



# **Veterans' Affairs Legislation Amendment (Budget Measures) Act 2017**

**No. 59, 2017**

**An Act to amend the law relating to veterans'  
affairs and military rehabilitation and  
compensation, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**No. 59, 2017**

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**An Act to amend the law relating to veterans'  
affairs and military rehabilitation and  
compensation, and for related purposes**

*[Assented to 22 June 2017]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Veterans' Affairs Legislation Amendment (Budget Measures) Act 2017*.

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*No. 59, 2017      Veterans' Affairs Legislation Amendment (Budget Measures) Act 2017      1*

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 June 2017
2. Schedule 1, items 1 to 16	1 July 2017.	1 July 2017
3. Schedule 1, items 17 and 18	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of Part 2 of Schedule 1 to the <i>Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017</i> .  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	12 October 2017 (paragraph (b) applies)
4. Schedule 1, items 19 to 68	1 July 2017.	1 July 2017
5. Schedule 2	1 July 2017.	1 July 2017
6. Schedule 3, items 1 to 10	1 July 2017.	1 July 2017

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
7. Schedule 3, items 11 to 25	<p>The later of:</p> <p>(a) immediately after the commencement of the provisions covered by table item 6; and</p> <p>(b) immediately after the commencement of Part 2 of Schedule 1 to the <i>Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017</i>.</p> <p>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.</p>	12 October 2017 (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

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.

## Schedule 1—Australian participants in British nuclear tests and British Commonwealth Occupation Force

### Part 1—Main amendments

#### *Australian Participants in British Nuclear Tests (Treatment) Act 2006*

##### 1 Title

Omit “testing for and treatment of malignant neoplasia in Australian participants in British nuclear tests”, substitute “treatment for Australian participants in British nuclear tests and in the British Commonwealth Occupation Force”.

##### 2 Section 1

After “Tests”, insert “and British Commonwealth Occupation Force”.

Note: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

##### 3 Subsection 4(1)

Insert:

***British Commonwealth Occupation Force participant*** means a person who was a member of the Australian Defence Force who served in the British Commonwealth Occupation Force in Japan at any time during the period from the beginning of 31 January 1946 to the end of 28 April 1952.

##### 4 Subsection 4(1) (definition of *testing*)

Repeal the definition.

##### 5 Subsection 4(1) (definition of *treatment*)

Omit “of malignant neoplasia, and includes testing”.

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**6 Subsection 4(1) (at the end of the definition of *treatment*)**

Add:

Note: That subsection covers treatment of malignant neoplasia and the provision of diagnostic services.

**7 Paragraph 5(1)(b)**

Repeal the paragraph.

**8 Part 2 (heading)**

Repeal the heading, substitute:

**Part 2—Treatment**

**9 Paragraph 7(1)(a)**

After “participant”, insert “or a British Commonwealth Occupation Force participant”.

**10 Subsection 7(2)**

Repeal the subsection, substitute:

- (2) However, a person is not eligible to be provided with treatment under this Act if the person is:
- (a) eligible for treatment under section 53D, subsection 85(3), (4), (4A), (4B), (5), (7) or (7A) or section 86 of the *Veterans' Entitlements Act 1986* for any injury or disease (within the meaning of that Act); or
  - (b) entitled to be provided with treatment under section 281, 282 or 284 of the *Military Rehabilitation and Compensation Act 2004* for any injury or disease (within the meaning of that Act).

**11 Subsection 14(1)**

Omit “for particular malignant neoplasia, treatment of a particular kind for malignant neoplasia or treatment for malignant neoplasia”.

**12 Subsection 14(2)**

Omit “for malignant neoplasia”.

## 13 After Part 3

Insert:

### Part 3A—Pharmaceutical supplement

#### 23A Simplified outline

<p>A person is eligible for pharmaceutical supplement if the person is eligible to be provided with treatment under this Act. However, pharmaceutical supplement is not payable in some circumstances.</p>
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#### 23B Eligibility for pharmaceutical supplement

A person is eligible for pharmaceutical supplement under this section if the person is eligible to be provided with treatment under this Act.

Note: Section 23C sets out some circumstances when pharmaceutical supplement is not payable.

#### 23C Pharmaceutical supplement not payable in some circumstances

*People leaving Australia otherwise than temporarily*

- (1) A person who leaves Australia otherwise than temporarily is not eligible for pharmaceutical supplement under section 23B after the day on which he or she left Australia.

*Temporary absence from Australia*

- (2) A person who is temporarily absent from Australia and has been so absent for more than 26 weeks is not eligible for pharmaceutical supplement under section 23B after the first 26 weeks of the absence.

*When a person becomes eligible for pharmaceutical supplement  
after leaving Australia*

- (3) The person mentioned in subsections (1) and (2) again becomes eligible to receive pharmaceutical supplement under section 23B on the later of the following days:
- (a) the day on which the person returns to Australia;
  - (b) the day on which the person notifies the Commission of his or her return to Australia.

*When pharmaceutical supplement is not payable*

- (4) Even though a person is eligible for pharmaceutical supplement under section 23B, the supplement is not payable to the person if:
- (a) he or she is receiving veterans supplement under section 118A of the *Veterans' Entitlements Act 1986*; or
  - (b) he or she is receiving MRCA supplement under section 300 of the *Military Rehabilitation and Compensation Act 2004*; or
  - (c) he or she is receiving a pharmaceutical allowance under the *Social Security Act 1991*; or
  - (d) he or she is a wholly dependent partner of a deceased member (within the meaning of the *Military Rehabilitation and Compensation Act 2004*); or
  - (e) he or she is receiving a social security payment (within the meaning of the *Social Security Act 1991*) for which a pension supplement amount (within the meaning of that Act) is used to work out the rate of the payment; or
  - (f) he or she is receiving a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at a rate determined under or by reference to subsection 30(1) of that Act; or
  - (g) he or she is receiving a service pension (within the meaning of the *Veterans' Entitlements Act 1986*).

### **23D Rate of pharmaceutical supplement**

The rate of pharmaceutical supplement that is payable under section 23B is the rate of veterans supplement that is payable from time to time under section 118C of the *Veterans' Entitlements Act 1986*.

### **23E Payment of pharmaceutical supplement**

A person's pharmaceutical supplement under section 23B is payable on each pension payday (within the meaning of subsection 5Q(1) of the *Veterans' Entitlements Act 1986*) on which:

- (a) the person is eligible for the pharmaceutical supplement; and
- (b) the pharmaceutical supplement is payable to the person.

### **14 At the end of Part 5**

Add:

### **Division 5—Recovery of cost of treatment**

#### **48A Recovery of cost of treatment**

Section 93 of the *Veterans' Entitlements Act 1986* applies to the provision of treatment under this Act in a corresponding way to the way that section applies to the provision of treatment under Part V of that Act.

### **Division 6—Recovery of overpayments of pharmaceutical supplement**

#### **48B Recovery of overpayments of pharmaceutical supplement**

- (1) This section applies if a person has been paid an amount of pharmaceutical supplement under Part 3A that should not have been paid.
- (2) The amount is recoverable, in a court of competent jurisdiction, as a debt due to the Commonwealth from:
  - (a) the person; or
  - (b) the estate of that person.
- (3) The amount may be deducted from an amount that is payable to the person under this Act.

### **15 At the end of section 49**

Add:

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; and (c) pharmaceutical supplement under Part 3A.

## **16 Application provision**

Division 5 of Part 5 of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*, as added by this Schedule, applies to the provision of treatment under that Act on or after the commencement of this item, where:

- (a) a claim referred to in paragraph 93(2)(a) of the *Veterans' Entitlements Act 1986* is made on or after that commencement; or
- (b) an entitlement referred to in paragraph 93(2)(a) or (b) of the *Veterans' Entitlements Act 1986* first arises on or after that commencement; or
- (c) a payment referred to in paragraph 93(2)(c) of the *Veterans' Entitlements Act 1986* is made on or after that commencement.

## ***Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988***

### **17 Section 144A (heading)**

Repeal the heading, substitute:

### **144A Persons entitled to treatment under other legislation not entitled to certain compensation**

### **18 Before paragraph 144A(1)(a)**

Insert:

- (aa) eligible to be provided with treatment under section 7 of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*; or

## Part 2—Consequential amendments

### *Aged Care Act 1997*

#### **19 Subparagraph 86-3(1)(i)(iii)**

After “Tests”, insert “and British Commonwealth Occupation Force”.

#### **20 Paragraph 86-6(a)**

After “Tests”, insert “and British Commonwealth Occupation Force”.

#### **21 Paragraph 96-10(2)(c)**

After “Tests”, insert “and British Commonwealth Occupation Force”.

### *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*

#### **22 Subsection 13(2) (note)**

Omit “or the *Military Rehabilitation and Compensation Act 2004*”, substitute “, the *Military Rehabilitation and Compensation Act 2004* or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”.

#### **23 Subsection 14(2) (note)**

Omit “or the *Military Rehabilitation and Compensation Act 2004*”, substitute “, the *Military Rehabilitation and Compensation Act 2004* or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”.

### *Healthcare Identifiers Act 2010*

#### **24 Section 5 (subparagraph (a)(i) of the definition of Veterans’ Affairs Department)**

After “Tests”, insert “and British Commonwealth Occupation Force”.

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### ***Income Tax Assessment Act 1936***

#### **25 Paragraph 251U(1)(b)**

Omit “or the *Military Rehabilitation and Compensation Act 2004*”, substitute “, the *Military Rehabilitation and Compensation Act 2004* or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”.

### ***Income Tax Assessment Act 1997***

#### **26 Section 11-15 (table item headed “social security or like payments”)**

Insert:

pharmaceutical supplement for Australian participants  
in British nuclear tests or in the British  
Commonwealth Occupation Force ..... Subdivision 52-CB

#### **27 Section 11-15 (table item headed “social security or like payments”)**

Omit:

travelling expenses for Australian participants in  
British nuclear tests ..... Subdivision 52-CB

substitute:

travelling expenses for Australian participants in  
British nuclear tests or in the British  
Commonwealth Occupation Force ..... Subdivision 52-CB

#### **28 Subdivision 52-CB (heading)**

Repeal the heading, substitute:

**Subdivision 52-CB—Exempt payments under the Australian  
Participants in British Nuclear Tests and British  
Commonwealth Occupation Force (Treatment) Act  
2006**

#### **29 Section 52-117 (heading)**

Repeal the heading, substitute:

**52-117 Payments of travelling expenses and pharmaceutical supplement are exempt**

**30 Section 52-117**

Before “A”, insert “(1)”.

**31 Section 52-117**

After “Part 3”, insert “(travelling expenses)”.

**32 Section 52-117**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

**33 At the end of section 52-117**

Add:

- (2) A payment of pharmaceutical supplement made to you under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* is exempt from income tax.

***Military Rehabilitation and Compensation Act 2004***

**34 At the end of subsection 301(4)**

Add:

- ; or (f) he or she is receiving pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

***National Cancer Screening Register Act 2016***

**35 Section 4 (subparagraph (b)(i) of the definition of *claims information*)**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

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***National Health Act 1953***

**36 Subsection 84(1) (subparagraph (b)(ii) of the definition of *medicare card*)**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

**37 Subsection 84(1) (definition of *repatriation pharmaceutical benefit*)**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

**38 Subparagraph 84C(4A)(a)(iii)**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

**39 Subparagraph 85E(2)(b)(ii)**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

***Social and Community Services Pay Equity Special Account Act 2012***

**40 Item 3 of Part 2 of Schedule 2**

After “*Tests*”, insert “*and British Commonwealth Occupation Force*”.

***Social Security Act 1991***

**41 Point 1066A-D2 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if person receiving certain supplements under other Acts*

**42 At the end of point 1066A-D2**

Add:

; or (c) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

**43 Point 1066A-D3 (heading)**

Repeal the heading, substitute:

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*No pharmaceutical allowance if partner receiving certain supplements under other Acts and not a service pensioner*

**44 Subparagraph 1066A-D3(b)(ii)**

Omit “; and”, substitute “; or”.

**45 At the end of paragraph 1066A-D3(b)**

Add:

- (iii) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*; and

**46 Point 1066B-D2 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if person receiving certain supplements under other Acts*

**47 At the end of point 1066B-D2**

Add:

- ; or (c) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

**48 Point 1066B-D3 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if partner receiving certain supplements under other Acts and not a service pensioner*

**49 Subparagraph 1066B-D3(b)(ii)**

Omit “; and”, substitute “; or”.

**50 At the end of paragraph 1066B-D3(b)**

Add:

- (iii) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and*
-

*British Commonwealth Occupation Force (Treatment)  
Act 2006; and*

**51 Point 1067G-C2 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if partner receiving certain  
supplements under other Acts and not a service pensioner*

**52 Subparagraph 1067G-C2(b)(ii)**

Omit “; and”, substitute “; or”.

**53 At the end of paragraph 1067G-C2(b)**

Add:

- (iii) pharmaceutical supplement under Part 3A of the  
*Australian Participants in British Nuclear Tests and  
British Commonwealth Occupation Force (Treatment)  
Act 2006; and*

**54 Point 1067L-C2 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if partner receiving certain  
supplements under other Acts and not a service pensioner*

**55 Subparagraph 1067L-C2(b)(ii)**

Omit “; and”, substitute “; or”.

**56 At the end of paragraph 1067L-C2(b)**

Add:

- (iii) pharmaceutical supplement under Part 3A of the  
*Australian Participants in British Nuclear Tests and  
British Commonwealth Occupation Force (Treatment)  
Act 2006; and*

**57 Point 1068-D4 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if person receiving certain supplements under other Acts*

**58 At the end of point 1068-D4**

Add:

; or (c) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

**59 Point 1068-D5 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if partner receiving certain supplements under other Acts and not a service pensioner*

**60 Subparagraph 1068-D5(b)(ii)**

Omit “; and”, substitute “; or”.

**61 At the end of paragraph 1068-D5(b)**

Add:

(iii) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*; and

**62 Point 1068A-C2 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if person receiving certain supplements under other Acts*

**63 At the end of point 1068A-C2**

Add:

; or (c) pharmaceutical supplement under Part 3A of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*.

**64 Point 1068B-E2 (heading)**

Repeal the heading, substitute:

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*No pharmaceutical allowance if person receiving certain  
supplements under other Acts*

**65 At the end of point 1068B-E2**

Add:

; or (c) pharmaceutical supplement under Part 3A of the *Australian  
Participants in British Nuclear Tests and British  
Commonwealth Occupation Force (Treatment) Act 2006*.

**66 Point 1068B-E3 (heading)**

Repeal the heading, substitute:

*No pharmaceutical allowance if partner receiving certain  
supplements under other Acts and not a service pensioner*

**67 Subparagraph 1068B-E3(b)(ii)**

Omit “; and”, substitute “; or”.

**68 At the end of paragraph 1068B-E3(b)**

Add:

(iii) pharmaceutical supplement under Part 3A of the  
*Australian Participants in British Nuclear Tests and  
British Commonwealth Occupation Force (Treatment)  
Act 2006*; and

## **Schedule 2—Work test for intermediate or special rate of pension**

### ***Veterans' Entitlements Act 1986***

#### **1 Paragraph 23(3A)(g)**

Repeal the paragraph, substitute:

- (g) when the veteran stopped undertaking his or her last paid work, the veteran had been undertaking remunerative work for a continuous period of at least 10 years that began before the veteran turned 65; and

#### **2 Paragraph 24(2A)(g)**

Repeal the paragraph, substitute:

- (g) when the veteran stopped undertaking his or her last paid work, the veteran had been undertaking remunerative work for a continuous period of at least 10 years that began before the veteran turned 65; and

#### **3 Application provision**

The amendments made by this Schedule apply in relation to a claim or application referred to in paragraph 23(3A)(a) or 24(2A)(a) of the *Veterans' Entitlements Act 1986* that is made on or after the commencement of this item.

## **Schedule 3—Rehabilitation programs**

### ***Military Rehabilitation and Compensation Act 2004***

#### **1 Section 37**

After:

The capacity for rehabilitation of a person with a service injury or disease is assessed under Part 2. If the person is capable of rehabilitation, he or she may be required to undertake a rehabilitation program under that Part.

insert:

Part 2 also provides for rehabilitation for certain persons who have made a claim for acceptance of liability by the Commission for a service injury or disease, where the claim has not been determined.

#### **2 Section 38**

Omit “a service”, substitute “an”.

#### **3 At the end of section 42**

Add:

This Part also provides for rehabilitation for certain persons who have made a claim for acceptance of liability by the Commission for a service injury or disease, where the claim has not been determined.

#### **4 Before subsection 43(1)**

Insert:

*Commission has accepted liability for service injury or disease*

#### **5 At the end of section 43**

Add:

*Claim for acceptance of liability for service injury or disease not determined*

- (3) This Part also applies to a person if:
- (a) the person has made a claim of a kind referred to in paragraph 319(1)(a); and
  - (b) the Commission has not determined the claim; and
  - (c) the person is included in a class of persons determined in an instrument under subsection (4); and
  - (d) the Commission has determined, in writing, that this Part applies to the person.
- (4) The Commission may, by legislative instrument, determine a class of persons for the purposes of paragraph (3)(c).
- (5) A determination under paragraph (3)(d) is not a legislative instrument.

**6 At the end of subsection 50(1)**

Add:

Note: Subsection (6) provides that this section does not apply to a person to whom this Part applies because of subsection 43(3) (claim for acceptance of liability not determined).

**7 At the end of section 50**

Add:

- (6) This section does not apply to a person to whom this Part applies because of subsection 43(3) (claim for acceptance of liability not determined).

**8 At the end of subsection 52(1)**

Add:

Note: Subsection (6) provides that this section does not apply to a person to whom this Part applies because of subsection 43(3) (claim for acceptance of liability not determined).

**9 At the end of section 52**

Add:



- 
- (6) This section does not apply to a person to whom this Part applies because of subsection 43(3) (claim for acceptance of liability not determined).

## **10 Application provision**

The amendments of section 43 of the *Military Rehabilitation and Compensation Act 2004* made by this Schedule apply in relation to a claim referred to in paragraph 43(3)(a) of that Act made on or after the commencement of this item.

## ***Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988***

### **11 After subsection 36(1)**

Insert:

(1A) If:

- (a) an employee has made a claim under Part V in relation to an injury to the employee; and
- (b) the relevant authority has not determined the claim; and
- (c) the person is included in a class of persons determined in an instrument under subsection (1B); and
- (d) the MRCC has determined, in writing, that this section applies to the person;

the rehabilitation authority may at any time, and must on the written request of the employee, arrange for the assessment of the employee's capability of undertaking a rehabilitation program.

(1B) The MRCC may, by legislative instrument, determine a class of persons for the purposes of paragraph (1A)(c).

(1C) A determination under paragraph (1A)(d) is not a legislative instrument.

### **12 Subsection 36(2)**

After "An assessment", insert "mentioned in subsection (1) or (1A)".

### **13 At the end of subsection 36(4)**

Add:

Note: Subsection (9) provides that subsections (4), (4A) and (7) do not apply to an employee if an assessment is arranged under subsection (1A) in relation to the employee.

#### **14 At the end of section 36**

Add:

- (9) If the rehabilitation authority arranges for an assessment mentioned in subsection (1A) in relation to an employee, subsections (4), (4A) and (7) do not apply to the employee in connection with the assessment.

#### **15 After subsection 37(1)**

Insert:

(1A) If:

- (a) an employee has made a claim under Part V in relation to an injury to the employee; and
- (b) the relevant authority has not determined the claim; and
- (c) the person is included in a class of persons determined in an instrument under subsection (1B); and
- (d) the MRCC has determined, in writing, that this section applies to the person;

a rehabilitation authority may make a determination that the employee should undertake a rehabilitation program.

- (1B) The MRCC may, by legislative instrument, determine a class of persons for the purposes of paragraph (1A)(c).

#### **16 Subsection 37(2)**

After “subsection (1)”, insert “or (1A)”.

#### **17 Subsection 37(2A)**

Omit “under subsection (1)”, substitute “made by a rehabilitation authority under subsection (1) or (1A)”.

#### **18 After subsection 37(2A)**

Insert:

- (2B) A determination made by the MRCC under paragraph (1A)(d) is not a legislative instrument.
-

**19 Subsection 37(3)**

After “subsection (1)”, insert “or (1A)”.

**20 At the end of subsection 37(5)**

Add:

Note: Subsection (9) provides that subsections (5) to (8) do not apply to an employee if a determination is made under subsection (1A) in relation to the employee.

**21 At the end of section 37**

Add:

(9) If a rehabilitation authority makes a determination under subsection (1A) in relation to an employee, subsections (5) to (8) do not apply to the employee in connection with that determination.

**22 Paragraph 39(1)(b)**

After “rehabilitation program”, insert “(except in connection with a determination under subsection 37(1A))”.

**23 Paragraph 39(1)(b)**

After “a program”, insert “(except an assessment arranged under subsection 36(1A))”.

**24 Subsection 40(1)**

After “rehabilitation program”, insert “(except in connection with a determination under subsection 37(1A))”.

**25 Application provision**

The amendments of sections 36 and 37 of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* made by this Schedule apply in relation to a claim referred to in paragraph 36(1A)(a) or 37(1A)(a) of that Act made on or after the commencement of this item.

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*[Minister's second reading speech made in—  
House of Representatives on 24 May 2017  
Senate on 13 June 2017]*

*(95/17)*

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24 *Veterans' Affairs Legislation Amendment (Budget Measures) Act 2017* No. 59, 2017