IM LAWYERS



A guide to the military compensation scheme for injured defence force personnel

Date: Sunday March 16, 2025

The Australian military compensation scheme is designed to provide support for armed forces personnel who have been injured (physical or mental injury) or suffered illness related to their service. Whether you're an injured veteran or a current member of the Australian Defence Force (ADF), understanding the complex compensation process is crucial to ensure you receive the support, care and compensation you deserve.

Changes coming to Australia's military compensation scheme

It should be noted that the Federal Parliament is about to pass legislation to make things clearer when it comes to ascertaining military service personnel entitlements to compensation when they suffer injury (or sustain a disease) related to their service. However, those laws won't have effect until July 2026.

This blog provides a general overview of the current military compensation system for claims that have arisen since July 2004.

Date of your injury is important

If you are seeking to claim military compensation, the date of your injury is important. This is because there are three different schemes of military compensation in place in Australia, depending on when you sustained your injury or suffered your service-related disease.

The most recent and current scheme is the one which is governed by an Act of Parliament called the Military Rehabilitation and Compensation Act (2004) (the 'MRCA') and applies to any injury/disease sustained on/from 1 July 2004. This is the scheme we are concentrating on in this blog.

If your injury/disease pre-dates 1 July 2004, then you are not covered by the current scheme, and one of the following Acts (legislation) will apply to your claim:

Veterans' Entitlement Act 1986

Safety, Rehabilitation and Compensation Act 1988

If you are considering a military compensation claim related to an injury or illness before July 2004, you should call us for advice and/or assistance.

FREE ADVICE FROM A MILITARY COMPENSATION LAWYER: 1800 001 339

Who can claim military compensation in Australia?

Basically, the military compensation scheme covers full-time members of the ADF and certain other categories of service (e.g., cadets, reservists and certain civilians involved in service-related activities that the Minister for Defence declares from time to time.

Usually, if you are an ADF member, you will know whether you are covered by the military compensation scheme or not. If you have lodged a claim and there is an issue related to your eligibility, then you should seek legal advice straight away.

What if there is an aggravation of a previous injury?

The situation with 'aggravation' claims is usually not that controversial in the area of general workers' compensation law (e.g. Queensland workers' compensation claims and Comcare claims).

However, because military compensation involves the interplay of three different pieces of legislation, answering this question is quite complicated. (as referenced earlier), As a starting point, the nature of the event(s) that resulted in the 'aggravation' and the date(s) these events occurred will significantly influence the manner in which any aggravation claim is handled.

Given the complexity of military compensation claims involving aggravation of a prior injury and the propensity for disputes related to eligibility, we strongly recommend you seek advice and assistance from a lawyer who has the experience and knowledge of military compensation. This will ensure your claim is handled correctly and you receive all the compensation you are entitled to.

FREE ADVICE FROM A MILITARY COMPENSATION LAWYER: 1800 001 339

What is involved in considering a new application for military compensation?

As referenced earlier, this article refers to injuries or illnesses since July 2004.

A military compensation claim can be lodged online at MyService.

Injured ADF personnel or veterans should submit a military compensation application along with relevant documentation, including:

- medical certificate(s);
- statements; and
- other supporting documentation, which may be brief statements from important witnesses etc.

You will also be required to prove your identity. You can complete a proof of identity process online at MyService. If you are already a registered user of MyService, you will **not** need to provide proof of identity documents.

Once your claim is received, the Military Rehabilitation and Compensation Commission ('the Commission") will consider the claim. The process to be applied to determine whether your claim is to be accepted or not depends on whether your injury/disease arose out of:

- Warlike service; or
- Non-warlike service; or
- Peacetime service.

This is where military compensation matters differ quite significantly from all other State/Territory and the standard commonwealth (Comcare) schemes.

If your injury arose in a warlike service, then a 'reverse criminal standard of proof' exists. This means that the Commission **must accept liability** to pay compensation unless it is 'satisfied beyond a reasonable doubt that the injury/disease was **not** service related.

If your injury arose in non-warlike service, then the standard of proof is the usual 'civil standard' of 'the balance of probabilities'. This means the Commission needs only to be satisfied that it is more likely than not that the injury was service-related.

To complicate things, the above two 'standards of proof' are affected by the existence of any relevant 'Statements of Principal' (SoP's). This is a very complicated component of the claim process. If you are unsure whether or not your claim is being handled correctly by the Commission (whether related to SoP's or any other issue), you should seek legal advice.

FREE ADVICE FROM A MILITARY COMPENSATION LAWYER: 1800 001 339

What compensation is payable under a successful military

compensation claim?

The MRCA provides for payment of incapacity (loss of income) and reasonable medical and/or rehabilitation benefits, similar in most respects to how these are calculated and paid under the ‘Comcare’ workers’ compensation scheme.

There are important differences (again, depending on when your injury was sustained, etc.), but usually, there is no issue with how the Commission determines the amount of these entitlements.

But the MRCA has also adopted, from the *Veterans’ Entitlement Act 1986* (‘VEA’). the concept of the ‘TPI pension’.

The TPI (totally and permanently incapacitated) pension, also known as the Special Rate Disability Pension, is a compensation payment provided to ADF personnel and veterans who are permanently unable to work due to service-related injuries or illnesses. It is designed to support those who are completely and permanently incapacitated, offering financial assistance based on the severity of their condition. The TPI pension aims to ensure that veterans with significant disabilities receive ongoing financial support.

Unlike standard incapacity payments, the TPI is:

- tax free;
- non-income tested;
- continues beyond age 67;
- is reduced by any permanent impairment benefits which the injured member might receive;
- attracts what is called a ‘Gold Card’ for medical treatment (this is a significant benefit for ex-service personnel).

A military compensation claimant is also entitled to apply for lump sum compensation for ‘permanent impairment’ resulting from their accepted injuries.

Similar to the Comcare workers’ compensation scheme’s permanent impairment claims, the MRCA provides for two separate lump sum benefits should a claimant be successful in applying for permanent impairment. However, there are a plethora of different issues and concepts that apply to MRCA permanent impairment benefit claims.

At the risk of sounding like a broken record, you need good legal advice if permanent impairment benefits are relevant in your military compensation claim.

Military compensation disputes

If you disagree with a decision made by the Department of Veterans Affairs or the Commission regarding your claim, you have the right to appeal. As mentioned earlier, there may be disputes about whether or not you sustained an ‘injury’ for the purposes of the scheme, or you may have a dispute about a permanent impairment claim or any other decision you do not agree with.

The process of appealing a military compensation scheme decision typically involves asking for a review of the decision through a formal review or lodging an appeal with the Administrative Review Tribunal (ART). It’s important to gather any relevant evidence or information to support your case during this process.

Get help from a military compensation lawyer

This article is only a general outline of the operation of the current scheme of military compensation in Australia. The MRCA (and content in this article) only applies to injuries/diseases which are sustained on/after 1 July 2004. That is nearly 21 years ago, so the vast majority of ADF compensation matters now fall within its ambit.

As you may have gathered, the scheme is complex and regularly responds to queries with, “it depends”. It is crucial, particularly if you are in dispute about your military compensation claim, that you seek legal advice from an experienced compensation lawyer.

We offer a free initial consult, so it costs you nothing to find out where you stand. We can help you get the compensation you deserve.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.