



# **RSL AUSTRALIA**

## **HARMONISATION OF LEGISLATION**

ALIGNMENT OF FUNERAL BENEFITS

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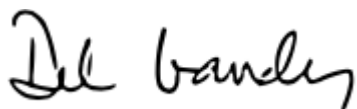
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## Sign-off

- 1. RSL Australia and the Defence Force Welfare Association have collaborated to prepare this submission. Both organisations are of the view that Harmonisation of Funeral Benefits is one of the simpler legislative changes to be addressed and could be achieved relatively quickly. A significant number of ex-service organisations (ESOs) and veterans' advocates endorse the intent of the submission, and these are listed at Page 3.**
- 2. Costings for this change have been done to the best of our ability from publicly available statistics.**

**Signed**

**Major General Greg Melick AO RFD FANZCN SC (Ret'd)  
National President  
Returned & Services League Australia**



**Del Gaudry  
National President  
Defence Force Welfare Association**

**Date**

## ESO Endorsement

**This submission has the confirmed endorsement of the following ex-service organisations and veterans' advocates:**

- **The Returned & Services League of Australia (RSL)**
- **The Defence Force Welfare Association (DFWA)**
- **The Defence Reserves' Association (DRA)**
- **The Alliance of Defence Service Organisations (ADSO)**
- **The TPI Federation**
- **The RAAC Corporation**
- **The 4/19 Prince of Wales's Light Horse Regiment Association**
- **Mr Andrew Sloane - Veterans' Advocate**

## Introduction

- 3. RSL Australia (RSLA) and Defence Force Welfare Association (DFWA) support the harmonisation of Funeral Benefits payable by Department of Veterans Affairs (DVA) across the *Veterans Entitlement Act 1986 (VEA)*, *Military Rehabilitation and Compensation Act (MRCA)* and the *Safety Rehabilitation and Compensation (Defence Related Claims) Act 1988 (DRCA)*.**
- 4. Currently, there are major differences between funeral benefits under the three Acts. These include:**
  - **Maximum payment amount:**
    - **VEA: \$2000.00**
    - **MRCA/DRCA: \$12,603.88 (indexed)**
  - **Scope of the potential payees**
    - **VEA: A very broad range of veteran classifications have an entitlement following death, with the possibility of payments to dependants**
    - **MRCA: Accepted liability for death, eligible to receive Special Rate Disability Pension (SRDP) before death, receiving maximum rate Permanent Impairment (i.e., 80 or more assessment points)**
    - **DRCA: Accepted liability for death**
- 5. The differences between these benefits are difficult to justify. The RSL and DFWA recommend the Federal Government amend the VEA to align its funeral allowance with MRCA funeral expenses. This should reflect recommendations previously made by the Productivity Commission in its *A Better Way to Support Veterans* report<sup>1</sup>.**
- 6. More recently, the Interim Report of the Royal Commission into Defence and Veteran Suicide referring to the Productivity Commission Report identified that simplification and harmonisation of the legislative framework for veterans' compensation and other entitlements is one of the most urgent actions to take.**
- 7. Harmonisation of Funeral Benefits is one of the simpler legislative changes to be addressed and could be achieved relatively quickly and would build on the positive work of the Government to begin the process of harmonisation announced in February 2023.**
- 8. Doing so would also ensure fairness for older veterans and their families and reduce confusion and frustration at a time of great distress in their lives. This harmonisation represents an opportunity to reduce the complexity of veterans' entitlements legislation and improve the lives of veterans and their families.**
- 9. This submission provides the basis for our views on this issue and suggestions for the way forward.**

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<sup>1</sup> Available at Annexure D

## Current Funeral Benefits Legislation - Comparison

### Funeral Benefits under the VEA

**10. A Funeral Benefit is a one-off payment made by the Department of Veterans' Affairs (DVA) to assist toward the funeral costs of veterans and, in some cases, their dependants. The maximum amount payable has not been linked to the rising cost of living and can no longer be regarded as a significant contribution towards the cost of an average funeral. Historically it increased from \$500 to \$550 from November 1984 with a further increase to \$572 in the year 2000, following the introduction of GST. In 2002 it increased to \$1000 with a further increase to \$2000 in 2007. The current maximum amount has remained at \$2000.00 for 15 years despite the increasing cost of funerals and the fact the MRCA funeral benefits which were introduced in 2004 were aligned with the higher DRCA payments and are indexed annually.**

### Who is entitled

**11. There is an automatic entitlement to benefits for deceased veterans who met the following criteria;**

- receiving Special rate (T&PI) disability pension;
- receiving Extreme Disablement Adjustment (EDA) rate pension;
- receiving disability pension plus an allowance as a multiple amputee; or
- a former prisoner of war.

**12. A funeral benefit may also be payable for Australian veterans and former members who died:**

- from an accepted service-related disability;
- in needy circumstances;
- in an institution (including a hospital, a nursing home or hostel, a medical centre, an outpatient clinic, or a rehabilitation or training establishment);
- travelling to or from an institution;
- after discharge from an institution in which the veteran had received treatment for a terminal illness; or
- while being treated at home for a terminal illness;
- OR a veteran or former member of the forces who served before 1 July 2004 and whose death was war-caused or defence-caused.

**13. A funeral benefit may also be payable for:**

- the death of a dependant;
- transportation of body costs.

## Funeral Benefits under MRCA

**14.** The funeral benefit payable under MRCA is currently paid at the maximum rate of \$12,603.88. This amount is indexed annually (1 July each year), according to CPI at the time.

**15.** Compensation can be awarded for the cost(s) of the funeral of a deceased member if:

- liability for the deceased member or former member's death has been accepted under the [MRCA](#);
- the deceased member received the [Special Rate Disability Pension \(SRDP\)](#) or was eligible to receive the SRDP during some period of his or her life; or
- the deceased member was entitled to the maximum rate of permanent impairment compensation for accepted conditions immediately before his or her death (i.e., assessed at 80 or more impairment points).

## Funeral Benefits under DRCA

**16.** The funeral benefit payable under DRCA is currently paid at the maximum rate of \$12,603.88. This amount is indexed annually (1 July each year) according to CPI at the time.

**17.** Compensation can be awarded for the cost(s) of the funeral of a deceased member where:

- an [injury](#) to an [employee](#) results in death. The Commonwealth is liable to pay compensation in respect of the cost of the [employee](#)'s funeral to the person who paid the cost of the funeral or, if that cost has not been paid, to the person who carried out the funeral;
- the amount of compensation is the amount, not exceeding the amount determined in accordance with [subsection \(4\)](#), that the [MRCC](#) considers reasonable, having regard to:
- the charges ordinarily made for funerals in the place where the funeral was carried out; and
- any amount paid or payable in respect of the cost of the funeral under any other law of the Commonwealth.

## Proposed Changes to Support Harmonisation

**18.** The RSL and DFWA propose the following amendments to veterans' entitlements legislation Footnote should be to enable the harmonisation of funeral benefits:

- That the funeral benefit amount paid under Section 98B <sup>2</sup>of the *Veterans' Entitlements Act 1986* be amended so that the funeral benefit payable to the identified classes of veterans be paid at the maximum amount as determined under Section 267 <sup>3</sup>of the *Military Rehabilitation and Compensation Act 2004*.
- That funeral benefit payments made under Sections 99 and 100 <sup>4</sup>of the VEA remain unchanged.
- That Sections 266, 267 and 268 <sup>5</sup>of the *Military Rehabilitation and Compensation Act 2004* remain unchanged.
- That Section 18 of the *Safety, Rehabilitation and Compensation (Defence Related Claims) Act 1988* be amended to include that a funeral benefit be payable in relation to deceased veterans who have received a payment for Severe Injury Adjustment (SIA) that was provided by way of [Defence Determination 2016/19](#) made in accordance with the *Defence Act 1903*\*.

**\*Note:** The SIA is payable to a current or former ADF member whose final permanent impairment rating, related to a specified DRCA injury or disease is determined under section 24 of the DRCA to be no less than 80% WPI. The exact criteria for the injury or disease to be considered for SIA are:

*An injury for the purposes of the SRC Act, affecting the brain or spinal cord of a person. The injury must result in quadriplegia, paraplegia, hemiplegia, an organic brain syndrome, chronic blindness, or a condition of similar effect.*

The severe injury must be suffered on or after 10 June 1997 but before 1 July 2004, and be an injury in relation to service of which DRCA compensation is payable. However, for an injury that is a disease for the purposes of the DRCA, the requirement to occur before 1 July 2004 does not apply (i.e., diseases that manifest after 1 July 2004 that *relate to a period of service between 10 June 1997 and 1 July 2004* can still be considered for the SIA).

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<sup>2</sup> Attachment A, page 10

<sup>3</sup> Attachment B, page 14

<sup>4</sup> Attachment A, pages 10 to 13

<sup>5</sup> Attachment B, pages 14 and 15





## Cost Projections

Estimated extra costs of the harmonisation have been calculated below on an assumption of implementation for the Financial Year ending 30 June 2022.

The Estimates are subject to the limitations of available statistics and assumption made in projecting future numbers of veterans/dependents claiming the funeral benefit.

**Statistics and Future Estimates.** Statistics have been obtained from the 2021 Australian Census, the DVA Annual Report 2020/2021 and statistics available on the DVA website - <https://www.dva.gov.au/about-us/overview/research/statistics-about-veteran-population>.

Table 1 shows Summary of Statistics relating to veteran cohort considered in this document.

Table 2 shows statistics for the previous ten financial years (where figures are available)

Table 3 shows- Projection of Future Costs for this Proposal, based on the following:

Numbers for veterans over the age of 80 have been used because they fall within the cohort of most likely being involved with funeral benefits over the projection period.

The projected numbers are based on statistical trends from previous years.

Numbers of POWs, blinded veterans and multiple amputees have not been included because of the low numbers.

The costs in relation to MRCA and DRCA payments would remain the same.

Some of the statistics relied on for this cost projection are listed below:-

<b>Table 1 - Summary of relevant veteran numbers</b>		
<b>Veteran Category</b>	<b>Number</b>	<b>Source</b>
<b>Number of Living Veterans in Australia</b>	<b>581,100 with 496,300 ex-serving</b>	<b><i>Australian Census 2021</i></b>
<b>Total Gold Card Holders</b>	<b>112,146</b>	<b>DVA Annual Report 2020-2021</b>
<b>Total Veterans over the age of 80</b>	<b>69697</b>	<b>DVA Annual Report 2020-2021</b>
<b>Total Gold Card Holders over the age of 80</b>	<b>37400</b>	<b>DVA Treatment Population Stats table 3</b>
<b>Total TPI</b>	<b>27094</b>	<b>DVA Stats at a Glance</b>
<b>Total EDA</b>	<b>3631</b>	<b>DVA Stats at a Glance</b>
<b>Total Blind Rate over 80</b>	<b>71</b>	<b>DVA Pensioner Stats</b>
<b>POWs</b>	<b>86</b>	<b>DVA Annual Report 2020-2021</b>

<b>Multiple Amputees</b>	<b>9</b>	<b>Table 22 DVA Pensioner Summary stats</b>
<b>Funeral benefits paid 2019/20</b>	<b>3296</b>	<b>DVA Annual Report 2020-2021</b>
<b>Funeral benefits paid 2020/21</b>	<b>2127</b>	<b>DVA Annual Report 2020-2021</b>

<b>Table 2 - Statistics for the previous ten financial years (where figures are available)</b>								
<b>Reduction in numbers of veteran and payment categories over a ten-year period</b>								
<b>Financial Year</b>	<b>Special Rate (TPI)</b>	<b>EDA</b>	<b>Total TPI and EDA</b>	<b>Yearly Difference</b>	<b>Gold and White card holders over 80</b>	<b>VEA Funeral Benefits paid</b>	<b>Percentage of Card Holders over 80 claiming funeral benefits</b>	<b>Percentage TPI/EDA claiming funeral benefit</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>	<b>(g)</b>	<b>(h)</b>	<b>(i)</b>
<b>2011</b>	<b>29 315</b>	<b>10 219</b>	<b>39 534</b>					
<b>2012</b>	<b>29 107</b>	<b>9 167</b>	<b>38 274</b>	<b>1 260</b>				
<b>2013</b>	<b>28 968</b>	<b>8 211</b>	<b>37 179</b>	<b>1 095</b>				
<b>2014</b>	<b>28 803</b>	<b>7 302</b>	<b>36 105</b>	<b>1 074</b>				
<b>2015</b>	<b>28 452</b>	<b>6 365</b>	<b>34 817</b>	<b>1 288</b>				
<b>2016</b>	<b>28 055</b>	<b>5 556</b>	<b>33 611</b>	<b>1 206</b>		<b>4709</b>		<b>14.0</b>
<b>2017</b>	<b>27 794</b>	<b>4 903</b>	<b>32 697</b>	<b>914</b>	<b>78633</b>	<b>4175</b>	<b>5</b>	<b>12.8</b>
<b>2018</b>	<b>27 564</b>	<b>4 468</b>	<b>32 032</b>	<b>665</b>	<b>70240</b>	<b>3704</b>	<b>5</b>	<b>11.6</b>
<b>2019</b>	<b>27 495</b>	<b>4 176</b>	<b>31 671</b>	<b>361</b>	<b>62910</b>	<b>3302</b>	<b>5</b>	<b>10.4</b>
<b>2020</b>	<b>27 413</b>	<b>3 946</b>	<b>31 359</b>	<b>312</b>	<b>57609</b>	<b>3296</b>	<b>7</b>	<b>12.5</b>
<b>2021</b>	<b>27 201</b>	<b>3 687</b>	<b>30 888</b>	<b>471</b>	<b>52587</b>	<b>2127</b>	<b>4</b>	<b>6.6</b>

Table 2 lists available statistics in relation to the numbers of pensioners according to their payment and card categories. The numbers of funeral benefits paid has been taken from DVA Annual reports and expressed as a percentage of the total number of Card holders. This has been averaged at 12%. (Column (i)).

**Table 3 - Projection of Future Costs for this Proposal**

Projections for the following years	Projected numbers of TPI/EDA	Projecting the ongoing passing of TPI/EDA who are over 80	Projecting numbers of Gold/White Card holders over 80	Projecting numbers of funeral benefit claims by reference to previous numbers	Projected passing of TPI/EDA - Cost per year of payment at approx. average \$13,000	Cost per year of ongoing \$2000 payments (overall numbers - TPI/EDA passing numbers)	Total Projected Cost with proposed changes	Cost of funeral benefits if no change is made
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
2022	30 500	388	48000	3660	\$5,044,000.00	\$6,544,000.00	\$11,588,000.00	\$7,320,000.00
2023	30200	300	43800	3624	\$3,900,000.00	\$6,648,000.00	\$10,548,000.00	\$7,248,000.00
2024	29900	300	40300	3588	\$3,900,000.00	\$6,576,000.00	\$10,476,000.00	\$7,176,000.00
2025	29 600	300	40100	3552	\$3,900,000.00	\$6,504,000.00	\$10,404,000.00	\$7,104,000.00
2026	29 300	300	42000	3516	\$3,900,000.00	\$6,432,000.00	\$10,332,000.00	\$7,032,000.00
2027	29 100	300	44400	3492	\$3,900,000.00	\$6,384,000.00	\$10,284,000.00	\$6,984,000.00
					\$24,544,000.00	\$39,088,000.00	\$63,632,000.00	\$42,864,000.00

**Estimated Costs**

Projections have been made by reference to DVA statistics (numbers of TPI/EDA and Gold Card holders) (Columns (b), (c), (d)).

Assumptions have been made according to the percentage of TPI/EDA who have passed over previous years and the numbers of funeral benefit claims lodged (see table above).

Projections for funeral benefits (Column (e), have relied on an average of 12% of total TPI/EDI recipients having funeral benefits claimed each year. (see Table 2, Column (i). Note: Funeral benefit claim numbers for 2021 (Table 2, column (g)) are lower than the trend and hence possibly an anomaly and have not been included in the calculation.

The table above indicates that the projected increase in Funeral Benefits to a target group of VEA recipients (section 96B of the VEA) would cost an average of \$3.9m per year (column (f)- or a total of \$24,544,000.00 over a period of six years.

- **The costs in relation to MRCA and DRCA payments would remain the same.**
- **Numbers for veterans over the age of 80 have been used because they fall within the cohort of most likely being involved with funeral benefits over the projection period. Projections in relation to POWs, blinded veterans and multiple amputees have not been included because of the low numbers.**

## Conclusion

- 19. Currently, there are major differences between funeral benefits under the three Acts governing veterans' entitlements legislation. The differences between these benefits are difficult to justify.**
- 20. Our organisations recommend that the Federal Government amend the VEA to align its funeral allowance with MRCA funeral expenses, a relatively simple legislative change. This would represent a good initial step in the process of legislative harmonisation announced by the Federal Government in response to the recommendations of the Royal Commission into Defence and Veteran Suicide.**
- 21. Harmonising funeral benefits would ensure fairness for older veterans and their families and reduce confusion and frustration at a time of great distress in their lives.**
- 22. Our organisations welcome the opportunity to work with the Government to improve the lives of Defence members and veterans.**

## Attachment A – VEA Funeral Benefits

### VETERANS' ENTITLEMENTS ACT 1986 - SECT 98B

Funeral benefits--automatic grant to estate of certain deceased veterans

(1) The [Commission](#) is to grant a benefit ( *funeral benefit* ) to the estate of a deceased [veteran](#) if, immediately before the [veteran](#) died:

(a) he or she was being paid a [pension](#) under Part II at the rate specified in [subsection 22\(4\)](#); or

(b) he or she was being paid a [pension](#) under Part II as a [veteran](#) to whom [section 24](#) applied; or

(c) he or she was being paid a [pension](#) under Part II at a rate that had been increased under [section 27](#) because the [veteran](#) was incapacitated from a [war-caused injury](#) or a [war-caused disease](#) of a kind described in any of items 1 to 8 of the Table in [subsection 27\(1\)](#); or

(d) the [Commission](#) was satisfied that the [veteran](#) had, before the [MRCA commencement date](#), been made a prisoner of war at a time when the [veteran](#) was rendering [operational service](#).

(2) The amount of the funeral benefit is \$2,000.

### VETERANS' ENTITLEMENTS ACT 1986 - SECT 99

Further funeral benefits--veterans

(1) The [Commission](#) may grant a benefit, called a funeral benefit, towards the funeral expenses incurred in respect of the funeral of:

(a) a [veteran](#) whose death was war-caused;

(d) a [veteran](#) who has died in indigent circumstances; or

(e) subject to [subsection \(3\)](#), a [veteran](#) who has died:

(i) in an institution;

(ii) while travelling to or from an institution;

(iii) after having been discharged from an institution in which the [veteran](#) was being treated for a

(iv) while being treated for a terminal illness at the [veteran](#)'s home instead of at an institution.

Note:- See [sections 111](#) and [113](#) for the making of an [application](#) for a funeral benefit under this [subsection](#).

(2) The [Commission](#) may grant a benefit ( *funeral benefit* ) towards the funeral expenses incurred in respect of the funeral of a [veteran](#) if, after the death of the [veteran](#):

(a) a [pension](#) is granted to the [veteran](#) that is determined to be payable, from a date before the [veteran](#)'s death:

(i) at a rate that is worked out under [subsection 22\(4\)](#); or

- (ii) at a rate that is worked out under [section 24](#); or
  - (iii) at a rate that is worked out under [section 27](#) because the [veteran](#) was suffering from [incapacity from a war-caused injury](#) or a [war-caused disease](#) of a kind described in any of items 1 to 8 of the Table in [subsection 27\(1\)](#); or
- (b) the rate of a [pension](#) that was payable to the [veteran](#) under Part II is increased, as from a date before the [veteran](#)'s death because:
- (i) [subsection 22\(4\)](#) or [section 24](#) applied to the [veteran](#) as from that date; or
  - (ii) [section 27](#) applied to the [veteran](#) as from that date because of [incapacity from a war-caused injury](#) or a [war-caused disease](#) of a kind described in any of items 1 to 8 of the Table in [subsection 27\(1\)](#); or
- (c) information is received which satisfies the [Commission](#) that the [veteran](#) was, before the [MRCA commencement date](#), made a prisoner of war at a time when the [veteran](#) was rendering [operational service](#).

Note- See [sections 111](#) and [113](#) for the making of an [application](#) for a funeral benefit under this [subsection](#).

(3) A funeral benefit must not to be granted under [paragraph \(1\)\(e\)](#) unless:

(a) if subparagraph (1)(e)(i) or (ii) applies--treatment is or was provided in the institution; and

(b) in any case--the treatment is or was arranged:

(i) by the [Commission](#) under Part V of this Act; or

(ii) by the [Military Rehabilitation and Compensation Commission](#) under Chapter 6 of the [MRCA](#).

(3A) A funeral benefit is not to be granted under [subsection \(2\)](#) in respect of a [veteran](#) if a funeral benefit has been granted to his or her estate under [section 98B](#).

(4) A funeral benefit under this section in respect of a deceased [veteran](#) consists of:

(a) a sum of \$2,000 or an amount equal to the amount paid or payable in respect of the funeral of the deceased [veteran](#), whichever is less; and

(b) subject to [subsection \(5\)](#), if:

(i) the [veteran](#) died at a place other than the [veteran](#)'s ordinary place of residence; and

(ii) the [veteran](#) was absent from the [veteran](#)'s ordinary place of residence for the purpose of obtaining medical treatment; and

(iii) the [Commission](#) or the [Military Rehabilitation and Compensation Commission](#) arranged for the provision of the treatment; and

(iv) a charge was made by the funeral director expressly for transporting the body of the deceased [veteran](#) from the place where the [veteran](#) died to the place where the [veteran](#) ordinarily resided immediately before the [veteran](#) died;

a sum equal to a reasonable charge for so transporting the body of the deceased [veteran](#).

(5) [Paragraph \(4\)\(b\)](#) does not apply to a charge made by a funeral director for transporting the body of the deceased [veteran](#):

(a) outside [Australia](#); or

(b) from one place in the metropolitan area of a capital city to another place in the metropolitan area of that city.



(6) For the purposes of subparagraph (4)(b)(ii), but without limiting the generality thereof, a [veteran](#) shall be deemed to be absent from the [veteran](#)'s ordinary place of residence for the purpose of obtaining medical treatment:

(a) if the [veteran](#) is travelling from his or her ordinary place of residence for the purpose of obtaining medical treatment;

(b) if the [veteran](#) is [returning](#) to his or her ordinary place of residence after having obtained medical treatment;

(c) if the [veteran](#) is being provided with medical treatment at a place other than his or her ordinary place of residence; or

(d) if the [veteran](#) is away from his or her ordinary place of residence on the recommendation of his or her doctor by way of treatment for an [injury](#) or [disease](#).

(7) In [paragraph](#) (4)(a), the amount paid or payable in respect of the funeral of a deceased [veteran](#) means, in a case where the deceased [veteran](#) was, immediately before his or her death, a [member](#) of a contributory funeral benefit fund, the amount by which the cost of the funeral exceeds the amount of the benefit payable from that fund in relation to the deceased [veteran](#).

## VETERANS' ENTITLEMENTS ACT 1986 - SECT 100

### Funeral benefits--dependants of deceased veterans

(1) If:

(a) a [dependant](#) (other than a [reinstated pensioner](#)) of a deceased [veteran](#), being:

(i) a [veteran](#) whose death was war-caused; or

(ii) a [veteran](#) who, immediately before his or her death, was being paid [pension](#) under Part II as

(iii) a [veteran](#) who, immediately before his or her death, was being paid [pension](#) under Part II at a rate that had been increased under [section 27](#) by reason that the [veteran](#) was incapacitated from a [war-caused injury](#) or a [war-caused disease](#) of a kind described in item 1, 2, 3, 4, 5, 6, 7 or 8 in the

(b) a [reinstated pensioner](#);

has died in indigent circumstances, the [Commission](#) may grant a benefit, called funeral benefit, towards the funeral expenses incurred in respect of the funeral of the [dependant](#).

Note:- See [sections 111](#) and [113](#) for the making of an [application](#) for a funeral benefit under this [subsection](#).

1A) The [Commission](#) may grant a benefit towards the funeral expenses incurred in respect of a person's funeral if:

(a) either:

(i) the person was a [wholly dependent partner](#) of a deceased [member](#); or

(ii) the person was both an eligible young person, and a [dependant](#) of a deceased [member](#), immediately before the [member](#)'s death; and

(b) the person died in indigent circumstances; and

(c) [section 12](#) of the [MRCA](#) applies in respect of the [member](#).

**Note:- Expressions used in this [subsection](#) have the same meanings as they have in the [MRCA](#) (see [subsection](#) (4)).**

**(2) A funeral benefit under this section in respect of a deceased [dependant](#) of a deceased [veteran](#) is a sum of \$2,000 or an amount equal to the amount paid or payable in respect of the funeral of the deceased [dependant](#), whichever is less.**

**(3) In [subsection](#) (2), the amount paid or payable in respect of the funeral of a deceased [dependant](#) means, in a case where the [dependant](#) was, immediately before his or her death, a [member](#) of a contributory funeral benefit fund, the amount by which the cost of the funeral exceeds the amount of the benefit payable from that fund in relation to the deceased [dependant](#).**

**(4) Expressions used in [subsection](#) (1A) have the same meanings as they have in the [MRCA](#).**

## Attachment B – MRCA Funeral Benefits

### MILITARY REHABILITATION AND COMPENSATION ACT 2004 - SECT 266

#### Compensation for cost of funeral

- (1) The Commonwealth is liable to pay [compensation](#) for the cost of a [deceased member's](#) funeral if:
- (a) [section 12](#) applies in respect of the [member](#); and
  - (b) a claim for [compensation](#) has been made under [section 319](#).
- (2) The claim under [section 319](#) may only be made:
- (a) in respect of a [dependant](#) of the [deceased member](#) if the [dependant](#) incurred the cost of the funeral; or
  - (b) by the [deceased member's](#) [legal personal representative](#).

### MILITARY REHABILITATION AND COMPENSATION ACT 2004 - SECT 267

#### Amount of funeral compensation

- (1) The [Commission](#) must determine the amount of [compensation](#) under [section 266](#) that it considers reasonable for the cost of the [deceased member's](#) funeral. The amount must not exceed the amount determined in accordance with [subsection \(3\)](#).
- (2) In determining the amount, the [Commission](#) must have regard to:
- (a) the charges ordinarily made for funerals in the place where the funeral was carried out; and
  - (b) any amount paid or payable in respect of the cost of the funeral under any other law of the Commonwealth.
- The [Commission](#) must not have regard to any other matter.
- (3) The maximum amount of [compensation](#) under [subsection \(1\)](#) is:
- (a) \$9,000; or
  - (b) if the regulations prescribe a higher amount--that amount.

### MILITARY REHABILITATION AND COMPENSATION ACT 2004 - SECT 268

#### Whom funeral compensation is payable to

#### Whom funeral compensation is payable to

- (1) [Compensation](#) under [section 266](#) for the cost of a [deceased member's](#) funeral is payable to:
- (a) the person who made the claim for [compensation](#); or
  - (b) if that person so directs:

*(i) the person who carried out the funeral; or*

(ii) any other person who incurred the cost of the funeral.

**Note:** A special rule applies if a trustee is appointed under [section 432](#).

- 1 (2) A payment under [section 266](#) to a person who carried out the funeral discharges any liability of any other person for the cost of the funeral to the extent of the payment.

## Attachment C – DRCA Funeral Benefits

### **SAFETY, REHABILITATION AND COMPENSATION (DEFENCE-RELATED CLAIMS) ACT 1988 - SECT 18**

#### **Compensation in respect of funeral expenses**

**2 (1) Where an injury to an employee results in death, the Commonwealth is liable to pay compensation in respect of the cost of the employee's funeral to the person who paid the cost of the funeral or, if that cost has not been paid, to the person who carried out the funeral.**

**3 (2) The amount of compensation is the amount, not exceeding the amount determined in accordance with subsection (4), that the MRCC considers reasonable, having regard to:**

**4 (a) the charges ordinarily made for funerals in the place where the funeral was carried out; and**

**5 (b) any amount paid or payable in respect of the cost of the funeral under any other law of the Commonwealth.**

**6 (3) Where a person is liable to pay the cost of the funeral of an employee, any amount paid under this section to the person who carried out the funeral is, to the extent of the payment, a discharge of the liability of the first-mentioned person.**

**7 (4) The maximum amount of compensation under subsection (2) is:**

**8 (a) \$9,000; or**

**9 (b) if the regulations prescribe a higher amount--that amount.**

**10 Note: The amount of \$9,000 is indexed under section 13.**

### **RECOMMENDATION 14.10 - HARMONISE THE FUNERAL ALLOWANCE**

**The Australian Government should amend the Veterans' Entitlements Act 1986 (VEA) to align its funeral allowance with the Military Rehabilitation and Compensation Act 2004 funeral expenses benefit for veterans who:**

- **were receiving the special rate of disability pension**
- **were receiving the extreme disablement adjustment pension**
- **were receiving an allowance for being a multiple amputee**
- **were a former prisoner of war**
- **died of service-related causes.**

**Other groups eligible for the VEA funeral allowance should remain on the existing benefit.**

**The Productivity Commission has explained its reasoning for this recommendation at pages 658 and 659 below**

#### **Funeral allowance**

- **'When a veteran dies, or in some cases, where the dependant of a deceased veteran dies, their dependants may receive assistance to help pay for the costs of the funeral. There is a substantial difference in the funeral allowance payable between the VEA and the other two Acts (\$2000 and \$12 000 respectively) – which some participants saw as inequitable.**
- **The cost of the veterans' funeral to their family is not related to their compensation arrangements, and the requirements for death related to service are equivalent. It is unclear why this disparity has been continued, to the disadvantage of WW2, Korea and Vietnam veterans and their families. (War Widows' Guild of Australia, sub. 87, p. 9)**
- **In principle, there is little reason why these payments should not be aligned across the Acts. However, in practice, aligning the payments is less straightforward. While the MRCA eligibility requirements for the funeral allowance closely mirror the requirements for a dependant receiving a wholly dependent partner payment, the VEA criteria are much broader, and include for example, where a veteran was receiving treatment in an institution at the time of their death (irrespective of the cause of death). In many cases, the VEA benefit is an automatic grant of \$2000, while the MRCA is a reimbursement of the reasonable funeral costs (up to the maximum allowed). This was noted by the MRCA review:**
  - **The VEA funeral payment is intended to subsidise funeral costs, and is paid to a range of claimants, including automatic grant to the estate of certain deceased veterans. In comparison, funeral benefits under the [DRCA] and the MRCA are intended to approximate the full costs of a funeral, but are paid in more restricted circumstances ... simply matching the amount of funeral benefits would not be equitable – both the rate of payment and the**

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<sup>6</sup> A Better Way to Support Veterans, Volume 2, page 659

**circumstances in which it is paid need to be considered. (Campbell 2011b, pp. 322-323)**

- **The Commission does not support raising the funeral allowance to MRCA levels for VEA clients who would not be eligible through the MRCA – the rationale for providing these groups with support is less strong. And removing eligibility from these groups would disadvantage many dependants of veterans. Nonetheless, some harmonisation of funeral benefits should be undertaken, to improve equity and reduce complexity.**
- **The funeral allowance should be harmonised for dependants of the group under the VEA who receive automatic access to the funeral allowance – veterans, who at the time of their death, were receiving a SRDP, an extreme disablement adjustment pension, an allowance as a multiple amputee, or a former prisoner of war. In addition, harmonisation should be extended to those veterans who died from a service-related incident. Claimants would receive reimbursement for reasonable funeral expenses up to a maximum of just over \$12 000. All other groups eligible to receive the VEA funeral allowance would continue under the existing arrangements.**