



VEHICLE MODIFICATIONS

for impaired serving and former ADF members



THROUGH THE MOTOR VEHICLE COMPENSATION SCHEME, THE DEPARTMENT OF VETERANS' AFFAIRS HELPS IMPAIRED SERVING AND FORMER AUSTRALIAN DEFENCE FORCE MEMBERS REGAIN A DEGREE OF TRANSPORT MOBILITY.

1—ABOUT THE MOTOR VEHICLE COMPENSATION SCHEME

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Motor Vehicle Compensation Scheme



DISCLAIMER

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DVA will make every reasonable effort to maintain current and accurate information. Users should carefully evaluate the accuracy, currency, completeness and relevance of this information for their purposes before relying on the material in any important matter. Users should always obtain any appropriate professional advice relevant to their particular circumstances. DVA encourages you to check with us if you have any concerns about the information in this document.

DVA is aware that some examples contained in this document may not be applicable in all circumstances and are developed with the intention of educating and informing serving and former Australian Defence Force (ADF) members and rehabilitation service providers.

CLARIFICATION OF TERMS

Where the term DVA or Department is used in this document, this may also refer to a decision made by either the Military Rehabilitation and Compensation Commission or the Repatriation Commission.

Where the word 'you' is used in this document, it may refer to members of the veteran and Defence Force communities who are eligible for rehabilitation services and support under the Motor Vehicle Compensation Scheme. The term also encompasses members of the Australian Federal Police who have participated in peacekeeping operations.

FURTHER INFORMATION

For more information please contact DVA on 133 254 (1800 555 254 for regional callers) or go to the DVA website at www.dva.gov.au



1—About the Motor Vehicle Compensation Scheme



The Motor Vehicle Compensation Scheme (MVCS) was established under the *Military Rehabilitation and Compensation Act 2004 (MRCA)*. A person's acceptance into the scheme is determined by the Military Rehabilitation and Compensation Commission.

The scheme assists serving and former Australian Defence Force members who have suffered a significant injury, disease or impairment caused by their service on or after 1 July 2004 to regain a degree of transport mobility.

Through the Department of Veterans' Affairs, the Australian Government provides assistance, including financial compensation, with motor vehicle modifications or the purchase of a specific vehicle for those who are eligible.

People seeking help under the scheme need to have had their condition accepted under the MRCA and then be clinically assessed for eligibility under the MVCS.

THE SCHEME PROVIDES FOR:

- the reasonable cost of vehicle modifications that enable an eligible impaired person to travel in safety and reasonable comfort (either driving themselves or being driven)
- a subsidy for the purchase of a new, second-hand or replacement vehicle
- the maintenance and repair of a vehicle's modifications
- compensation for the cost of insurance related to the modifications.

What does the term 'motor vehicle' cover?

A motor vehicle can be a car (sedan or hatchback), station wagon, SUV (a four-wheel-drive), or a standard or high-top van, depending on an individual's needs and circumstances.

What kind of modifications are we talking about?

Modifications are tailored to a person's needs following a clinical assessment. They may include:

- converting a manual transmission to automatic
- specially supported seats for people with back injuries
- a wheelchair ramp and chair clamps inside the vehicle
- additional mirrors for people with neck injuries
- doors modified for easier or wider opening
- a wheelchair lifting arm and roof rack
- converting brake and/or accelerator controls from foot to hand operation.

This list is not exhaustive. Also, be aware that sometimes the clinically recommended technology or parts may not be available and alternatives need to be considered.



2—Your entitlements

2.1—Vehicle modifications

If you are eligible, you are entitled to vehicle modifications if:

- you own or have an interest in a vehicle that is capable of being modified
- any other person who has an interest in the vehicle agrees to it being modified.

The Department of Veteran’s Affairs (DVA) will either pay for the approved modifications on your behalf or reimburse you if you have already paid for them yourself.

What does ‘have an interest’ in a vehicle mean?

You have an interest if you are part owner of the vehicle, for example jointly with your partner or another person. It does not include your financial interest as a mortgagor – that is, where you owe a financial institution money that you borrowed to buy the vehicle.



2.2—Buying an initial vehicle

In addition to vehicle modifications, you may also be entitled to a subsidy to help you buy a new, second-hand or replacement vehicle. Where DVA subsidises the purchase of a vehicle for someone for the first time, that vehicle is called an ‘initial’ motor vehicle.

If you are eligible under the Motor Vehicle Compensation Scheme (MVCS), you are entitled to a subsidy to help you buy an initial new or second-hand vehicle if you do not already own or have an interest in one. You may also be entitled even if you:

- do already own or have an interest in a vehicle but it is not possible, practicable or cost-effective to modify it in the necessary way
- own or have an interest in a vehicle that is jointly owned by you and your partner who also needs to use it and, because of that, it is inappropriate to modify it.

See also 6.1—Conditions on an initial vehicle purchasing subsidy.

2.3—Replacing a vehicle

Where DVA has previously subsidised the purchase of a vehicle for you, you may be entitled to compensation when you buy a new or second-hand replacement.

You are eligible for a replacement subsidy if your vehicle is stolen or destroyed through no fault of your own. You are also eligible if:

- your application for compensation for a replacement vehicle is made at least five years after you last received compensation for an initial or other replacement vehicle, or
- your vehicle has travelled at least 100,000 kilometres after it was purchased or modified, whichever happened last, or
- you trade in or sell an existing vehicle in respect of which you received compensation to help with purchase, or
- a qualified mechanic considers it is appropriate to replace your existing vehicle, taking into account its maintenance and service history, its condition and safety.

2.4—Other compensation entitlements

Under the MVCS, you are entitled to compensation for the cost of:

- repairs to any modifications
- that portion of your insurance that relates to any modifications.

2.5—Lending your vehicle

You are entitled, at your discretion, to lend a vehicle provided or modified by DVA at any time as long as the person using it adheres to his or her obligations under the MVCS (see 6.2—The responsibilities of owning a subsidised vehicle). Also, the person borrowing the vehicle must be suitably licensed to drive it.



3—Eligibility

3.1—Who is eligible?

First, to be considered eligible under the Motor Vehicle Compensation Scheme (MVCS), you must have your impairment accepted under the *Military Rehabilitation and Compensation Act 2004 (MRCA)*.

In most cases, to be eligible for the MVCS, your impairment must be permanent. If it is not, you may still be eligible for short-term compensation until the barriers to your mobility and functioning are addressed, for example through a rehabilitation program.

What do you mean by 'impairment'?

There are no prescribed conditions or levels of impairment relating to the MVCS. However, the types of impairment that commonly give rise to the need for compensation, particularly in the case of buying or modifying a vehicle, may include, but are not limited to:

- the loss, or loss of use, of a leg or both legs
- the loss, or loss of use, of both arms
- paraplegia resulting in the loss of voluntary power in a leg or legs or both arms.

Second, a clinical assessment needs to be carried out to establish if you are:

- unable to drive or be driven in a motor vehicle in safety and reasonable comfort without modifications to the vehicle
- considered able to drive or be driven so as to derive a benefit from using the motor vehicle at least twice a week, given your level of impairment.

What does 'derive a benefit' mean?

It means obtaining a benefit to your physical and mental health. Derived benefits include being able to drive, or be driven, to and from:

- work
- rehabilitation and/or medical appointments
- regular social activities such as sporting or hobby interests
- shopping.

A benefit is NOT derived by someone else driving the vehicle when you are not present, as in the case of someone using your car to do your shopping for you.



3.2—Who is not eligible?

You will NOT be entitled to compensation under the MVCS if you are a resident of a care institution and are not capable of leaving that institution.

A 'care institution' means:

- a residential care facility
- a hospital
- a hospice
- a psychiatric institution
- any similar institution that provides daily care. This does not include your private home.

You are also not entitled to compensation under the MVCS if you receive or have received under any other law, contract, agreement or understanding, within five years before making an application for compensation under the MVCS:

- a motor vehicle
- a payment or other form of help to buy a vehicle
- the use of a vehicle.

Note: This includes motor vehicles or modifications received under the *Vehicle Assistance Scheme of the Veterans' Entitlement Act 1986* or under the *Safety Rehabilitation and Compensation Act 1988*.



4—Claiming and assessment



4.1—Making a claim

When the Department of Veterans' Affairs (DVA) accepts liability for a service-related injury or disease claim under the *Military Rehabilitation and Compensation Act 2004*, it automatically carries out an internal assessment of your initial claim documentation to determine what you may need in the way of rehabilitation or compensation.

This DVA 'needs assessment', which is discussed with you, would normally identify if vehicle modifications would benefit you. If the assessment does not indicate modifications but you believe they would be of benefit and that you are eligible, you can make a request during your discussion.

If the potential benefit of modifications is agreed, DVA needs your request in writing. This only needs to be one of the following:

- your signature on the needs assessment
- a letter to DVA stating your request.

If a vehicle modification is not thought necessary during your initial needs assessment but your condition subsequently deteriorates, even if it is years later, you can contact DVA and have another needs assessment.

If DVA does not think you need another needs assessment but agrees you would now benefit from a vehicle modification, it will ask you to simply put your request in writing as described above.

4.2—Clinical assessment by a specialist

The next step is for you to be clinically assessed by a specialist who will provide DVA with a written recommendation that you

would derive benefit from driving or being driven in a vehicle that requires modification.

DVA will arrange for you to see an approved Rehabilitation Provider – a person or organisation who will guide and help you through the entire process from start to finish. This includes helping you:

- find the right vehicle and arrange trade-in valuations if necessary
- define and source parts for the modifications you need
- arrange quotes (these are required by DVA)
- co-ordinate the purchase, installation and paperwork.

A Rehabilitation Provider will firstly engage the services of a Driver Trained I Therapist, who is someone qualified to assess a person's need for vehicle modifications and make recommendations to DVA. These people are also qualified to train drivers in how to safely use the modifications.

Behind the scenes, DVA will work closely with the Rehabilitation Provider to consider your eligibility and determine the amount of any compensation payable according to what is deemed reasonable under the Motor Vehicle Compensation Scheme (MVCS).

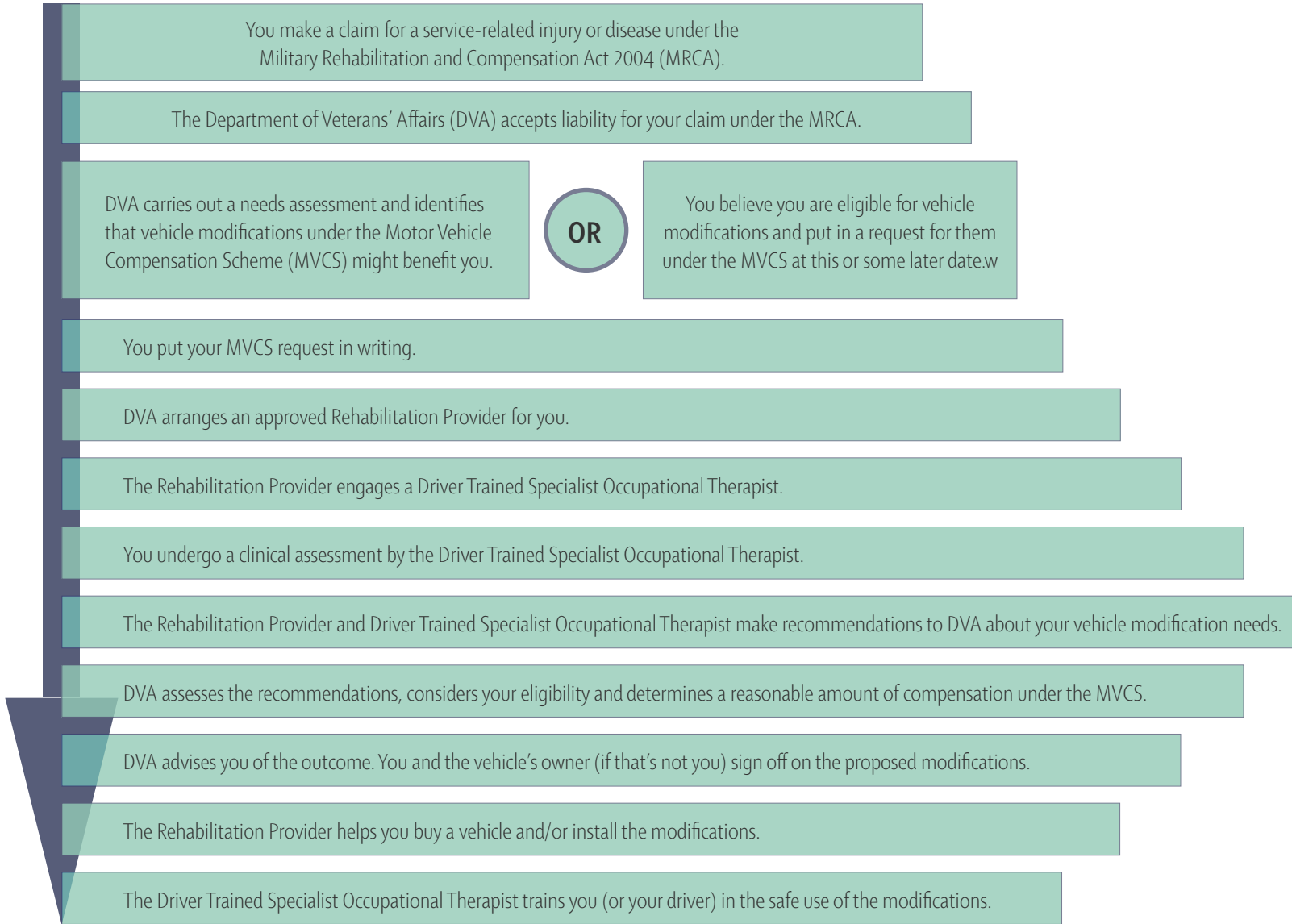
4.3—Reviewing DVA's decisions

You can ask DVA to review an application for compensation under the MVCS if you are dissatisfied with the decision. You must provide reasons for requesting a review.

If you are dissatisfied with the outcome of that review you may seek a further review by the Administrative Appeals Tribunal.



An overview of the claims and assessment process



You make a claim for a service-related injury or disease under the Military Rehabilitation and Compensation Act 2004 (MRCA).

The Department of Veterans' Affairs (DVA) accepts liability for your claim under the MRCA.

DVA carries out a needs assessment and identifies that vehicle modifications under the Motor Vehicle Compensation Scheme (MVCS) might benefit you.



You believe you are eligible for vehicle modifications and put in a request for them under the MVCS at this or some later date.

You put your MVCS request in writing.

DVA arranges an approved Rehabilitation Provider for you.

The Rehabilitation Provider engages a Driver Trained Specialist Occupational Therapist.

You undergo a clinical assessment by the Driver Trained Specialist Occupational Therapist.

The Rehabilitation Provider and Driver Trained Specialist Occupational Therapist make recommendations to DVA about your vehicle modification needs.

DVA assesses the recommendations, considers your eligibility and determines a reasonable amount of compensation under the MVCS.

DVA advises you of the outcome. You and the vehicle's owner (if that's not you) sign off on the proposed modifications.

The Rehabilitation Provider helps you buy a vehicle and/or install the modifications.

The Driver Trained Specialist Occupational Therapist trains you (or your driver) in the safe use of the modifications.



5—Who owns what

5.1—Vehicle ownership

Under the Motor Vehicle Compensation Scheme, the Commonwealth, through the Department of Veterans' Affairs (DVA), provides the funds to buy you a suitable vehicle. The amount provided is typically the full purchase price.

You are the vehicle's legal owner. However, the Commonwealth has a chattel mortgage interest in the vehicle to the extent of the amount of the subsidy.

What is a 'chattel mortgage'?

A chattel mortgage is a debt secured against a chattel, that is, an item of personal property. More appropriately perhaps, the Concise Oxford dictionary defines a chattel as 'a moveable possession'. Australian businesses commonly use chattel mortgages to finance the purchase of motor vehicles.

5.2—Discharging the mortgage

If you claim a replacement motor vehicle, DVA may discharge the chattel mortgage on your old one to make it possible for you to sell it or trade it in.

If you die, the Commonwealth's chattel mortgage is automatically discharged on the day after your death. At that point, the vehicle becomes an asset of your estate.

5.3—Conditions attached to a chattel mortgage

Under a chattel mortgage, the motor vehicle cannot be:

- sold
- transferred
- encumbered (that is, held as an interest against another debt such as a house mortgage)

without DVA agreeing in writing generally or agreeing in writing to discharge the chattel mortgage.

Any sale, transfer, encumbrance or other dealing without the agreement of the Commonwealth is void and of no effect against the Commonwealth.

See also 6—Responsibilities and conditions





6—Responsibilities and conditions

6.1—Conditions on an initial vehicle purchasing subsidy

Where you do not already own or have an interest in a vehicle, you will not be entitled to a subsidy if you have disposed of a vehicle that you owned or had an interest in within the 12 months prior to applying for an initial vehicle under the Motor Vehicle Compensation Scheme (MVCS).

If you have a trade-in vehicle, the amount of any subsidy for the purchase of an initial vehicle takes into account the old vehicle's trade-in value, or your share of interest in that value.



6.2—The responsibilities of owning a subsidised vehicle

You must maintain the vehicle in good working order. If the vehicle is damaged and you receive any payment in respect of the damage from an insurer, you must apply the amount of the payment towards repairing the damage or replacing the vehicle.

You are also responsible for the vehicle's:

- operation
- garaging
- normal routine scheduled maintenance.

In addition, you MUST

- register the vehicle
- comprehensively insure the vehicle to its full market value.

6.3—Written undertakings

The Department of Veterans' Affairs (DVA) may require anyone who is provided with compensation under the MVCS to give a written undertaking that they will comply with any of the conditions set out in the MVCS. However, those conditions must be complied with regardless of whether a written undertaking is given.

6.4—Breaches of conditions

If you breach of any of the above requirements, DVA may notify you in writing that:

- if the breach is not rectified within 30 days of receiving the notice, the amount owing under the chattel mortgage becomes a debt due and payable by you to the Commonwealth
- if the breach is not rectified or the amount due and payable paid within two days at the end of the 30 day period, the legal title reverts to the Commonwealth and the Commonwealth may repossess the vehicle
- if you have contributed an amount to the purchase of the vehicle, you are entitled to a proportionate amount of its value when the Commonwealth repossesses it.

6.5—Failure to comply

If DVA is satisfied that you have, without reasonable excuse: knowingly provided false or misleading information in connection with your application

- knowingly failed to comply with a provision of the MVCS then DVA may decide that you will not be eligible for any further compensation under the MVCS for a period of five years from the time it determines that you failed to comply.

In making such a decision, DVA will take into account:

- the significance of the false or misleading information
- the impact that stopping your compensation under the MVCS will have on you.



7—Exemptions from GST and Stamp Duty

7.1—GST exemption for supply of a motor vehicle to a 'disabled veteran'*

Section 38-505 of the *A New Tax System (Goods and Services Tax) Act 1999 (ANTS Act)* provides that a Goods and Services Tax (GST) exemption applies to the supply of a motor vehicle (or parts to modify a vehicle) to an individual who:

- has served in the Defence Force or in any other armed force of Her Majesty and has lost or permanently lost the use of a leg or both arms
- is a veteran to whom Section 24 of the *Veterans' Entitlements Act 1986 (VEA)* applies and receives a pension under Part II of that Act, that is, a veteran in receipt of the Special Rate of Pension.

While the first exemption may apply to claimants under the Motor Vehicle Compensation Scheme (MVCS), the second exemption could apply in some circumstances.

These exemptions apply where you purchase a vehicle from the relevant manufacturer or dealership. The fact that the Department of Veterans' Affairs (DVA) may have subsidised part of the cost of the vehicle, with you making up the difference, is of no consequence to the supply of the vehicle, or to the application of the ANTS Act to you. You will only be required to pay GST for the supply of a vehicle to the extent that the cost of the vehicle exceeds the purchase price limit specified in Subsection 38-505(2) of the ANTS Act.

* In order to secure this exemption, DVA will need to send a 'Declaration to the Commissioner of Taxation Exemption of GST for vehicle or vehicle parts – disabled veteran' form on your behalf stating that the recipient of the motor vehicle is a 'disabled veteran'.

7.2—Stamp Duty exemptions under state and territory laws

You will be required to pay stamp duty on the vehicle's registration unless you satisfy the exemption criteria for the state or territory in which you are registering it. A general exemption for government entities will not change the application of stamp duty under the MVCS because stamp duty is payable on the registration (not the purchase).

Some states have exemptions for people who fulfil certain criteria under the VEA. DVA may write to the relevant state authority to apply for exemption from stamp duty on the basis of equivalency under the MRCA. As the person receiving the MVCS compensation, you will need to ask DVA to obtain an annual letter so you can keep receiving concessional registration rates.



If you would like more information or to talk to a DVA officer, you can:

- phone DVA for the cost of a local call (using a standard telephone, not a mobile phone) on 133 254 or freecall 1800 555 254 if you are outside a major city
- send an email to DVA at:
GeneralEnquiries@dva.gov.au
- get help from any DVA office.