

**Item 3** amends section 3, omit ‘Subject to section 117, this”, substitute “This”. This amendment is consequential to the amendment made by Item 274 to repeal the section. This amendment amends the Application of the Act and removes the reference to section 117 (Compensation payable to locally engaged overseas employees) as this section will be removed by Item 223. The effect of this amendment is to make it clear the Act will be applicable outside Australia, including the external Territories.

**Items 111 and 315** amends subsections 30(1) and 137(1) to omit “its liability” and substitute “the liability of the Commonwealth”. Subsections 30(1) and 137(1) provides for redemption of compensation, where specified conditions are met, and will enable the Commonwealth to make a lump sum payment where the employee’s or former employee’s incapacity is unlikely to change.

**Item 116** amends paragraph 33(2)(d) to omit “Part; or” and substitute it to “Part.” This is a consequential amendment to Item 78.

**Item 118** amends section 38 (heading) to repeal the heading and substitutes it to 38 Review of certain determinations by the MRCC. This amendment retitles the section to prescribe determinations under the DRCA are made by the MRCC.

**Item 120** amends subsection 40(1) to omit the “(1)”. This amendment is consequential to the amendment made by Item 122 to repeal subsection (2). This amendment will renumber the section. Subsection 40(2) defines term of relevant employer for the section. As all employees are current or former ADF members, this definition is no longer required.

**Item 121** amends subsection 40(1) to omit “the relevant employer” and substitute it to “the Commonwealth”. This is consequential amendment made by Item 122 to repeal the definition of relevant employer. As employees under the DRCA are current or former ADF members, any references to the ‘relevant employer’ will be changed to the Commonwealth.
Item 124 amends subsection 41A(1) to repeal the subsection and substitute it to “A rehabilitation authority who is the principle officer of an Entity may, in writing, delegate to an officer of, or a persons employed by, that Entity all or any of the powers and functions of the rehabilitation authority under this Part.”. This amendment has the effect of removing paragraph (a) to (c) as these paragraphs are no longer required as they refer to a Commonwealth authority under the SRCA and a principal officer of a licensee.

Item 140 amends paragraph 48(5)(b) to omit “Comcare’s taking over the conduct of a claim under that section” and substitute it to “the taking over by the MRCC of the conduct of a claim under that section”. This is a technical amendment to remove the reference to Comcare and replace it with the MRCC.

Item 148 amends subsection 50(2) to omit “it becomes”, and substitutes it to “the Commonwealth becomes”. This is a technical amendment and will ensure the Commonwealth becomes liable to pay all costs of and incidental to a claim, except for reasonable costs, where they would become payable by the person who originally made the claim.

Item 161 amends section 51 (heading) to repeal the heading and substitute it to 51 Payment of damages by persons to the Commonwealth. This amendment will accurately reflect the intent and purpose of the section. This amendment will not alter the rights and obligations of the Commonwealth or a person under this provision.

Item 170 amends section 52A (heading) to repeal the heading and substitute it to 52A The Commonwealth’s rights and obligations in respect of certain action for non-economic loss. This amendment will accurately reflect the intent and purpose of the section. This amendment will not alter the rights and obligations of the Commonwealth or a person under this provision.

Item 185 amends subsection 54(4) to repeal the subsection and substitute to “the MRCC must cause a copy of any claim it receives to be given to the Secretary of the Defence Department.”.

This amendment will omit paragraphs 54(4)(a) and (b), however, the subsection has been redrafted to incorporate the effect of paragraph 54(4)(a). As the DRCA is a military specific Act references to other employees are not required. The intent of new subsection 54(4) is to specify the MRCC must provide a copy of a claim for compensation to the Secretary of Defence.

Item 186 amends section 56 to omit “paid to, or in accordance with the directions of, a relevant authority under subsection 17(3) or (4),”, and substitute it to “paid to the Commonwealth, or in accordance with the directions of the MRCC under subsection 17(3) or (4),”.

This amendment will ensure where an amount has been paid to the Commonwealth, or in accordance with directions of the MRCC under subsection 17(3) or (4), for the benefit of a dependant of a deceased employee, by whom, or on whose behalf, a claim was made for compensation under section 17, no other dependant of the employee is entitled to claim compensation under the section after the day on which the amount is paid.
The intent of this section is to ensure where a dependant, of a deceased employee, has been paid compensation under section 17, no other dependants may make a claim for compensation after compensation has been paid.

Item 188 amends paragraph 60(2)(c) to repeal the paragraph and substitute it to “the MRCC”. This amendment will omit the references to “the body responsible for the reviewable decision” and change it to “the MRCC”. The effect of this amendment is to reflect under the DRCA only the MRCC has a role in the review and reconsideration of determinations made in respect of an employee.

Item 190 and 193 amends paragraphs 62(2)(b) and 64(1)(b) to omit “the Commonwealth; or” and substitute it to “the Commonwealth.”. These amendments are technical consequential amendments to the amendments made by Items 191 and 196 which remove paragraphs 62(2)(c), 64(1)(c) and (d) respectively. The effect of these amendments are to replace the semicolon with a full stop.

Item 209 amends subsection 67(8A) to omit “paid by:” and substitute it to “paid by the Commonwealth”. This amendment has the effect of incorporating paragraph 67(8A)(c) into the subsection and is consequential to the amendment made by Item 210 which removes the paragraphs under the subsection. This amendment will not alter the rights and obligations of the Commonwealth or a person under this provision.

Item 218 amends section 110 to add new subsection (5). New subsection 5 provides the MRCC may establish trust funds for the purpose of this section. The effect of this amendment is to allow the MRCC to establish a trust fund where monies are to be paid to a person under a legal disability.

Item 219 amends subsection 111(2) to omit the reference to subsection (2A). This amendment is consequential to Item 221 to omit subsection 111(2A).

Items 228 and 234 amends subsection 112A(4) and 112B(4) to omit “Subject to section 23A, the” and substitute it to “The”. This a consequential amendment to Item 78 to repeal section 23A. As section 23A is repealed this reference is redundant.

Item 229 and 235 amends subsection 112A(4)(note) and 112B(4)(note) to repeal the note. This a consequential amendment to Item 78 to repeal section 23A. As section 23A is repealed this reference is redundant.

Item 237 amends section 113 (heading) to repeal the heading and substitute it to 113 Recovery of amounts due to the Commonwealth. This amendment will accurately reflect the intent and purpose of the section. This amendment will not alter the rights and obligations of the Commonwealth or a person under this section.

Item 241 amends section 113 to omit “shall realise” and substitute it to “must realise”. This amendment is a technical amendment to modernise the language and will not alter the rights and obligations of the Commonwealth or a person.

Item 243 amends section 114A (heading) to repeal the heading and substitute it to 114A Notice of the MRCC of retirement of employee. This amendment will accurately reflect the
intent and purpose of the section. This amendment will not alter the rights and obligations of the Commonwealth or a person under this section.

**Item 244** amends paragraph 114A(1)(a) to repeal the paragraph and substitute it to “an employee of the Commonwealth is receiving, or is entitled to receive, compensation under this Act; and”. The effect of this amendment is to repeal subparagraphs 114A(1)(a)(ii) and reframe it as a single paragraph. This amendment enables an appropriate officer of the employer to provide the MRCC written notification of the retirement date and superannuation scheme the employee is a member of. The provisions intent is to avoid an overpayment to the person.

**Item 246** amends paragraph 114B(1)(c) to repeal the paragraph and substitute it to: “the MRCC is of the opinion that the retired employee may have been paid, or might be paid, amounts of compensation under this Act in excess of the amounts that he or she was entitled to receive because of sections 20, 21 or 21A;”.

The effect of this amendment is to provide where the MRCC is of the opinion an employee may have been overpaid subsections 114B(2) – (15) are applicable. These subsections enable the administrator of the superannuation fund and the MRCC to communicate and adjust payments if required. This amendment will not alter the existing rights and obligations of the MRCC, administrator of superannuation or an employee.

**Item 248** amends paragraph 114B(2)(a) to repeal the paragraph and substitute it to “stating that the retired employee may receive, or may have received, an overpayment of compensation; and”.

This amendment reflects the amendments to change all references from Comcare to the Commonwealth and remove reference to ‘the authority’. This amendment will not alter the rights and obligations of the Commonwealth or a person under this provision.

**Item 262** amends section 114C (heading) to repeal the heading and substitute it to 114C The MRCC may write off debt. This amendment is a technical amendment to accurately reflect the intent and purpose of the section. This amendment will not alter the rights and obligations of the Commonwealth or a person under this provision.

**Item 266** amends section 114D (heading) to repeal the heading and substitute it to 114C The MRCC may waive debt. This amendment will accurately reflect the intent and purpose of the section. This amendment will not alter the rights and obligations of with the Commonwealth or a person under this provision.

**Item 268** amends subsection 114D(1) to omit “it’s right” and substitute it to “the Commonwealth’s right”. This amendment is consequential to the amendment made by Item 267 to ensure the section operates to enable the MRCC, on behalf of the Commonwealth, to waive its right to recover a debt from a person.

**Item 277** amends subsection 118(2) to omit “paid by it” and substitute it to “paid by the Commonwealth”. This amendment reflects the amendments to change all references from Comcare to the Commonwealth and ensures the subsection is grammatically correct given the amendments made to the subsection by Items 230, 231 and 233. This amendment will not alter the rights and obligations of the Commonwealth or a person under this subsection.
**Item 291** amends subsection 122A(1) to omit “Minister” and substitute it to “MRCC”. This amendment is to prescribe power to the MRCC to make legislative rules under the Act.

**Items 295 and 297** amend subsections 125(1) and (2) to omit “the corresponding liability of that relevant authority” and substitute it to “its corresponding liability”. This amendment reflects the amendments to change all references from Comcare to the Commonwealth and ensures the subsection is grammatically correct. This amendment will not alter the rights and obligations of the Commonwealth or a person under this subsection.

**Item 316** amends section 140, the simplified outline of Part XI Operation of this Act in relation to certain defence-related injuries and deaths to remove the latter part of section 40. The new simplified outline provides “This Part (XI) confers on the Military Rehabilitation and Compensation Commission the functions of determining and managing claims under this Act that relate to defence service that occurred before MRCA commencement date (1 July 2004) and of managing the provision of compensation and rehabilitation provided as a result of the making of claims of that kind”.

The effect of this amendment is to remove this Part, to enable the Part to modify the operation of the Safety, Rehabilitation and Compensation Commission and in relation to any liabilities of Comcare and the Commonwealth for members of the Defence Force, as this is now redundant.

**Item 317** amends subsection 143(1) to omit the reference to subsection (1) this amendment is consequential to Item 318 to repeal subsections 143(2) to (4). This amendment has the effect of amending the subsection to a section.

**Item 325** repeals section 147 and will substitute the heading to 147 Notice to the Chief of the Defence Force and amends the section. Currently section 147 contains a number of tables specifying how Comcare is to be referenced throughout the Act, as these are no longer required the new amendment will replicate table Item 2A into section 147. New section 147 will specify section 61 applies as if it requires the determining authority to give a copy of the notice to the Chief of Defence of the determination where it relates to liability for an injury, disease or permanent impairment at the time the determination was made, or in case of death at the time of death, of a person who was a member of the Defence Force.

Section 61 specifies the requirements for and how a determining authority must make a determination for compensation under section 14 (compensation for injuries) within the period prescribed by the regulations.

The application provision, at Part 2, makes it clear a notice given under this section applies in relation to a notice at or after commencement of this Item (28 days after Royal Assent).

Enable the MRCC to exchange information with Defence obtained prior to the Item commencement

**Item 326** inserts new subsection 151(1B) before subsection 151A(2). New subsection 151(1B) provides the MRCC (or a staff member assisting the MRCC) may provide any information obtained in the performance of duties under this Act to the Chief of the Defence
Force for a purpose relating to the reconsideration or review under Part VI of a determination made under this Act about acceptance of liability for an injury, disease or death.

**Item 327** will amend paragraphs 151A(2)(a) and (b) to omit “or (1A)” and substitutes it with “, (1A) or (1B).”. This amendment is a technical consequential amendment to the amendments made by Item 326 above which inserts new subsection 151A(1B).

**Items 328** repeals subsection 153, holding money on trust, Item 218 incorporates the effect of this subsection into new subsection 110(5).

**Items 329** repeals Division 4 of Part XI as this Division is no longer required. The effect of this amendment is to repeal section 155 Reconsideration and review. Section 155 was relevant when the Act included proceedings for Commonwealth employees and former and current ADF members. However as the DRCA is a military specific Act, prescribing all the rights, obligations and entitlements for former and current ADF members, it is no longer required to specify the role of the MRCC in relation to defence related.

**Item 330 Application provision**
The application provision, makes it clear a notice given under this section applies in relation to a notice at or after commencement of this Item (28 days after Royal Assent).

Enable the MRCC to exchange information with Defence obtained prior to the Item commencement

**Schedule 6 Part 2 – Other amendments**

**Item 331 – after section 42**
Item 1 of Schedule 6 inserts section 43 in the Safety, Rehabilitation and Compensation Act (1988) (SRCA). New subsection 43(1) provides if compensation under this Act is payable to, or for the benefit of, a person who is a peacekeeper, for the purposes of the VEA Part IV, or their dependant the person may provide written notice to Comcare they do not wish to be paid compensation under the SRCA. A person may elect to provide a written notice not to receive compensation under the SRCA where they wish to choose to pursue a claim under the VEA. This provides the person with a choice, given their circumstances, under which Act they may be compensated for their injury.

New subsection 43(2) will provide compensation ceases to be payable once Comcare receives the notice in subsection (1) and any amount of compensation payable during the period when the request is in force does not become payable. This subsection puts into effect the intent of new subsection 43(1).

New subsection 43(3) provides the person may, by notice in writing to Comcare, to revoke the request. The effect of this amendment is to enable a person to revoke their request made under subsection 43(1) by providing a written notice to Comcare to revoke the notice.

New subsection 43(4) provides the revocation has effect on receipt of the notice by Comcare and it does not revive any entitlement to the compensation amount as a result of making the request. The effect of this amendment is where a person has provided Comcare with written notice to revoke their request for cessation of compensation payments, this will have effect
once Comcare receives it. However, revoking the request of cessation of compensation payments does not revive any entitlement to the compensation amount.

Subsection 43(5) provides a person is under a legal disability (the first person) may not make or revoke a request but a request may be made or revoked on his or her behalf by another person who Comcare is satisfied represents the first person’s interests. The effect of this amendment is to ensure where a person is under a legal disability the making or revoking of a request can only be done, on their behalf, by a person who Comcare is satisfied represents their interests.

Subsection 43(6) provides a request or revocation made on or behalf of the first person is taken to have been made by the first person. The effect of this amendment is to provide where a request to make or revoke the request is made under subsection 43(5), the request or revocation is taken to have been made by the person with the legal disability.

**Item 332 – Application provision**
Item 332 ensures section 43 of the *Safety, Rehabilitation and Compensation Act 1988* applies to any request or revocation given before, at or after the commencement of this item. The purpose of this amendment is to ensure where an employee has made a revocation under subsection 43(3) the revocation is a valid revocation no matter when it was provided to Comcare.
Schedule 7 – Specialist Medical Review Council

*Veterans’ Affairs Act 1986*

The Specialist Medical Review Council (SMRC) is a statutory body established under Part XIB of the *Veterans’ Affairs Act 1986* (VEA). The role of the SMRC is to review decisions made by the Repatriation Medical Authority (RMA) in respect to the contents of Statements of Principles. The statement of principles underpins the assessments of disease or injury under the VEA and *Military Rehabilitation and Compensation Act 2004*.


These amendments commence the day after the Act receives Royal Assent.

**Notes of Clauses:**

*Items 1 to 17* are consequential amendments related to *Veterans’ Affairs Legislation Amendment (Omnibus) Bill 2017* to substitute all references from ‘the Council’ to ‘the Review Council’ or ‘Specialist Medical Review Council’ where appropriate.
Schedule 8 – other amendments

Australian Participants in British Commonwealth Occupation Force (Treatment) Act 2006

The amendments made by Schedule 8, Item 1, amends the existing provisions related to eligibility for treatment under the Australian Participants in British Commonwealth Occupation Force (Treatment) Act 2006. The amendment will enable a person who was a member of the Australian Defence Force (ADF) and who served in Japan at any time during 16 August 1945 to the end of 30 January 1946 to be eligible for medical treatment (gold card). This amendment is intended to extend the gold card eligibility for those members of the ADF who served in Japan prior to the British Commonwealth Occupation Force (BCOF).

Veterans’ Entitlements Act 1986

The amendments made by Schedule 8, Item 2 will align the pension age in the Veterans’ Entitlements Act 1986 with the Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA) and the Military Rehabilitation and Compensation Act 2004 (MRCA) this further aligns the pension age within veteran legislation with Commonwealth legislation.

The amendments made by Schedule 8, Items 3-6, are technical amendments to more accurately reflect and streamline the operation of the legislation. These amendments are related to the pharmaceutical benefits amendments made in the Veterans Affairs Legislation Amendment (Omnibus) Act 2017. These amendments remove incorrect references and make amendments to more accurately reflect the intent and operation of the provisions.

These amendments commence the day after the Act receives Royal Assent.

Notes of Clauses:

Item 1 amends paragraph 7(1)(a) of the Australian Participants in British Nuclear Test and British Commonwealth Occupation Force (Treatment) Act 2006. New paragraph 7(1)(a) will add three new subparagraphs to provide “a person is eligible to be provided treatment under this Act if the person is a nuclear test participant or a British Commonwealth Force participant or a person who served as a member of the Australian Defence Force in Japan at any time during the period of 16 August 1945 to the end of 30 January 1946”. Existing paragraph 7(1)(b) provides the person must be an Australian resident.

The effect of this amendment is to add new subparagraph 7(1)(a)(iii) to enable medical treatment to be provided to a person who served as a member of the Australian Defence Force in Japan at any time during the period from the beginning of 16 August 1945 to the end of 30 January 1946. The existing eligible persons in described in paragraph 7(1)(a) have been separated into subparagraphs 7(a)(i) and (ii) – this amendment is a reorganisation of the provision.

The purpose of this amendment is to allow ADF members who served in Japan between 16 August and 1945 and 30 January 1946, prior to British Commonwealth Occupation Force, to be eligible to receive medical treatment (Gold Card) under the Act.
Item 2 amends subsection 37E(1) of the Veterans Entitlement Act 1986 (VEA) to omit “he has turned 65 or she has reached pension age (within the meaning of subsection 5QB(3), (4) and (5))”, and substitute it to “he or she has reached pension age (within the meaning of subsection 5QB(2), (3), (4) and (5)).”

This amendment will align the pension age under veteran legislation to the pension age specified under Commonwealth legislation. The Commonwealth pension age for a person born on or after 1 January 1957 is 67 years for both men and women.

Item 3 amends subparagraph 63B(1)(a)(ii) of the VEA to substitute ‘concession card requirement’ to ‘concession requirement’. This is a technical amendment to more accurately reflect the legislative provision the eligibility for essential medical equipment payment.

Item 4 amends the heading in section 63D from ‘The concession card requirement’ to “63D The concession requirement”. This is technical amendment to better reflect the intent of the section.

Item 5 amends subsection 63D(1) to omit ‘concession card requirement’ and replace it with ‘concession requirement’. This is a technical amendment to reflect the intent of the section. There is no alteration in the concession card policy or eligibility requirements.

Item 6 amends subsection 63D(1) to include new paragraph 63D(1)(c) to specify when a person is eligible for the concession requirement. Where a person is eligible for fringe benefits under section 53A they become eligible for the concession requirement on that day.

The effect of this amendment is to clarify a person who satisfies section 53A will come within the definition of ‘concessional beneficiary’ under the National Health Act 1953 and may access discounted pharmaceuticals on the day they become eligible for fringe benefits.

Item 7 repeals paragraph 63D(2)(a) and is a technical amendment. This amendment is consequential to the amendment made at item 6. There is no alteration in the concession card policy or eligibility requirements.

Item 8 is the application provision for sections 63B and 63D of the VEA (Items 3 – 7) and applies in the income year in which the item commences where the essential medical equipment payment (EMEP) test day is on or after the day this commences, and each later income year.