



Australian Government

Department of Veterans' Affairs

Factsheet MRC25 – How to Make a Claim under the Military Rehabilitation and Compensation Act 2004

Purpose

This Factsheet provides information about the compensation coverage and benefits available for Australian Defence Force (ADF) members and former members under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

It also explains how to make a claim for injuries or diseases caused by military service on or after 1 July 2004.

Who is covered by the MRCA?

The MRCA provides rehabilitation and compensation coverage for the following members and former members of the ADF with service on or after 1 July 2004:

- all members of the permanent ADF;
- all members of the Reserve Force;
- Cadets and Officers and Instructors of Cadets;
- persons who hold an honorary rank or appointment in the ADF and who perform acts at the request or direction of the Defence Force;
- persons who are receiving assistance under the Career Transition Assistance Scheme (under an arrangement approved by the ADF) and who perform actions in connection with the Scheme;
- persons who perform acts at the request or direction of the Defence Force as an accredited representative of a registered charity; and
- other people declared in writing by the Minister for Defence to be members of the ADF.

If you are an ADF member or former member and you have conditions (i.e. injuries or diseases) arising from service prior to 1 July 2004, you are generally not covered by the MRCA for those conditions. The only exceptions to this are:

- if you have a condition which is due to service on or after 1 July 2004, the condition is covered entirely under the provisions of the MRCA;
- if you have a pre-existing condition under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) which is “aggravated” by service on or after 1 July 2004, the aggravation component is covered under the MRCA.

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What benefits are available under the MRCA?

The MRCA provides a comprehensive compensation and rehabilitation structure for injured and ill ADF members and former members, including:

- payment for medical treatment;
- income replacement for periods of incapacity for work;
- permanent impairment compensation, which can be provided as a lump sum or as ongoing periodic payments;
- payment for rehabilitation programs; and
- compensation following the death of a member or former member.

When am I eligible for compensation under the MRCA?

You may be eligible for compensation under the MRCA if:

- you sustain an injury or suffer a disease which arose out of, or was attributed to, your Defence service on or after 1 July 2004; or
- you suffer an “aggravation” of an accepted injury or disease under the SRCA as a result of your Defence service on or after 1 July 2004.

Your dependants may also be eligible for compensation if:

- you die as a result of your service or as a result of an injury or disease that arose out of, or was attributable to, your Defence service; or
- you were eligible for the Special Rate Disability Pension at some time in your life; or
- the Military Rehabilitation and Compensation Commission (MRCC) had assessed your impairment from service injuries or diseases at 80 or more impairment points.

What if I had a condition before enlisting and it was aggravated by my service?

No compensation is payable for any impairment which existed before enlistment. Compensation is only payable for further impairment arising from service-related aggravation. If a pre-existing condition is found to have been aggravated by ADF service on or after 1 July 2004, it will be treated as a new injury or disease and liability to pay compensation will be accepted for the aggravation portion only.

When am I not covered under the MRCA?

Liability may not be accepted under the MRCA if:

- the injury or disease resulted from a serious default or wilful act you committed, such as being under the influence of alcohol or illegal drugs, or drugs not taken in accordance with the directions;
- the injury or disease arose from a serious breach of discipline;
- the injury was intentionally self-inflicted.

Note: The above exclusions do **not** apply if you were seriously and permanently impaired by the injury or disease.

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There are further exclusions which prevent liability from being accepted under the MRCA if:

- you made a false representation that you did not suffer from the injury or disease to which the claim relates prior to enlistment;
- the injury, disease or death is due only to the personal use of tobacco products and no other cause is determined to have contributed to that injury, disease or death;
- the injury or disease is the result of reasonable counselling about performance or failure to obtain a promotion, transfer or payment of a benefit; or
- the injury, disease or death is due to an accident while travelling in certain circumstances, including:
 - o where there was a substantial delay commencing a journey;
 - o where the travel was by a route that was not reasonably direct; or
 - o where there was a substantial interruption to the journey.

Note: The above exclusions continue to apply **irrespective** of whether you were seriously and permanently impaired.

Note: There are exceptions to the travel exclusions where the delay, route taken or substantial interruption was for a reason connected with a person's employment.

What does liability mean?

Liability means that the Australian Government accepts that it is responsible for the injury suffered, disease contracted, or the death of a member or former member as a result of service in the ADF. Liability must be determined before any compensation benefits are payable.

How is liability determined under the MRCA?

Liability under the MRCA is determined by reference to Statements of Principles (SoPs), which have been developed by an independent statutory authority, the Repatriation Medical Authority. SoPs are legislative instruments that set out the factors which can connect particular injuries, diseases or death with service. The MRCA requires that in order for a claim to succeed at least one of the SoP factors must be related to service. For further information, please see [DVA Factsheet DP22](#).

Who can make a claim under the MRCA?

A claim can be made by:

- the ADF member or former member who suffered the injury or disease or the loss or damage to a medical aid;
- another person on behalf of that member (with the member's approval);
- the member's legal personal representative; or
- a person appointed by the MRCC:
 - o if the member is incapable of approving someone to lodge a claim on his or her behalf; or
 - o if the member does not have a legal personal representative; or
 - o if the member has a legal personal representative who will not make a claim.

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A claim for acceptance of liability for a deceased member's death (or for compensation in respect of that death) can be made by:

- a dependant of the deceased member;
- another person on behalf of that dependant (with the dependant's approval);
- the dependant's legal personal representative; or
- a person appointed by the MRCC:
 - o if the dependant is incapable of approving someone to lodge a claim on his or her behalf; or
 - o if the dependant does not have a legal personal representative; or
 - o if the dependant has a legal personal representative who will not make a claim.

What do I need to do to make a claim?

To make a claim, you need to complete the appropriate claim form:

- [DVA Form D2051](#) (for injuries and diseases); or
- [DVA Form D2053](#) (for deaths).

Claim forms are available from your nearest DVA office or the [DVA website](#).

What evidence do I need to provide with my claim?

It is the responsibility of the MRCC delegate to investigate your claim. While you do not have to prove anything about your claim, any supporting medical or other evidence that you may be able to provide will increase the likelihood of your claims being determined quickly and in your favour.

What if I need help filling out the form?

If you find anything in the claim form difficult to understand or to complete, you are encouraged to ask for help.

Most service and ex-service organisations have officers and advocates who can help you with your claim. Alternatively, you can contact DVA.

How is the claim investigated?

Once you have lodged a claim, a delegate of the MRCC must investigate your claim before making a decision. The investigation is aimed at ensuring that all information relevant to your claim is available when the delegate makes a decision.

The type of information that the delegate seeks can differ from case to case but usually includes your service history, service medical records and other information on your medical history.

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The delegate may also ask you for information in your possession or readily available to you. The information needed will be requested in writing and you will be advised of how long you have to provide the information. Normally this will be 28 days so that finalisation of your claim is not unduly delayed. You can ask for an extension of time if there is likely to be a delay in getting that information.

Additionally, the delegate may ask you to undergo a medical examination. The MRCC will pay for any medical examinations it requests, as well as reasonable travel and accommodations costs associated with the examination.

What are my obligations when claiming?

If the MRCC delegate asks you to attend a medical examination in connection with your claim and you fail to attend or otherwise obstruct the examination without a reasonable excuse, penalties may be applied.

If you fail to provide information which an MRCC delegate has asked you to provide in connection with your claim, the delegate may refuse to proceed with your claim until such time as the requested information is provided.

Information you provide in relation to your claim must, to the best of your knowledge, be true and accurate.

What if I want to claim for common law damages?

For further information about claiming for common law damages, please refer to [DVA Factsheet MRC33](#).

What other benefits are available for service on or after 1 July 2004?

If you have rendered warlike service on or after 1 July 2004, you are considered a “veteran” for the purposes of the *Veterans’ Entitlements Act 1986* (VEA). As such, you may be entitled to benefits provided under that Act to veterans with qualifying service, such as the service pension and an automatic Gold Card from age 70.

Those with warlike and non-warlike service on or after 1 July 2004 also have access to non-liability health care for malignant cancers, pulmonary tuberculosis, posttraumatic stress disorder, anxiety and depressive disorders under the VEA. This means that treatment can be provided for these conditions, irrespective of the outcome of any claim for compensation that might be lodged.

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Disclaimer

The information contained in this Factsheet is general in nature and does not take into account individual circumstances. You should not make important decisions, such as those that affect your financial or lifestyle position on the basis of information contained in this Factsheet. Where you are required to lodge a written claim for a benefit, you must take full responsibility for your decisions prior to the written claim being determined. You should seek confirmation in writing of any oral advice you receive from DVA.

Related Factsheets

- [DP22 Statements of Principles](#)
- [HSV109 Non-Liability Health Care](#)
- [MRC01 Overview of the Military Rehabilitation and Compensation Act 2004](#)
- [MRC04 Compensation Payment Rates](#)
- [MRC33 Common Law Action for Compensation for Service Related Injuries and Diseases](#)

Related Forms

- [D2051 Claim for Liability and/or Reassessment of Compensation](#)
- [D2053 Claim for Compensation for Dependents of Deceased Members and Former Members](#)
- [D2049 Injury or disease details sheet](#)

More Information

DVA General Enquiries

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[DVA Website](http://www.dva.gov.au): www.dva.gov.au

[Factsheet Website](http://factsheets.dva.gov.au): factsheets.dva.gov.au

* Calls from mobile phones and pay phones may incur additional charges.