



Compensation (Japanese Internment) Act 2001

No. 41, 2001



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**An Act to provide for compensation payments in
respect of certain persons interned by Japanese
military forces, and for other purposes**

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**An Act to provide for compensation payments in
respect of certain persons interned by Japanese
military forces, and for other purposes**

[Assented to 25 May 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Compensation (Japanese Internment)
Act 2001*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Definitions

In this Act, unless the contrary intention appears:

civilian means a person who is not a veteran.

Commission means the Repatriation Commission referred to in the Veterans' Entitlements Act.

compensation payment means a payment under this Act.

designated war period means the period beginning on 7 December 1941 and ending at the end of 29 October 1945.

eligible person means a person who is eligible for a compensation payment.

interned means:

- (a) confined in a camp, building, prison or other place (including a vehicle); or
- (b) restricted to residing within specified limits.

Japanese military forces means air forces, naval forces, land forces or other military forces of Japan (however described).

partner, in relation to a veteran or civilian, means:

- (a) a person who is legally married to the veteran or civilian; or
- (b) a person who is a partner (within the meaning of the Veterans' Entitlements Act) of the veteran or civilian.

Regulations payment means a payment under the Veterans' Entitlements (Compensation—Japanese Internment) Regulations 2001, including a payment made before the commencement of this Act.

Note: These regulations are made for the purposes of section 106 of the Veterans' Entitlements Act.

Review Tribunal means:

- (a) the Administrative Appeals Tribunal; or
- (b) the Administrative Review Tribunal (if that tribunal replaces the Administrative Appeals Tribunal).

Secretary means the Secretary of the Department.

social security law means:

- (a) the *Social Security Act 1991*; and
- (b) the *Social Security (Administration) Act 1999*; and
- (c) any other Act that is expressed to form part of the social security law.

veteran means a person covered by subsection 6A(1) of the Veterans' Entitlements Act.

Veterans' Entitlements Act means the *Veterans' Entitlements Act 1986*.

4 Eligibility for compensation payment

Partner of deceased veteran

- (1) A person is eligible for a compensation payment in respect of a deceased veteran if the following conditions are satisfied:
 - (a) the person was alive at the beginning of 1 January 2001;
 - (b) the veteran died before 1 January 2001;
 - (c) the person was a partner of the veteran immediately before the veteran's death;
 - (d) the veteran was interned by Japanese military forces at any time during the designated war period.

Civilian (in own right)

- (2) A person is eligible for a compensation payment in the person's own right as a civilian if the following conditions are satisfied:
 - (a) the person was alive at the beginning of 1 January 2001;
 - (b) the person was interned by Japanese military forces at any time during the designated war period;

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- (c) the person was domiciled in Australia immediately before the commencement of that internment.

Partner of deceased civilian

- (3) A person is eligible for a compensation payment in respect of a deceased civilian if the following conditions are satisfied:
 - (a) the person was alive at the beginning of 1 January 2001;
 - (b) the civilian died before 1 January 2001;
 - (c) the person was a partner of the civilian immediately before the civilian's death;
 - (d) the civilian was interned by Japanese military forces at any time during the designated war period;
 - (e) the civilian was domiciled in Australia immediately before the commencement of that internment.

One payment only

- (4) A person is not eligible for a compensation payment if the person is eligible for a Regulations payment.
- (5) A person is not entitled to more than one compensation payment.

5 Amount of compensation payment

A compensation payment is a one-off payment of \$25,000.

6 Claims

- (1) Claims for compensation payments must be made in accordance with procedures determined by the Secretary under subsection (2).
- (2) The Secretary may, in writing, determine the procedures for making claims.

7 Determination of claims

- (1) Claims are to be decided by the Commission.
- (2) A person who is dissatisfied with the Commission's decision on a claim may apply to the Review Tribunal for review of the decision.

8 Death of eligible person

If an eligible person dies or died before receiving a compensation payment, then the payment is to be made to the person's estate.

Note: A claim will still be required under section 6.

9 Application of certain provisions of the Veterans' Entitlements Act

The following provisions of the Veterans' Entitlements Act apply as if this Act were part of the Veterans' Entitlements Act:

- (a) subsection 119(1) and sections 128, 208, 213 and 214;
- (b) any other provisions of that Act that are incidental to the provisions mentioned in paragraph (a).

10 Recovery of overpayments

Any overpayment under this Act may be recovered by the Commonwealth as a debt in a court of competent jurisdiction.

11 Exemption from income tax

Compensation payments are exempt from income tax.

12 Assets test

Veterans' Entitlements Act

- (1) The value of a person's assets for the purposes of the Veterans' Entitlements Act is reduced by any compensation payment or Regulations payment received by the person.

Social security law

- (2) The value of a person's assets for the purposes of the social security law is reduced by any compensation payment or Regulations payment received by the person.

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13 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of compensation payments, to the extent of \$133,975,000.

*[Minister's second reading speech made in—
House of Representatives on 22 May 2001
Senate on 23 May 2001]*

(82/01)