

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Veterans' Affairs

Military Rehabilitation and Compensation Act 2004

Section 67

(Instrument No. M9 of 2005)

GUIDE TO DETERMINING IMPAIRMENT AND COMPENSATION

The purpose and operation of GARP M

The *Military Rehabilitation and Compensation Act 2004* (the Act) provides for compensation and rehabilitation for members and former members of the Australian Defence Force who sustain injury or disease as a result of their service.

Where the Military Rehabilitation and Compensation Commission (the Commission) has accepted liability for an injury or disease which results in permanent impairment, compensation is payable if the degree of that impairment is above a certain level. Section 67 of the Act provides that the Commission may determine in writing a guide to determining the level of impairment and compensation.

The purpose of the instrument to which this Explanatory Statement relates is to:

- revoke GARP V (M) (MRCA Instrument No. 1 of 2004);
- determine a new consolidated GARP M that is self-contained rather than adopting and modifying a similar guide prepared by the Repatriation Commission under the Veterans' Entitlements Act 1986 (VEA) known as the Guide to the Assessment of Veterans' Pensions Fifth Edition (GARP V);
- make a number of minor drafting changes to definitions in the Guide as result of comments by the Standing Committee on Regulations and Ordinances; and
- correct the logos on the worksheets and insert several new worksheets in the Guide.

The guide, determined under the Act, is to be known as GARP M.

This guide will be used in the same way as the GARP V under the VEA. Paragraph 67(1)(b) of the Act states that impairment will be assessed on a point scale from 0 to 100, as impairment points are used elsewhere as thresholds for the provision of certain benefits. Impairment points and lifestyle rating will be combined to determine the amount of compensation payable. This will be expressed as a compensation factor on a scale from 0 to 1. The compensation factor will be applied to the maximum amount payable under section 74 of the Act.

Subsection 67(2) of the Act requires the Commission to specify two methods that are not used in GARP V. These are tables used to determine compensation payable for warlike and non-warlike service as distinct from peacetime service, because different compensation factors will apply for the same impairment and lifestyle rating.

In addition the Commission must specify a method for calculating compensation payable when a mixture of warlike or non-warlike service and peacetime service applies, as the compensation payable for impairment will be a weighted average.

Under subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* the Commission may include in the guide under section 67 of the Act one or more methods of working out the amount of compensation a person is entitled to under Part 2 of Chapter 4 of the Act (permanent impairment) for the service injury or disease. A method may (but does not have to) include a method of offsetting payments made to the person under the VEA or the *Safety, Rehabilitation and Compensation Act 1988* in respect of the old injury or disease.

This determination comes into effect on 1 July 2005.

Changes made to GARP M

The changes made to GARP M are as follows:

- The Senate Standing Committee on Regulations and Ordinances has noted that GARP V (M) defines the terms “non-accepted condition” and “non-service condition” in almost identical terms and asked whether, in the interests of clarity, it would be preferable to use just one of these terms in the Guidelines. The Commission agreed that it would be preferable to use just the term “non-accepted condition” in the Guidelines and has given effect to the Committee’s suggestion in the instrument.
- A Thoraco-Lumbar Worksheet and a Cervical Spine Worksheet have been added to the Guide and the Guide to the Assessment of Rates of Veterans’ Pensions 5th edition logos on all worksheets have been replaced with the Military Rehabilitation and Compensation Commission logo. Some of the worksheets have also been amended to correct errors and/or to improve presentation and ease of use. None of the changes affect the method of assessment or the assessment outcome.

Consultation

A Working Group of Ex-Service Organisations, that comprised 11 organisations that represent veterans, members and former members, and their families was consulted in relation to the changes.

Retrospective Operation

There is no retrospective operation.