

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

DEFENCE LEGISLATION AMENDMENT BILL 1995

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Defence Science and Personnel,
the Hon. Gary Punch)



DEFENCE LEGISLATION AMENDMENT BILL 1995

(Amendments to be moved on behalf of the Government)

OUTLINE

The proposed amendments to the Defence Legislation Amendment Bill 1995 (the Bill) are for the purpose of amending the Safety, Rehabilitation and Compensation Act 1988 (the SRCA).

When the Military Compensation Scheme was established in 1994, the Military Compensation Act 1994 (the MCA) made various amendments to the SRCA. One of those amendments was the insertion of a new section 6A, which gives an entitlement for compensation for an injury that arises from medical treatment provided at Commonwealth expense where the injury is an unintended consequence of the treatment. Defence Force service (or specified Defence-related service) attracts the entitlement and it applies regardless of whether there has been negligence or whether the original condition being treated was compensable.

An unintentional effect of the current section 6A is that it does not cover the period between the enactment of the SRCA in 1988 and the MCA in 1994 (although the entitlement in question applied under the legislation that the SRCA replaced). The proposed amendments fill the gap so there is no period of service for which the entitlement does not apply.

FINANCIAL IMPACT

The estimated cost of addressing known cases is approximately \$1 million although there will be considerable offsets in the avoidance of litigation.

DEFENCE LEGISLATION AMENDMENT BILL 1995

(Amendments to be moved on behalf of the Government)

NOTES ON CLAUSES

1. Amendment number 1 expands the long title of the Bill to refer to the SRCA amendments and amendment number 2 makes a drafting change.
2. Amendment number 3 adds a new Schedule 5A to the Bill. That schedule substitutes a new subsection 6A(2) in the SRCA. The new subsection applies the existing entitlement to compensation for the unintended consequences of medical treatment at Commonwealth expense to treatment before, on or after 1 December 1988 (the date of commencement of the SRCA). The new provision also makes it clear that the entitlement does not lapse when a person leaves the Defence or Defence-related employment that attracted the entitlement.

