

EXPLANATORY STATEMENT

GARP M (Transitional Impairment Methodology and Interim Permanent Impairment Lifestyle Methodology) Amendment Determination 2013

EMPOWERING PROVISIONS

Subsection 67(3) of the of the *Military Rehabilitation and Compensation Act 2004* (MRCA) and subsection 13(4) of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.

PURPOSE

The attached instrument (2013 No. .MRCC 22) amends GARP M by:

- (a) Inserting a new method of assessment of lifestyle effect for calculating interim impairment payments; and
- (b) Replacing the current Chapter 25 with a new Chapter 25.

The amendments to GARP M implements recommendations of the *Review of Military Compensation Arrangements* (2009) (MRCA Review).

The MRCA Review was a Government commitment to examine the current military rehabilitation and compensation system.

The report of the MRCA Review's Steering Committee was released by the Minister for Veterans' Affairs on 18 March 2011.

“8.7 Decision makers make greater use of the interim permanent impairment compensation provisions of the MRCA.”

“22.2(a) The Government consider that the MRCC be asked to review the current method of calculating transitional permanent impairment compensation claims, noting the arguments that it produces unintended consequences that are not appropriate — favoured by DVA and Defence representatives and Mr Peter Sutherland;”

The Government responded to the report of the MRCA Review on 8 May 2012 and these two recommendations were accepted with enhancements as follows:

Recommendation 8.7

“The Government accepts this recommendation with enhancement. An interim payment of compensation for permanent impairment can be made when the medical evidence can predict a final minimum level of impairment that is above the relevant threshold. Currently, there is no payment of lifestyle effect compensation until the condition has stabilised. The enhancement to this recommendation is to allow the payment of a minimum imputed lifestyle effect, from the tables in Chapter 23 of GARP M, that matches the level of impairment. When the condition stabilises, the compensation for both the impairment and lifestyle effects will be adjusted.

This recommendation will be implemented, prospectively, from 1 July 2013, subject to legislation being passed”

Recommendation 22.2(a)

“The Government accepts this recommendation and further agrees that the methodology should be changed and to adopt and fund the alternative methodology that was presented in the appendix to Chapter 22 of the report, as recommended by the MRCC. This new methodology will be applied both prospectively and retrospectively. Where application of the new methodology results in a lower amount of compensation, the existing rate of MRCA permanent impairment compensation will apply until a new assessment, results in a higher amount. The planned implementation date is 1 July 2013, with retrospective reassessments to be made over two and a half years from January 2014.”

CONSULTATION

Yes. The veteran and Defence community has been consulted. The Steering Committee for the *Review of Military Compensation Arrangements* visited ADF bases and held public meetings in all capital cities and Townsville. Following release of the Review’s report, feedback was invited on the Review’s recommendations. Representatives of the Ex-Service Organisation Round Table were also consulted about this instrument and were supportive of the changes.

RETROSPECTIVITY

If the attached instrument commenced before registration, subsection 12(2) of the *Legislative Instruments Act 2003* (legislative instrument of no effect if it takes effect before registration and disadvantages a person or imposes liabilities on a person) would not be contravened because the instrument does not disadvantage any person or impose a liability on any person (except the Commonwealth).

DOCUMENTS INCORPORATED-BY-REFERENCE

No.

HUMAN RIGHTS STATEMENT

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

The instrument does engage an applicable right or freedom. It relates to the right to social security. The right to social security requires, among other things, the right to a minimum essential level of benefits for all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The instrument makes it possible for certain members of the community (members and former members of the Australian Defence Force) to obtain a higher amount of interim compensation for an injury or disease under the MRCA by amending GARP M in accordance with recommendation 8.7 of the MRCA Review.

The instrument also repeals Chapter 25 and substitutes a new Chapter 25 that is more favourable in relation to compensation payments to some members and former members of the Australia Defence Force than the repealed Chapter 25. Chapter 25 deals with situations where an injury or disease has been accepted under the *Veterans' Entitlements Act 1986* and/or the *Safety Rehabilitation and Compensation Act 1988*.

Conclusion

The instrument is compatible with human rights because it complements the right to social security.

Military Rehabilitation and Compensation Commission
Rule-Maker

FURTHER EXPLANATION

Attachment A.

Attachment A

Items	Explanation
1.	sets out the name of the determination.
2.	provides that the determination commences, or is taken to have commenced, on 1 July 2013.

Schedule

Sections	Explanation
1.	Amends Chapter 22 of GARP M by omitting the heading “Optional methods of assessment” and substitutes a new method of assessment of lifestyle effect for calculating interim impairment payments. The effect of this will be to increase interim impairment payments by including a lifestyle rating in the methodology.
2.	Amends GARP M by substituting a new Chapter 25 dealing with the method of working out the amount of compensation payable under the <i>Military Rehabilitation and Compensation Act 2004</i> (MRCA) for a person with an accepted <i>Veterans’ Entitlements Act 1986</i> and/ or the <i>Safety Rehabilitation and Compensation Act 1988</i> injury or disease before a claim for permanent impairment is made under the MRCA. There is a cap on the maximum amount payable under the three Acts – the amount payable cannot take the total sum payable above the maximum weekly payment of the MRCA permanent impairment on the day of the determination..
3.	Provides for the application of section 2 of the Schedule and is beneficial in that the changes made by the new Chapter 25 will be retrospective to 1 July 2004. All determined claims will be reassessed over a two and a half year period commencing on 1 January 2014.