

# Request cessation of compensation payments (section 43 and 115)

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## Introduction

Section 43 of the SRC Act refers to individuals who are eligible to claim compensation entitlements under both the SRC Act and the [Veteran's Entitlements Act 1986 \(VEA\)](#), for claims with a date of injury before 1 July 2004. It allows eligible individuals to select which Act they believe will provide them with the greatest benefits.

Sections 43 and 115 of the SRC Act manage the overlap between the SRC Act and the VEA for persons who are eligible for compensation entitlements under both Acts.

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## Eligibility

Section 43 applies to the following eligible individuals:

- a member of the Forces or a member of a Peacekeeping Force, which align with Part IV of the VEA
- a veteran who ended operational service for the purposes of Part II of the VEA, on or after, the commencement of the Military Compensation Act 1994 (MCA)
- a dependant of a member or veteran as identified above.

An eligible individual can request in writing, to terminate any compensation entitlements payable by Comcare under the SRC Act.

This request can be revoked by the eligible individual or in respect of a person who is under a legal disability, the request can be revoked by another person who Comcare is satisfied represents their interests. Payable compensation entitlements take effect once Comcare has been notified of the revocation, and individuals are not entitled to any retrospective payments.

**Example:** An Australian Federal Police (AFP) employee suffers an injury during secondment for the Australian Defence Force (ADF) in operational service in the Solomon Islands prior to 1 July 2004. The employee considered an employee of both the AFP and ADF, and therefore eligible to claim compensation entitlements under both the VEA and SRC Act.

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## Background information

The introduction of the Military Compensation Act 1994 (MCA), allowed the SRC Act to cover ADF employees in operational services. This resulted in injured ADF employees having dual compensation entitlements. This dual eligibility only applies if the date of injury is before 1 July 2004. Any injury suffered after 1 July 2004 is covered under the Military, Rehabilitation and Compensation Act 2004 (MRCA) and no dual entitlements apply.

Prior to the commencement of the MCA on 7 April 1994, ADF employees were covered by either the SRC Act or the VEA; depending on the circumstances of their injury. Generally, if injury occurred in non-operational service, then coverage was provided under the SRC Act. If injury occurred during operational services, then employees would be covered under the VEA.

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## Deduction of overpayments of repatriation pensions

The SRC Act (section 115) allows for the recovery of overpayments through 'compensation offsetting' where an individual is entitled to receive compensation benefits under both the VEA and SRC Act for the same injury or death. By law an individual cannot be compensated twice for the same injury or death, therefore the VEA includes provisions to offset any compensation payable against the VEA pension.

The VEA covers service in wartime, certain operational deployments, as well as certain peacetime service between 7 December 1972 and 30 June 2004.

The SRC Act provides similar rehabilitation and compensation to the employee for incapacity or death as a result of peacetime and peacekeeping service up to and including 30 June 2004 and operational service between 7 April 1994 and 30

June 2004.

**Example:** An individual claims the VEA pension for incapacity and also lodges a claim under the SRC Act for the same incapacity. The claim is accepted by Comcare and under section 115 of the SRC Act Comcare pays any incapacity entitlement directly to Department of Veteran Affairs (DVA), to offset against the VEA entitlement.

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