



Military Compensation Act 1994

Act No. 54 of 1994 as amended

This compilation was prepared on 18 October 2000
taking into account amendments up to Act No. 118 of 1995

The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act to amend the Safety Rehabilitation and Compensation Act 1988 and the Veterans' Entitlements Act 1986, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Military Compensation Act 1994*.

2 Commencement [see Note 1]

This Act commences on the day on which it receives the Royal Assent.

Part 2—Amendments of the Safety Rehabilitation and Compensation Act 1988

3 Principal Act

In this Part, *Principal Act* means the *Safety Rehabilitation and Compensation Act 1988*.

4 Employees

Section 5 of the Principal Act is amended:

(a) by inserting after subsection (6) the following subsection:

“(6A) Without limiting subsection (6), the Minister may, by notice in writing, declare:

(a) that persons specified in the notice, being persons who:

- (i) hold an honorary rank in the Defence Force; or
 - (ii) are members of a philanthropic organisation that provides services to the Defence Force; or
 - (iii) undertake resettlement training under an arrangement made by the Defence Force;
- are, for the purposes of this Act, taken to be employed by the Commonwealth; and

(b) that such persons’ employment is, for those purposes, taken to be constituted by the performance by those persons of such acts as are specified in the notice; and such a declaration has effect accordingly.”.

(b) by omitting from subsection (10) “This” and substituting “Subject to subsections (11) and (12), this”;

(c) by omitting from paragraph (10)(a) “(other than Part IV)”;

(d) by adding at the end the following subsections:

“(11) Subsection (10) does not apply in relation to a veteran:

- (a) who has rendered operational service on or after the day on which the *Military Compensation Act 1993* commences; and
- (b) for whom provision for the payment of pension in respect of service rendered by the person is made by Part II of the *Veterans’ Entitlements Act 1986*.

“(12) Subsection (10) does not apply in relation to a member of the Defence Force who has rendered service in respect of which provision for the payment of pension is made by Part IV of the *Veterans’ Entitlements Act 1986*.”.

5 Insertion of new section

After section 6 of the Principal Act the following section is inserted:

“6A Injury arising out of or in the course of employment—extended operation

“(1) This section applies to the following employees:

- (a) members of the Defence Force;
- (b) members of the Air Training Corps established under section 8 of the *Air Force Act 1923*;
- (c) members of the Australian Cadet Corps established under section 62 of the *Defence Act 1903*;
- (d) members of the Naval Reserve Cadets established under section 38 of the *Naval Defence Act 1910*;
- (e) persons declared by the Minister under subsection 5(6A).

“(2) In addition to the circumstances set out in section 6, an injury to an employee to whom this section applies is to

be taken, for the purposes of this Act, as having arisen out of, or in the course of, the person's employment, if the injury was an unintended consequence of medical treatment paid for by the Commonwealth.

“(3) Subsection (2) applies whether or not the original condition that was being treated was compensable under this Act.”

6 Compensation for injuries resulting in incapacity where employee is in receipt of a superannuation pension

Section 20 of the Principal Act is amended by omitting paragraph (b) of the definition of *AC* in subsection (3) and substituting the following paragraph:

“(b) in the case of an employee who was not a member of the Defence Force immediately before retirement—the week were a week referred to in subsection 19(3);”.

7 Compensation for injuries resulting in incapacity where employee is in receipt of a lump sum benefit

Section 21 of the Principal Act is amended by omitting paragraph (b) of the definition of *AC* in subsection (3) and substituting the following paragraph:

“(b) in the case of an employee who was not a member of the Defence Force immediately before retirement—the week were a week referred to in subsection 19(3);”.

8 Compensation for injuries resulting in incapacity if employee is in receipt of a superannuation pension and a lump sum benefit

Section 21A of the Principal Act is amended by omitting paragraph (b) of the definition of *Compensation otherwise payable* in subsection (4) and substituting the following paragraph:

“(b) in the case of an employee who was not a member of the Defence Force immediately before retirement—the relevant week were a week referred to in subsection 19(3);”.

9 Certain persons may request cessation of compensation payments

Section 43 of the Principal Act is amended by omitting from subsection (1) “a member of the Forces for the purposes of Part IV of the *Veterans' Entitlements Act 1986*, or a dependant of such a member,” and substituting the following:

“:

- (a) a member of the Forces, or a member of a Peacekeeping Force, for the purposes of Part IV of the *Veterans' Entitlements Act 1986*; or
- (b) a veteran who has, on or after the day on which the *Military Compensation Act 1994* commences, rendered operational service for the purposes of Part II of the *Veterans' Entitlements Act 1986*; or
- (c) a dependant of such a member or veteran;”.

10 Constitution

Section 89E of the Principal Act is amended by inserting after paragraph (1)(f) the following paragraph:

“(fa) a member of the Defence Force who, in the Minister's opinion, represents the interests of members and former members of the Defence Force;”.

11 Deduction of overpayments of repatriation pensions

(1) Section 115 of the Principal Act is amended:

(a) by inserting before subsection (1) the following subsection:

“(1A) Where:

- (a) an amount of pension has been paid to a person under the *Veterans' Entitlements Act 1986* in respect of the incapacity or death of a veteran who has rendered operational service within the meaning of Part II of that Act; and
- (b) that amount is not payable to that person by virtue of Division 5A of Part II of the *Veterans' Entitlements Act 1986*;

that amount is recoverable from that person by deducting it from any amounts of compensation payable to that person under this Act in respect of the injury to, or death of, the veteran.”.

- (b) by inserting in paragraph (1)(a) “, or a member of a Peacekeeping Force,” after “member of the Forces”;
- (c) by omitting from subsection (2) “subsection (1)” and substituting “subsections (1A) and (1)”;
- (d) by omitting from paragraph (2)(c) “a member of the Forces” and substituting “a veteran within the meaning of Part II of that Act or a member of the Forces, or a member of a Peacekeeping Force.”;
- (e) by omitting from paragraph (2)(d) “section 74” and substituting “Division 5A of Part II, or section 74.”;
- (f) by inserting in subsections (3) and (4) “(1A) or” after “subsection” (first occurring).

- (2) The references in paragraphs 115(1A)(b) and (2)(d) of the Principal Act as amended by this Act to Division 5A of Part II of the *Veterans’ Entitlements Act 1986* are taken, until 21 June 1994, to be references to section 17 of this Act.

Part 3—Amendments of the Veterans’ Entitlements Act 1986

12 Principal Act

In this Part, *Principal Act* means the *Veterans’ Entitlements Act 1986*.

13 Interpretation

Section 68 of the Principal Act is amended:

- (a) by inserting after paragraph (b) in the definition of *defence service* in subsection (1) the following word and paragraph:
“; and
- (c) hazardous service rendered before or after the terminating date.”;
- (b) by adding at the end of the definition of *member of the Forces* in subsection (1) “or 69A”;
- (c) by omitting from subsection (1) the definition of *terminating date* and substituting the following definition:
terminating date means the date on which the *Military Compensation Act 1994* commences.”

14 Application of Part to members of the Forces

Section 69 of the Principal Act is amended by omitting paragraph (1)(ea).

15 Insertion of new section

After section 69 of the Principal Act the following section is inserted:

“69A Application of Part to members of the Forces who render hazardous service

“(1) This Part applies to a person who has rendered or is rendering hazardous service as a member of the Defence Force.

“(2) This Part so applies whether the hazardous service is rendered before or after the terminating date.”.

16 Eligibility for pension under this Part

Section 70 of the Principal Act is amended:

- (a) by omitting from subsection (5) “paragraph 69(1)(ea)” and substituting “section 69A”;
- (b) by omitting from subsection (5A) “paragraph 69(1)(ea)” and substituting “section 69A”;
- (c) by omitting from subsection (5B) “paragraph 69(1)(ea)” and substituting “section 69A”.

17 Transitional—payments by way of compensation or damages

- (1) This section ceases to apply on 21 June 1994.
- (2) The provisions of Division 4 of Part IV of the Principal Act apply in relation to a veteran who:
 - (a) has rendered operational service; and

- (b) is entitled to a pension under Part II of that Act or other compensation.
- (3) The provisions of Division 4 of Part IV of the Principal Act apply in like manner as those provisions apply in relation to pensions and other compensation payable in accordance with Part IV of that Act.
- (4) For the purposes of the application of the provisions of Division 4 of Part IV of the Principal Act as provided by subsection (2):
 - (a) a reference in those provisions to a defence-caused injury is to be read as a reference to a war-caused injury; and
 - (b) a reference in those provisions to a defence-caused disease is to be read as a reference to a war-caused disease; and
 - (c) a reference in those provisions to a member of the Forces or a member of a Peacekeeping Force is to be read as a reference to a veteran; and
 - (d) a reference in those provisions to Part IV of the Principal Act is to be read as a reference to Part II of that Act.

Notes to the *Military Compensation Act 1994*

Note 1

The *Military Compensation Act 1994* as shown in this compilation comprises Act No. 54, 1994 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Military Compensation Act 1994</i>	54, 1994	7 Apr 1994	7 Apr 1994	
<i>Veterans' Affairs Legislation Amendment and Repeal Act 1995</i>	118, 1995	17 Oct 1995	(a)	—

(a) The *Military Compensation Act 1994* was amended by the *Veterans' Affairs Legislation Amendment and Repeal Act 1995*, subsection 2(19) of which provides as follows:

(19) Schedule 6 is taken to have commenced on 7 April 1994, immediately after the commencement of the *Military Compensation Act 1994*.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 11	am. No. 118, 1995
S. 17	am. No. 118, 1995