Veterans' Entitlements Act 1986

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Volume 2: sections 46–93ZG
Volume 3: sections 94–216
Volume 4: Schedules
Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Veterans' Entitlements Act 1986* that shows the text of the law as amended and in force on 19 March 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

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The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part VI—Allowances and other benefits

Division 1—Preliminary

94 Interpretation

In this Part, unless the contrary intention appears:

(a) a reference to a hospital or other institution shall be read as including a reference to a home, a hostel, a medical centre, an out-patient clinic and a rehabilitation or training establishment; and

(b) ***treatment*** has the same meaning as it has in Part V.

96 Application

(1) Without prejudice to its effect apart from this section, this Part has effect in relation to a person who is, or has been:

(a) a member of the Forces as defined by subsection 68(1); or

(b) a member of a Peacekeeping Force as defined by subsection 68(1);

and in relation to a dependant of such a person who has died, in like manner as it has effect in relation to a veteran and a dependant of a deceased veteran, respectively.

(2) For the purpose only of applying this Part as provided in subsection (1):

(a) a reference in this Part to a veteran shall be read as a reference to a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1);

(b) a reference in this Part to a war-caused injury shall be read as a reference to a defence-caused injury;

(c) a reference in this Part to a war-caused disease shall be read as a reference to a defence-caused disease;

(d) a reference in this Part to the death of a veteran that was war-caused shall be read as a reference to the death of a

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member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1), that was defence-caused;

(e) a reference in this Part to a pension under Part II shall be read as a reference to a pension under Part IV;

(f) the references in subparagraph 102(1)(b)(ii) and subsections 108(8) and (9) to section 26 shall be read as references to section 26 (in its application to pensions under Part IV) or subsection 74(8); and

(g) a reference in this Part to a claim or application under Part II shall be read as a reference to a claim or application made under section 14 or 15, in its application to pensions under Part IV.

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Division 2—Eligibility for allowances and other benefits

97 Clothing allowance

(1) Where a veteran is being paid a pension under Part II in respect of incapacity from a war-caused injury or a war-caused disease of a kind described in column 1 of the following table, the Commission may grant to the veteran an allowance, called clothing allowance, at the rate specified in column 2 of that table opposite to the description of that kind of incapacity in column 1:

Column 1	Column 2
Kinds of incapacity	**Rate per fortnight $**
1. One leg and one arm amputated	7.20
2. One leg or one arm amputated	3.30
3. Both legs or both arms amputated	4.60
4. One leg amputated, causing essential hip disarticulation	4.60
5. Blinded in both eyes	3.30

(2) Where the Commission is satisfied that it is necessary for a veteran who is being paid a clothing allowance under subsection (1) by reason of a kind of incapacity described in item 2, 3 or 4 (in column 1) of the table in subsection (1) to use a crutch or crutches in addition to any artificial aid, that subsection has effect as if the rate specified in that item (in column 2) were an amount per fortnight equal to the amount specified in item 1 (in column 2) of that table.

(3) Where:

(a) a veteran is being paid a pension under Part II in respect of incapacity from a war-caused injury or a war-caused disease of a kind other than a kind described in column 1 of the table in subsection (1); and

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(b) exceptional wear and tear, or exceptional damage, to the clothing of the veteran occurs by reason of the kind of incapacity from which the veteran is suffering;

the Commission may grant to the veteran a clothing allowance at such rate, not exceeding an amount per fortnight equal to the amount specified in item 2 (in column 2) of that table, as the Commission deems fit.

(4) Where a veteran is granted a clothing allowance under subsection (1) and is also granted a clothing allowance under subsection (3), clothing allowance shall be paid to the veteran at a rate per fortnight equal to the sum of:

(a) the rate per fortnight at which the allowance was granted under subsection (1); and

(b) the rate per fortnight at which the allowance was granted under subsection (3).

(5) For the purpose of this section:

(a) amputation of a hand of a veteran shall be treated as amputation of an arm of the veteran; and

(b) amputation of a foot of a veteran shall be treated as amputation of a leg of the veteran.

(6) Clothing allowance may be paid to a veteran by fortnightly instalments, or in such other manner as is determined by the Commission, but the amount, or sum of the amounts, of clothing allowance paid to a veteran in any period of 12 consecutive months shall not exceed an amount equal to the sum of 26 fortnightly instalments.

98 Attendant allowance

(1) Where a veteran is being paid a pension under Part II in respect of incapacity from a war-caused injury or a war-caused disease of a kind described in column 1 of the following table, the Commission may grant to the veteran an allowance, called attendant allowance, at the rate specified in column 2 of that table opposite to the

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description of that kind of incapacity in column 1, for or towards the cost of the services of an attendant to assist the veteran:

Column 1 Kinds of incapacity	Column 2 Rate per fortnight $
1. Blinded in both eyes	84.30
2. Blinded in both eyes together with total loss of speech or total deafness	168.60
3. Both arms amputated	168.60
4. Both legs amputated and one arm amputated	84.30
5. Both legs amputated at the hip or one leg amputated at the hip and the other leg amputated in the upper third	84.30

(2) Where:

(a) a veteran is being paid a pension under Part II in respect of incapacity:

(i) from a war-caused injury or a war-caused disease affecting the cerebro-spinal system; or

(ii) from a war-caused injury or a war-caused disease that has caused a condition similar in effect or severity to an injury or disease affecting the cerebro-spinal system; and

(b) the Commission is of the opinion that the veteran has a need for the services of an attendant to assist the veteran;

the Commission may grant to the veteran an allowance, called attendant allowance, at the rate of an amount per fortnight equal to the amount specified in item 1 (in column 2) of the table in subsection (1), for or towards the cost of the services of an attendant to assist the veteran.

(3) For the purposes of the application of the table in subsection (1) to and in relation to a veteran, a leg, foot, hand or arm that has been

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rendered permanently and wholly useless shall be treated as having been amputated.

(4) Where a veteran is cared for, at public expense, in a hospital or other institution, attendant allowance is not payable to the veteran in respect of the period commencing on the day of the first pension period occurring after the veteran commences to be so cared for and ending on the day on which the veteran ceases to be so cared for.

(4B) Attendant allowance is not payable to a veteran if carer payment under Part 2.5 of the Social Security Act:

(a) is payable to a person because the person is caring for the veteran; or

(b) would be payable to a person because the person is caring for the veteran, apart from:

(i) the payment being suspended under the social security law; or

(ii) the rate of the payment being nil because of action taken in relation to the payment under Chapter 5 of the *Social Security Act 1991* (about overpayments and debt recovery).

(5) Where the Commission makes a decision with respect to an application for attendant allowance under this section, section 34 applies to and in relation to the decision in like manner as it applies to and in relation to a decision with respect to a claim for pension in accordance with section 14.

98A Bereavement payment in respect of partnered veterans receiving pensions by way of compensation

(1) This section applies where a veteran dies if the veteran was, immediately before his or her death:

(a) a member of a couple; and

(b) receiving a pension under Part II or IV (other than a pension payable to a person as a dependant of a deceased veteran).

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(2) The widow or widower of the deceased veteran is entitled, in respect of the period of 12 weeks after the deceased veteran's death, to payments at:

(a) if the deceased veteran was, immediately before his or her death, in receipt of that pension at a rate under subsection 22(4), 23(4), (5) or (6) or 24(4), (5), (5A) or (6)—the rate at which that pension would have been payable to him or her, if he or she had not died, on the first available pension pay day after the Commission becomes aware of the death; or

(b) in any other case—the lower of the following:

(i) the rate at which that pension would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the Commission becomes aware of the death;

(ii) the general rate in force on that pension pay day.

(3) Where:

(a) the widow or widower dies within 12 weeks after the death of the deceased veteran; and

(b) the Commission has not become aware of the death of the deceased veteran before the death of the widow or widower;

there is payable, to such person as the Commission thinks appropriate, in respect of the deceased veteran, an amount worked out using the formula:

6 × Deceased veteran's amount

where:

deceased veteran's amount means:

(a) if the deceased veteran was, immediately before his or her death, in receipt of the pension covered by paragraph (1)(b) at a rate under subsection 22(4), 23(4), (5) or (6) or 24(4), (5), (5A) or (6)—the amount of that pension that would have been payable to him or her, if he or she had not died, on the first available pension pay day after the death of the widow or the widower; or

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(b) in any other case—the lower of the following:

(i) the amount of the pension covered by paragraph (1)(b) that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or the widower;

(ii) the amount that would have been payable to the deceased veteran, if he or she had not died, on the first available pension pay day after the death of the widow or widower, at the general rate in force on that pension pay day.

(4) Subsection (2) does not apply:

(a) if the Commission does not become aware of the veteran's death until after the death of the widow or widower; or

(b) in respect of any pension pay day after the death of the widow or widower.

(5) Where:

(a) within the period of 12 weeks after the death of a veteran, an amount to which the veteran would have been entitled if he or she had not died has been paid by way of a pension covered by paragraph (1)(b) into an account with a bank; and

(b) this section applies in relation to the death of the veteran; and

(c) the bank pays to the widow or widower of the deceased veteran, out of that account, an amount not exceeding the total of the amounts paid as mentioned in paragraph (a);

then, in spite of anything in any other law, the bank is not liable to the Commonwealth, the personal representative of the deceased veteran, or anyone else, for any loss incurred because of the payment of that money to the widow or widower.

(6) In this section:

first available pension pay day, in relation to the death of a veteran, means the first pension pay day after the Commission becomes aware of the death for which it is practicable to terminate or adjust the payments being made by way of pension covered by paragraph (1)(b) in respect of the deceased veteran.

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98AA Bereavement payments in respect of certain single veterans receiving pensions by way of compensation

(1) The Commission must pay an amount (***bereavement payment***), worked out in accordance with subsection (2), to the estate of a deceased veteran if:

(a) immediately before the veteran died, he or she was not a member of a couple; and

(b) immediately before the veteran died, he or she was being paid a pension under Part II as a veteran to whom subsection 22(4) or section 24 applied; and

(c) the veteran died in indigent circumstances; and

(d) an application for the bereavement payment is made in accordance with sections 111 and 112.

(2) The amount of the bereavement payment is 6 times the amount of the pension that would have been payable to the veteran, if he or she had not died, on the first pension pay day after he or she died.

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.

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

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 terminal illness; or
    (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

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(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

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(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.

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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 a veteran to whom section 24 applied; or

(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 table in subsection 27(1); or

(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

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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.

102 Decoration allowance

(1) Subject to this section, the Commission may grant an allowance, called decoration allowance, to a veteran who has been awarded an eligible decoration or eligible decorations if the veteran:
  (a) is in receipt of a pension under Part II; or
  (b) would be in receipt of a pension under Part II but for:
    (i) the cancellation, under subsection 124(1), of a pension that had been granted to the veteran under Part II; or
    (ii) section 26, 30C or 30D.

(4) Decoration allowance granted to a veteran under this section is payable at the rate of $2.10 per fortnight.

(5) In this section:

eligible decorations means:
  (a) the following decorations awarded for gallantry during a war to which this Act applies or during warlike operations:
    (i) the Victoria Cross;
    (ii) the Cross of Valour;
    (iii) the Star of Courage;
    (iv) the Distinguished Service Order;
    (v) the Distinguished Service Cross;
    (vi) the Military Cross;

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(vii) the Distinguished Flying Cross;
(viii) the Distinguished Conduct Medal;
(ix) the Conspicuous Gallantry Medal;
(x) the Distinguished Service Medal;
(xi) the Military Medal;
(xii) the Distinguished Flying Medal;
(xiii) the member of the Most Excellent Order of the British Empire (Military Division);
(xiv) the Medal of the Most Excellent Order of the British Empire (Military Division) (1919-1958);
(xv) the Medal of the Most Excellent Order of the British Empire (Military Division) with Gallantry Emblem (1958-1974);
(xvi) the Victoria Cross for Australia;
(xvii) the Star of Gallantry;
(xviii) the Medal for Gallantry; and

(b) the George Cross; and
(c) the George Medal; and
(d) such other decorations, awarded for gallantry during a war to which this Act applies or during warlike operations, as are prescribed.

103 Victoria Cross allowance

(1) Subject to this section, the Commission may grant an allowance, called Victoria Cross allowance, to a veteran who has been awarded the Victoria Cross or the Victoria Cross for Australia.

(2) Victoria Cross allowance granted to a veteran under this section is in addition to any decoration allowance that has been or may be granted to the veteran under section 102.

(4) Victoria Cross allowance granted to a veteran under this section is payable at the rate of $3,230 per year.

Note: The amount fixed by this subsection is indexed annually in line with CPI increases. See section 198FA.

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104 Recreation transport allowance

(1) Subject to this section, the Commission may grant an allowance, called recreation transport allowance, to a veteran who is suffering an incapacity from a war-caused injury or a war-caused disease of a kind described in column 1 of the following table:

Column 1	Column 2
Description of incapacity	**Rate per fortnight $**
1. Both legs amputated above the knees	44.80
2. Negligible powers of locomotion so as to be capable of moving, with the aid of crutches or walking sticks, for short distances only	44.80
3. Incapacitated with regard to locomotion to a degree that, in the opinion of the Commission, is similar to the degree of incapacity with regard to locomotion associated with a disability described in item 1 or 2	44.80
4. Both arms amputated at or above the wrists	22.40
5. Both legs amputated below the knees	22.40
6. One leg amputated above the knee and the other below the knee	22.40
7. One leg amputated above or below the knee and one arm amputated below the elbow	22.40
8. Blinded in both eyes	22.40
9. Incapacitated to an extent that, in the opinion of the Commission, is similar in effect or severity to the extent of incapacity associated with a disability described in item 4, 5, 6, 7 or 8	22.40
10. Incapacitated with regard to locomotion to a degree that, in the opinion of the Commission, is similar in degree to the incapacity with regard to locomotion associated with a disability described in item 5, 6, 7 or 8	22.40

(2) For the purposes of subsection (1):

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(a) a leg that has been rendered permanently and wholly useless above the knee or below the knee shall be treated as if it had been amputated above the knee or below the knee, as the case may be; and

(b) an arm that has been rendered permanently and wholly useless at or above the wrist or below the elbow, shall be treated as if it had been amputated at or above the wrist, or below the elbow, as the case may be.

(3) Recreation transport allowance is payable to a veteran, in respect of the costs incurred by the veteran in travelling for recreational purposes, at the rate specified in column 2 of the table in subsection (1) opposite to the kind of incapacity described in column 1 from which the veteran is suffering.

(4) Recreation transport allowance is not payable to a veteran under subsection (1):

(a) in respect of any period during which the veteran is being cared for, at public expense, in a hospital or other institution; or

(b) if the veteran has participated, or is participating, in the Vehicle Assistance Scheme:

(i) during the period of 2 years commencing on, and including, the date on which the veteran was first provided with a vehicle under that Scheme;

(ii) during the period of 2 years commencing on, and including, the date on which a replacement motor vehicle grant was or is made under that Scheme in respect of the veteran;

(iii) during any period during which there is, under that Scheme, due and payable by the veteran to the Commission the whole or part of an amount equal to the cost to the Commission of providing the veteran with a motor vehicle under that Scheme; or

(iv) during any other period during which the veteran is, under that Scheme, eligible to be paid an allowance as a contributor towards the running and maintenance of a vehicle provided for the veteran under that Scheme.

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(5) For the purpose of the application of subsection (4), a vehicle provided for a veteran before 22 May 1986 under the scheme known as the "Gift Car Scheme" shall, after the commencement of this subsection, be deemed to have been provided under the Vehicle Assistance Scheme.

105 Vehicle Assistance Scheme

(1) The Commission may, in writing, determine a scheme for the provision of motor vehicles to veterans eligible under this section to participate in the scheme and for the payment of allowances towards the cost of running and maintaining vehicles so provided.

(5) A veteran is, subject to subsection (7), eligible to participate in the scheme if the veteran is incapacitated from war-caused injury or war-caused disease by reason of:

(a) amputation of both legs above the knee;

(b) amputation of one leg above the knee and, in addition:

(i) amputation of the other leg at or above the ankle and amputation of one arm at or above the wrist; or

(ii) amputation of both arms at or above the wrists;

(c) complete paraplegia resulting in the total loss of voluntary power in both legs to the extent that there is insufficient power for purposeful use for stance or locomotion; or

(d) a condition that, in the opinion of the Commission, is similar in effect or severity to a condition described in paragraph (a) or (b).

(7) For the purposes of subsection (5):

(a) a leg that has been rendered permanently and wholly useless above the knee shall be treated as if it had been amputated above the knee;

(b) a veteran shall not be taken to be incapacitated by reason of the disability described in paragraph (5)(c) unless the disability is such that surgical or other therapeutic measures are not reasonably capable of restoring power for purposeful use for stance or locomotion.

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Determination must be approved by the Minister

(8) A determination under subsection (1) has no effect unless the Minister has approved it in writing.

(9) A determination under subsection (1) approved by the Minister and as in force from time to time is the ***Vehicle Assistance Scheme***.

Variation or revocation of Vehicle Assistance Scheme

(10) The Commission may, by written determination, vary or revoke the Vehicle Assistance Scheme.

(11) A determination under subsection (10) has no effect unless the Minister has approved it in writing.

Legislative instruments

(12) A determination under subsection (1) or (10) made by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination is approved.

Provision of benefits

(13) The Commission may provide benefits for veterans referred to in subsection (5) under and in accordance with the provisions of the Vehicle Assistance Scheme.

106 Special assistance

(1) Subject to subsection (2), the Commission may, in such circumstances, and subject to such conditions (if any), as are prescribed in a legislative instrument made by the Commission for the purposes of this subsection, in its discretion, grant to a veteran, or to a dependant of a veteran or deceased veteran, assistance or benefits of such a kind, and of such an amount or value, as it deems fit in all the circumstances of the case.

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(2) The Commission must not grant assistance or benefits to a person under subsection (1):

(a) in circumstances in which the person is eligible to be granted an allowance or assistance under another provision of this Act; or

(b) to a veteran, or a dependant of a veteran or a deceased veteran, if the veteran is only a veteran because of service rendered after the MRCA commencement date.

Note: The Military Rehabilitation and Compensation Commission can grant assistance or benefits to veterans who render service after the MRCA commencement date, or to dependants of such veterans (see section 424 of the MRCA).

(3) A legislative instrument made by the Commission for the purposes of subsection (1) may modify the operation of section 18 of the *Administrative Review Tribunal Act 2024* (when to apply—general rule) as it applies in relation to an application made under the instrument.

108 Loss of earnings allowance

(1) The Commission may grant an allowance, called loss of earnings allowance, to a person in accordance with the provisions of this section.

(2) Loss of earnings allowance may be granted to a veteran, in respect of any loss of salary or wages, or loss of earnings on his or her own account from an occupation in which he or she is engaged, suffered by reason of:

(a) the veteran's undergoing treatment for incapacity from a war-caused injury or a war-caused disease;

(b) the veteran's having to wait for the supply of, or repairs to, an artificial replacement or other surgical aid or appliance necessitated by such an incapacity;

(c) an investigation of a claim or application made by the veteran under Part II or of a pension granted to the veteran under that Part; or

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(d) the veteran's undergoing treatment associated with such an investigation;

for the period in respect of which the veteran suffered that loss.

(3) Where:

(a) a veteran travels for the purpose of:

(i) obtaining treatment;

(ii) restoration of his or her health;

(iii) being fitted with surgical aids or appliances or artificial replacements;

(iv) an investigation referred to in paragraph (2)(c); or

(v) any other matter related to the payment of a pension; and

(b) the Commission authorizes a person to accompany the veteran as his or her attendant;

loss of earnings allowance may be granted to the attendant, in respect of any loss of salary or wages, or loss of earnings on his or her own account, suffered by reason of having so accompanied the veteran, for the period in respect of which the attendant suffered that loss.

(4) Where a claim for pension for a veteran or a dependant of a veteran:

(a) is made by another person, as provided by section 16, on behalf of the veteran or dependant; or

(b) is prosecuted by a person who is the legal personal representative of the claimant, or by a person approved under section 126, following the death of the claimant;

loss of earnings allowance may be granted to the person, in respect of any loss of salary or wages, or loss of earnings on his or her own account, suffered by reason of an investigation under section 17 of the claim for the period in respect of which the person suffered that loss.

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(5) Subject to subsection (6), where, in any year, a veteran who is an employee of another person:

(a) was granted leave of absence on account of illness for a period in respect of which the veteran was absent from his or her employment for a reason referred to in paragraph (2)(a), (b), (c) or (d);

(b) was, during a subsequent period of that year, absent from his or her employment by reason of:

(i) any illness or disease; or

(ii) undergoing treatment related to any illness or disease;

other than a war-caused illness or a war-caused disease; and

(c) has incurred loss of salary or wages as a result of absence from his or her employment referred to in paragraph (b) of this subsection;

loss of earnings allowance may be granted to the veteran, in respect of that loss of salary or wages, for the period in respect of which the veteran suffered that loss.

(6) Where, in a year, the period, or aggregate of the periods, for which loss of earnings allowance is payable to a veteran by virtue of subsection (5) has equalled:

(a) the period, or aggregate of the periods, referred to in paragraph (5)(a) for which the veteran has been absent from his or her employment in that year; or

(b) a period equal to the period credited, or notionally credited, in respect of the veteran for that year, under the terms and conditions of his or her employment, by way of sick leave credit (however described);

whichever is the less, loss of earnings allowance is not payable to the veteran by virtue of subsection (5) in respect of any part of the remainder of that year.

(7) Loss of earnings allowance is not payable to a person under this section in respect of any period in respect of which the person is paid pension under Part II at the rate specified in subsection 24(4).

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(8) The amount of loss of earnings allowance payable to a veteran by virtue of subsection (2) or (5) in respect of loss of salary or wages, or of earnings on his or her own account, (in this subsection referred to as the ***relevant loss of remuneration***) suffered by the veteran in respect of a period (in this subsection referred to as the ***relevant period***) is:

(a) an amount equal to:

(i) unless subparagraph (ii) or (iii) applies—the amount of pension that would be payable to the veteran in respect of the relevant period if the veteran were a veteran to whom section 24 applied and the veteran's pension were required to be calculated at the rate specified in subsection 24(4) (in this subsection that amount of pension is referred to as the ***maximum amount in respect of the relevant period***);

(ii) if the veteran is in receipt of a pension under Part II—the amount by which the maximum amount in respect of the relevant period exceeds the amount of pension under Part II that is payable to the veteran in respect of the relevant period; or

(iii) if the veteran is not in receipt of a pension under Part II but would be in receipt of such a pension but for the provisions of section 26, 30C or 30D or is in receipt of a pension under Part II that has been reduced in accordance with the provisions of that section—the amount by which the maximum amount in respect of the relevant period exceeds the amount of pension under Part II that would be payable to the veteran in respect of the relevant period if section 26, 30C or 30D, as the case requires, were omitted from this Act; or

(b) an amount equal to the amount that the veteran would have earned, or could reasonably be expected to have earned, from the occupation referred to in subsection (2) of this section or from the employment referred to in subsection (5) of this section, as the case may be, in respect of the relevant period by way of salary or wages or of earnings on his or her own account less an amount equal to the sum of:

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(i) the amount (if any) earned by the veteran from that occupation or employment, or from any other occupation or employment, in respect of the relevant period by way of salary or wages or earnings on his or her own account;

(ii) the amount (if any) that the veteran receives, or is entitled to receive, in respect of the relevant period, by way of compensation for the relevant loss of remuneration, under a law of the Commonwealth, a State, a Territory or a country other than Australia that makes provision for the payment of compensation or other benefits to persons in respect of incapacities arising out of, or in the course of, employment or caused by, or arising out of, the use of motor vehicles;

(iii) the amount (if any) that the veteran receives, or is entitled to receive, from his or her employer by way of gratuity or other payment in respect of the relevant loss of remuneration suffered by the veteran in respect of the relevant period; and

(iv) the amount (if any) that the veteran receives, or is entitled to receive, in respect of the relevant loss of remuneration suffered by the veteran in respect of the relevant period, under a contract, arrangement or agreement (including a contract of insurance), whether or not the veteran is a party to the contract, arrangement or agreement, but not being an amount of a kind referred to in subparagraph (ii) or (iii);

whichever is the lesser amount.

(9) The amount of loss of earnings allowance payable to a person by virtue of subsection (3) in respect of a period is:

(a) the amount that would be payable to the person in respect of the period in accordance with paragraph (8)(b) if the person were a veteran who was entitled to be paid that allowance by virtue of subsection (2); or

(b) the amount that would be payable to the person in respect of the period by way of pension under Part II if the person were

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eligible to be paid a pension under that Part, section 24 applied to the person and section 26, 30C or 30D did not apply to the person;

whichever is the lesser amount.

(10) The amount of loss of earnings allowance payable to a person by virtue of subsection (4) in respect of a period is such amount as the Commission considers reasonable in all the circumstances but not exceeding the amount that the person would have earned, or could reasonably be expected to have earned, in the period by way of salary and wages, or earnings on his or her own account.

(11) Loss of earnings allowance is not payable to a person under this section unless the person furnishes to the Commission such information (including certificates of medical practitioners or other persons) as is required by the regulations to be so furnished.

(12) In this section:

leave of absence on account of illness, in relation to a veteran who is an employee of another person, means leave of absence from the veteran's employment granted to the veteran without loss of earnings by reason of any illness or incapacity or treatment provided for an illness or incapacity.

year, in relation to a veteran who is an employee of another person, means the period of 12 months that commenced on the date on which, under his or her terms and conditions of employment, the veteran was last credited, or last notionally credited, with a period by way of sick leave (however described).

Note: If section 25A applies to a veteran, the rate at which loss of earnings allowance is payable to the veteran is reduced in accordance with that section.

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109 Advances on account of loss of earnings allowance

(1) Where the Commission is satisfied:

(a) that a person may reasonably be expected to become entitled to be paid loss of earnings allowance under section 108 in respect of a period (in this section called the period of entitlement); and

(b) that it is, in all the circumstances, appropriate for the person to be paid an advance on account of the loss of earnings allowance that the person is expected to become entitled to be paid in respect of a period (in this section called the period of advance), being the whole or a part of the period of entitlement;

the Commission may authorize payment to the person of an advance accordingly in respect of the period of advance.

(2) The amount paid to a person by way of advance under subsection (1) in respect of a period of advance, or the aggregate of the amounts so paid to a person in respect of the periods of advance included in a period of entitlement, as the case may be, shall not exceed the amount estimated by the Commission to be the amount of loss of earnings allowance likely to be payable to the person in respect of that period of advance or those periods of advance, as the case may be.

(3) If the amount of the advance, or the sum of the amounts of advances, paid to a person in relation to a period of entitlement exceeds the amount of loss of earnings allowance that becomes payable to the person in respect of that period of entitlement, the person is liable to pay an amount equal to the excess to the Commonwealth.

110 Travelling expenses

(1) Where a veteran, or a dependant of a deceased veteran, travels, with the approval of the Commission, for the purpose of:

(a) obtaining treatment;

(b) restoration of his or her health; or

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(c) being fitted with surgical aids or appliances or artificial replacements;

the veteran, or the dependant, as the case may be, is, subject to this section and to such conditions as are prescribed, entitled to be paid such travelling expenses, in connection with that travel, as are prescribed.

(1A) If:

(a) a veteran travels, with the approval of the Commission under subsection (1), for the purpose of obtaining treatment; and

(b) the treatment is of a kind prescribed in an instrument under subsection (6); and

(c) the veteran's partner travels for the purpose of participating in that treatment;

the veteran's partner is, subject to this section and to such conditions as are prescribed by the regulations, entitled to be paid such travelling expenses, in connection with that travel, as are prescribed by the regulations.

Note: For ***treatment*** see section 94 and Part V.

(2) Subject to such conditions as are prescribed, where:

(a) a veteran, or a dependant of a deceased veteran, travels, with the approval of the Commission, as described in subsection (1); and

(b) the Commission authorises a person to accompany the veteran or dependant as his or her attendant;

the attendant is, subject to this section, entitled to be paid such travelling expenses, in connection with that travel, as are prescribed.

(2A) An approval under subsection (1) or an authorisation under paragraph (2)(b) may be given before or after the travel is completed.

(3) Travelling expenses are not payable under this section in respect of travel outside Australia.

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(3A) Travelling expenses are not payable under this section in respect of treatment obtained under subsection 85(2A) (treatment for certain injuries covered by the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*).

Note: Travelling expenses incurred in respect of treatment obtained under subsection 85(2A) may be payable under section 16 of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

(4) Where the Commission is satisfied:

(a) that a person may reasonably be expected to become entitled to be paid travelling expenses under this section; and

(b) that it is in all the circumstances appropriate for the person to be paid an advance on account of the travelling expenses that the person is expected to become entitled to be paid;

the Commission may authorise payment to the person of an advance on account of the travelling expenses that the person is expected to become entitled to be paid.

(5) If the amount of the advance paid to a person on account of any travelling expenses in respect of any travel of the person exceeds the amount of travelling expenses that become payable to the person in respect of that travel, the person is liable to repay an amount equal to the excess to the Commonwealth.

(6) The Commission may, by legislative instrument, prescribe kinds of treatment for the purposes of paragraph (1A)(b).

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Division 3—Procedural

111 Application

(1) Each of the following allowances, payments or benefits is a benefit to which this section applies, namely:
  (a) clothing allowance;
  (b) attendant allowance;
  (ba) bereavement payment under section 98AA;
  (c) funeral benefit under section 99 or 100;
  (d) Victoria Cross allowance;
  (e) recreation transport allowance;
  (g) loss of earnings allowance;
  (h) travelling expenses.

(2) An application for a benefit to which this section applies:
  (a) shall be in accordance with a form approved by the Commission;
  (b) shall be accompanied by such certificates and other evidence (relevant to the applicant's entitlement to the benefit) as are required to be furnished by this Act, the regulations or the form of application; and
  (c) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

(3) An application for a benefit to which this section applies may be made:
  (a) by the person eligible to be granted the benefit; or
  (b) with the approval of that person or of the Commission under subsection (4), by another person on behalf of that person.

(4) Where a person eligible to be granted a benefit to which this section applies is unable, by reason of physical or mental ailment, to approve a person to make an application for that benefit on his

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or her behalf, the Commission may approve a person to make the application on his or her behalf.

(5) Where an application for a benefit to which this section applies is made by a person on behalf of another person, the other person on whose behalf the application is made, and not the person making the application on behalf of that other person, shall be treated as the applicant.

(6) For the purposes of this Division, where:

(a) a person makes an application in writing for an allowance or benefit to which this section applies, but otherwise than in accordance with a form approved for the purposes of subsection (2); and

(b) the person subsequently makes an application for the allowance or benefit in accordance with a form so approved:

(i) at a time when the person had not been notified by the Department, in writing, that it would be necessary to make the application in accordance with a form so approved; or

(ii) within 3 months after the person had been so notified;

the Commission may treat the application referred to in paragraph (b) as having been received at an office of the Department in Australia on the date on which the application referred to in paragraph (a) was so received.

(7) An applicant for a benefit to which this section applies may, at any time before the application is determined by the Commission, by notice in writing forwarded to the Commission at an office of the Department in Australia, withdraw the application.

(8) The withdrawal of an application for a benefit to which this section applies does not prevent the applicant from subsequently making another application for such a benefit.

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112 Time for applying for certain benefits

(1A) An application for bereavement payment under section 98AA in respect of a deceased veteran must be made within 12 months after the death of the veteran.

(2) An application for loss of earnings allowance for a period in respect of which a person has suffered a loss of salary or wages, or loss of earnings on his or her own account, as set out in subsection 108(2), (3), (4) or (5), shall be made within 12 months after the commencement of that period.

(3) An application for travelling expenses in connection with travel referred to in subsection 110(1), (1A) or (2) must be made within:

(a) 12 months after the completion of that travel; or

(b) if the Commission thinks that there are exceptional circumstances that justify extending that period—such further period as the Commission allows.

(4) An application made to the Commission for the grant of:

(aa) bereavement payment under section 98AA; or

(b) loss of earnings allowance; or

(c) travelling expenses;

after the expiration of the period applicable to the application by virtue of subsection (1A), (2) or (3), as the case requires, is of no force or effect.

113 Time for applying for funeral benefit

(1) Subject to this section, application may be made to the Commission for the grant of a funeral benefit under section 99 or 100 in respect of the funeral of a person, being:

(a) a deceased veteran;

(b) a deceased dependant of a deceased veteran;

within 12 months after the death of the person.

(2) Where, after the death of a veteran, a decision is made under this Act:

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(a) determining that the death was war-caused;
(b) granting a pension under Part II in respect of the veteran, as from a date before the death of the veteran:
(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
(c) increasing the rate of the pension granted to the veteran under Part II as from a date before the death of the veteran:
(i) to a rate worked out under subsection 22(4) or section 24; or
(ii) to a rate 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);

application for the grant of a funeral benefit under section 99 in respect of the funeral of the veteran may be made to the Commission within the period of 12 months after the date on which that decision was made or within the period of 3 months after the date on which the *Veterans' Affairs Legislation Amendment Act 1987* received the Royal Assent, whichever last expires.

(3) Where, after the death of a veteran, the Commission gives an approval of a kind referred to in subsection 99(3) in relation to the veteran, application may be made to the Commission for the grant of a funeral benefit under section 99 in respect of the funeral of the veteran within 12 months after the date on which that approval was given.

(5) Application made to the Commission for the grant of a funeral benefit under section 99 or 100 in respect of the funeral of a person

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after the expiration of the period specified in subsection (1), (2) or (3) of this section, whichever is applicable, is of no force or effect.

114 Commencement of payment of certain allowances

(1) Subsection (2) applies to:
  (a) clothing allowance;
  (b) attendant allowance; and
  (c) recreation transport allowance.

(2) An allowance to which this subsection applies payable to a veteran by reason that the veteran is suffering incapacity from a war-caused injury or a war-caused disease is payable:
  (a) if application for the allowance is made within 3 months after the date on which the determination was made under this Act determining that the injury was a war-caused injury or the disease was a war-caused disease, as the case may be—as from the date on which that determination was made; or
  (b) in any other case—as from the date on which the veteran's application for the allowance in respect of that war-caused injury or war-caused disease is received at an office of the Department in Australia.

115 Review of decision etc.

(1) Subject to subsection (2), a person who is dissatisfied with a decision of the Commission in respect of an application for:
  (a) clothing allowance; or
  (aa) bereavement payment under section 98AA; or
  (b) funeral benefits under section 99 or 100; or
  (c) decoration allowance; or
  (d) Victoria Cross allowance; or
  (e) recreation transport allowance; or
  (g) loss of earnings allowance;

may request the Commission, in writing, to review the decision, and, where such a request is duly made, the Commission shall

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review the decision, or cause the decision to be reviewed by a person to whom the Commission has delegated its powers under this section (not being the person who made the decision).

(1A) A request under subsection (1) must be lodged with the Commission at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

(2) A request under subsection (1) to review a decision of the Commission shall set out particulars of the grounds on which the request is made, and may be made within 3 months after service on the person to whom the decision relates of notice of the decision, but not otherwise.

(3) Where the Commission reviews a decision under subsection (1), the Commission may affirm or set aside the decision and, if it sets aside the decision, it shall make such other decision as it considers to be in accordance with this Act.

(4) Where the Commission makes a decision, in substitution for the decision set aside, granting an application for an allowance specified in subsection (1), it may approve payment of the allowance as from a date not earlier than the date as from which the Commission could have approved payment of the allowance if it had made the substituted decision in place of the original decision.

(5) Sections 57D, 57E and 57F apply to a review under this section in like manner as they apply to a review under Division 16 of Part IIIB and, for the purpose of their application to a review under this section:

(a) references in sections 57D, 57E and 57F to Division 16 of Part IIIB shall be read as references to this section; and

(b) references in section 57F to a review shall be read as references to a review under subsection (1) of this section.

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(6) A reference in subsection (1) to a decision in respect of an application for funeral benefits under section 99 shall be read as not including a reference to a decision of the Commission to grant, or refuse to grant, an approval of a kind referred to in paragraph 99(3)(a) or (b).

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Part VIA—Rehabilitation

Division 1—Preliminary

115A Definitions

(1) In this Part, unless the contrary intention appears:

CPI indexation day means:

(a) for the purposes of section 115D—the day that begins each relevant period within the meaning of that term in section 198; and

(b) for the purposes of section 115G—a day that is an indexation day for the maximum basic rate under subsection 59B(1).

member of a Peacekeeping Force has the same meaning as in subsection 68(1).

member of the Forces has the same meaning as in subsection 68(1).

unaffected pension rate means the rate of pension that a veteran would have received if the veteran had not undertaken a vocational rehabilitation program under the Veterans' Vocational Rehabilitation Scheme.

unemployment includes:

(a) retirement from remunerative work; and

(b) undertaking less than 16 hours of remunerative work in a pension period;

but does not include any period of paid leave.

veteran means:

(a) a person:

(i) who is, because of section 7, taken to have rendered eligible war service; or

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(ii) in respect of whom a pension is payable under subsection 13(6); or

(iii) who satisfies subsection 37(3); or

(b) a member of the Forces; or

(c) a member of a Peacekeeping Force.

work and pension income rate of a veteran, in relation to a pension period, has the meaning given by subsections (2) and (3).

Veteran to whom section 23 applies

(2) If section 115D applies to a veteran because of subsection 115D(1), then the ***work and pension income rate*** of the veteran for a pension period is worked out using the following formula:

$$\left[\left(\begin{array}{c}\text{Number of hours}\\ \text{of remunerative work}\\ \text{of the veteran}\\ \text{in that pension period}\end{array} - 40\right) \times \begin{array}{c}\text{Average hourly rate}\\ \text{of the veteran's}\\ \text{salary, wages and earnings}\\ \text{from remunerative work}\\ \text{in that pension period}\end{array}\right] + \begin{array}{c}\text{Rate of pension paid}\\ \text{to the veteran}\\ \text{under Part II or IV}\\ \text{for that pension period}\end{array}$$

Veteran to whom section 24 applies

(3) If section 115D applies to a veteran because of subsection 115D(1A), then the ***work and pension income rate*** of the veteran for a pension period is worked out using the following formula:

$$\left[\left(\begin{array}{c}\text{Number of hours}\\ \text{of remunerative work}\\ \text{of the veteran}\\ \text{in that pension period}\end{array} - 16\right) \times \begin{array}{c}\text{Average hourly rate}\\ \text{of the veteran's}\\ \text{salary, wages and earnings}\\ \text{from remunerative work}\\ \text{in that pension period}\end{array}\right] + \begin{array}{c}\text{Rate of pension paid}\\ \text{to the veteran}\\ \text{under Part II or IV}\\ \text{for that pension period}\end{array}$$

115B Veterans' Vocational Rehabilitation Scheme

(1) The Commission may, in writing, determine a scheme to assist specified classes of veterans who render service before the MRCA commencement date to find employment and to continue in employment.

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Note: A rehabilitation program that is being provided to a veteran under the scheme might cease if the veteran is also provided with rehabilitation under the MRCA (see section 18 of the CTPA).

(5) Without limiting the powers of the Commission under subsection (1), the scheme may make provision for and in relation to:

(a) the provision of rehabilitation programs, under the scheme, to specified veterans; and

(b) the provision of vocational guidance and assistance, under the scheme, to specified veterans; and

(c) the payment of financial assistance, under the scheme, to specified veterans in respect of education or training that is being undertaken under the scheme by the veterans; and

(d) the provision of services in relation to the assessment of veterans for participation in rehabilitation programs; and

(da) the provision of services, under the scheme, to specified veterans for the management of medical conditions of those veterans; and

(db) the provision of psychosocial services, under the scheme, to specified veterans; and

(e) the payment of financial assistance, under the scheme, to specified veterans in respect of transport costs arising from the veterans' participation in the scheme; and

(f) the payment of financial assistance, under the scheme, to specified veterans in respect of aids that enable the veterans to participate in, or assist veterans to participate in, the scheme; and

(g) the provision for review of determinations under section 115F; and

(h) the payment of financial assistance, under the scheme, to specified employers in respect of the provision by the employers of employment to veterans as mentioned in subsection (1).

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Determination must be approved by the Minister

(6) A determination under subsection (1) has no effect unless the Minister has approved it in writing.

(7) A determination under subsection (1) approved by the Minister and as in force from time to time is the ***Veterans' Vocational Rehabilitation Scheme***.

Variation or revocation of Veterans' Vocational Rehabilitation Scheme

(8) The Commission may, by written determination, vary or revoke the Veterans' Vocational Rehabilitation Scheme.

(9) A determination under subsection (8) has no effect unless the Minister has approved it in writing.

Legislative instruments

(10) A determination under subsection (1) or (8) made by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination is approved.

Consultation

(11) Before making a determination under subsection (1) or (8), the Commission must consult such organisations and associations, representing the interests of the veteran community, as the Commission thinks appropriate.

Timing of applications for review to the Administrative Review Tribunal

(12) The Veterans' Vocational Rehabilitation Scheme may modify the operation of sections 18 and 19 of the *Administrative Review Tribunal Act 2024* as it applies in relation to a decision made under the Veterans' Vocational Rehabilitation Scheme.

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Division 2—Provisions relating to the income of veterans who participate in vocational rehabilitation programs

115C Rate of pension while on program

(1) Subject to sections 115D and 115G, this section applies while a veteran is undertaking a vocational rehabilitation program under the Veterans' Vocational Rehabilitation Scheme.

(2) If this section applies to a veteran, the rate of pension payable to the veteran is equal to the amount the veteran would receive if the veteran were not undertaking the program.

115D Reduced daily pension amount—pensions under Parts II and IV

Application of section

(1) This section applies to a veteran if:

(a) section 23 applies to the veteran; and

(b) the veteran is engaged in remunerative work of 20 hours or more per week as a result of undertaking a vocational rehabilitation program under the Veterans' Vocational Rehabilitation Scheme.

The section sets out how to work out the veteran's reduced daily pension amount.

Note 1: This amount is used to work out the rate of pension payable under section 23.

Note 2: This section does not apply to certain veterans: see subsections (5) and (6).

(1A) This section also applies to a veteran if:

(a) section 24 applies to the veteran; and

(b) the veteran is engaged in remunerative work of more than 8 hours per week as a result of undertaking a vocational

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rehabilitation program under the Veterans' Vocational Rehabilitation Scheme.

The section sets out how to work out the veteran's reduced daily pension amount.

Note 1: This amount is used to work out the rate of pension payable under section 24.

Note 2: This section does not apply to certain veterans: see subsections (5) and (6).

Reduced daily pension amount during the initial period

(2) A veteran's ***reduced daily pension amount*** for a pension period that occurs within the initial period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \text{Veteran's taper amount}\right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

Reduced daily pension amount during the second period

(3) A veteran's ***reduced daily pension amount*** for a pension period that occurs within the second period is worked out using the following formula:

$$\frac{\text{Veteran's daily above general rate}}{2} \times \left(1 + \text{Veteran's taper amount}\right) \times \left(2 - \text{CPI amount}\right)$$

Note 1: Expressions used in this subsection are defined in subsection (7).

Note 2: The Commission can increase a reduced daily pension amount under section 115F.

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Reduced daily pension amount 5 years after the initial period

(4) A veteran's ***reduced daily pension amount*** for a pension period that occurs more than 5 years after the end of the initial period is nil.

Note: The Commission can increase a reduced daily pension amount under section 115F.

Veteran who is unemployed for at least 2 weeks

(5) This section does not apply to a veteran who is unemployed for a continuous period of at least 2 weeks in respect of the pension periods within that 2 week period.

Veteran who is blinded in both eyes

(6) This section does not apply to a veteran for a pension period if the veteran is receiving a pension for the period at the special rate because of subsection 24(3).

Definitions

(7) In this section:

CPI amount means the amount worked out using the following formula:

$$\frac{20}{20 - \text{Number of CPI indexation days that have occurred since the beginning of the second period}}$$

daily above general rate for a veteran means the rate worked out using the following formula:

$$\frac{\text{Veteran's pension rate on commencement} - \text{General rate}}{14}$$

initial period for a veteran means the period:

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(a) that begins on the day after the day the veteran first commenced remunerative work as a result of undertaking a vocational rehabilitation program; and

(b) that ends immediately before the first CPI indexation day that occurs more than 2 years after that day.

pension rate on commencement for a veteran means the rate of pension under this Act that was payable to the veteran on the day on which the veteran commenced his or her vocational rehabilitation program.

second period means the period:

(a) that begins immediately after the initial period; and

(b) runs for 5 years.

taper amount for a veteran means the following amount:

(a) if the veteran's average weekly hours are 40 hours or more—zero;

(b) if subsection (1) applies and the veteran's average weekly hours are less than 40 hours—the amount worked out using the following formula:

$$\frac{40 - \text{Veteran's average weekly hours}}{20}$$

(c) if subsection (1A) applies and the veteran's average weekly hours are less than 40 hours—the amount worked out using the following formula:

$$\frac{40 - \text{Veteran's average weekly hours}}{32}$$

115E Application for increase in reduced daily pension amount

(1) This section applies if, because of the application of section 115D in respect of the rate of pension payable to a veteran, the work and pension income rate of the veteran in relation to a pension period is

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or would be less than the unaffected pension rate for the veteran in relation to that period.

(2) A veteran to whom this section applies may apply to the Commission to have the reduced daily pension amount under section 115D increased.

(3) An application must be:
  (a) in writing; and
  (b) in accordance with a form approved by the Commission; and
  (c) accompanied by any relevant documentary evidence in relation to salary, wages and other earnings from remunerative work for the period to which the application relates; and
  (d) lodged at an office of the Department in Australia in accordance with section 5T.

(4) An application lodged in accordance with section 5T is taken to have been made on a day determined under that section.

115F Determination by the Commission

(1) This section applies if, after considering an application under section 115E, the Commission is satisfied that the rate at which a pension has been, is being or is to be paid, to a veteran resulted, or would result, in a work and pension income rate for the applicant in relation to a pension period that is less or would be less than the unaffected pension rate in relation to that period.

(2) If this section applies, the Commission may increase in writing the veteran's reduced daily pension amount under section 115D, for a past, present or future pension period, to the amount that the Commission is satisfied results in the work and pension income rate being equal to the unaffected pension rate.

(3) A determination takes effect on the day on which the determination is made.

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115G Excluded income amount—invalidity service pensions

(1) The excluded income amount in respect of a veteran for a pension period that occurs within the period (the ***initial period***) that begins on the day after the veteran first commenced remunerative work as a result of undertaking the vocational rehabilitation program and ends immediately before the first CPI indexation day that is more than 2 years after the beginning of the initial period is half of the earnings of the veteran in each pension period.

(2) The excluded income reduction amount in respect of a veteran for each pension period that occurs within each consecutive 6 month period during the 5 years that begins immediately after the initial period is worked out using the following formula:

$$\left(0.5 - 0.05 \times \text{No. of 6 month periods}\right) \times \text{Earnings}$$

where:

no. of 6 month periods means the number of consecutive 6 month periods that have begun in the 5 year period.

earnings means salary, wages or earnings from remunerative work in each pension period.

(2A) If the veteran does not undertake any remunerative work in a continuous period of at least 6 months:

(a) in working out the length of the initial period, or the 5-year period mentioned in subsection (2), in relation to the veteran, disregard that continuous period; and

(b) in doing calculations under subsection (1) or (2) in relation to the veteran, disregard that continuous period.

(3) This section has effect only for the purposes of working out the amount of a veteran's invalidity service pension.

(4) This section is subject to section 46AD (about no double income reductions under this section and section 46AA).

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Division 3—Recovery of cost of rehabilitation

115H Recovery of cost of rehabilitation

(1) In this section, ***compensation***, in relation to a person who is undertaking, or has undertaken, a rehabilitation program under the Veterans' Vocational Rehabilitation Scheme, means an amount that is by way of compensation or damages, or is, in the opinion of the Commission, in the nature of compensation or damages, in respect of the disease, disability or condition because of which the rehabilitation program is being, or has been, undertaken.

(2) This section applies if a veteran who is undertaking, or has undertaken, a rehabilitation program under the Veterans' Vocational Rehabilitation Scheme:

(a) has made a claim against another person for compensation, or may be, or may become, entitled to be paid compensation by another person, in relation to the disease, disability or condition because of which the rehabilitation program is being, or has been, undertaken; or

(b) is entitled, whether because of an order of a court, a settlement of a claim for compensation or otherwise, to be paid compensation by another person; or

(c) has been paid compensation by another person, whether because of an order of a court, a settlement of a claim for compensation or otherwise.

(3) A reference in subsection (2) to another person includes a reference to the Commonwealth, a State, a Territory or an authority of the Commonwealth, a State or a Territory.

(4) If this section applies, the Commission may give to the veteran a written notice requiring the veteran to pay for:

(a) a rehabilitation program or any part of such a program that has been undertaken by the veteran under the Veterans' Vocational Rehabilitation Scheme before the day on which the notice was given to the veteran; and

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(b) a rehabilitation program or any part of such a program undertaken at any time on or after the day on which the notice was given to the veteran;

in relation to the disease, disability or condition.

(5) On being given the notice, the veteran becomes, by force of this section, liable to pay to the Commonwealth an amount equal to the cost, or amounts equal to the sum of the costs, as determined by the Commission, of and incidental to:

(a) a rehabilitation program or any part of such a program that has been undertaken by the veteran under the Veterans' Vocational Rehabilitation Scheme before the day on which the notice was given to the veteran; and

(b) a rehabilitation program or any part of such a program undertaken at any time on or after the day on which the notice was given to the veteran.

(6) If the veteran is, under subsection (5), liable to make payment to the Commonwealth for a rehabilitation program provided by the Commission, the Commission may, by written notice given to a person who:

(a) may be, or may become, liable; or

(b) is liable;

to pay compensation to, or for the benefit of, the veteran in respect of the disease, disability or condition, inform the person that the veteran is liable to make payment to the Commonwealth for a rehabilitation program under the Veterans' Vocational Rehabilitation Scheme, whether undertaken before or after the giving of the notice.

(7) A reference in subsection (6) to a person includes a reference to an insurer who, under a contract of insurance, is liable to indemnify the person or is liable to pay compensation to, or for the benefit of, the veteran against that liability.

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115J Where a person receives a notice under subsection 115H(6)

(1) This section applies to a person if the person has been given a notice under subsection 115H(6).

(2) If the person:

(a) is, on being given the notice, liable to pay compensation to, or for the benefit of, the veteran to whom the notice relates in respect of the disease, disability or condition to which the notice relates; or

(b) becomes, after receiving the notice, so liable to pay compensation; or

the person becomes liable, because of this subsection, to pay to the Commonwealth:

(c) an amount equal to the cost of the rehabilitation program that the veteran is liable, or may become liable, under subsection 115H(5), to pay; or

(d) an amount equal to the amount of compensation that the person is liable, or becomes liable, so to pay;

whichever is the less.

(3) If, before the notice was given to the person, the person paid to, or for the benefit of, the veteran the whole of the compensation that the person was liable to pay in respect of the disease, disability or condition to which the notice relates, the notice has no effect.

(4) If a person is liable, or becomes liable, to pay an amount to the Commonwealth under subsection (2), the person must not, without the permission of the Commission, pay the compensation, or any part of the compensation, to, or for the benefit of, the veteran.

(5) Payment to the Commonwealth of an amount under subsection (2) operates, to the extent of the payment:

(a) as a discharge to the person of his or her liability to pay compensation to the veteran entitled to receive the compensation; and

(b) as a discharge of the veteran's liability under subsection 115H(5).

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115K Recovery of amount by the Commonwealth

The Commonwealth may recover in a court of competent jurisdiction an amount that a person is liable to pay to the Commonwealth under subsection 115H(5) or 115J(2).

115L Determination of amount of costs of rehabilitation programs

(1) This section applies if the Commission determines, in writing, the amount of the cost of, or incidental to, a rehabilitation program under a Veterans' Vocational Rehabilitation Scheme for a veteran during a specified period in respect of a disease, disability or condition in relation to which a notice has been given under subsection 115H(4).

(2) The Commission may give a notice to the veteran containing a copy of that determination, or notices to the veteran and the person referred to in subsection 115H(6) containing copies of that determination.

(3) If the Commission gives a copy of a determination to a veteran or a person under subsection (2), the copy is, for all purposes, prima facie evidence:

(a) that the copy of the determination set out in the notice is a true copy of the determination of which it purports to be a copy; and

(b) that the determination was duly made by the Commission; and

(c) that the amount specified in the determination is the amount which the veteran is liable, by force of subsection 115H(5), to pay to the Commonwealth as the cost of and incidental to the rehabilitation program under the Veterans' Vocational Rehabilitation Scheme during the period so specified for and in relation to that disease, disability or condition.

(4) The giving of a notice, or notices, under subsection (2) does not prevent the making of a further determination or determinations, and the giving by the Commission of a further notice or further notices under that subsection.

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Part VIB—Prisoner of war recognition supplement

Division 1—Eligibility for prisoner of war recognition supplement

115M Eligibility for prisoner of war recognition supplement

World War 2 internments—European States

(1) A veteran is eligible for a prisoner of war recognition supplement if the veteran was interned by the military forces of an enemy State at any time during the period starting on 3 September 1939 and ending at the end of 11 May 1945.

(2) A civilian is eligible for a prisoner of war recognition supplement if:
   (a) the civilian was interned by the military forces of an enemy State at any time during the period starting on 3 September 1939 and ending at the end of 11 May 1945; and
   (b) the civilian was domiciled in Australia immediately before the civilian's internment.

World War 2 internments—Japan

(3) A veteran is eligible for a prisoner of war recognition supplement if the veteran was interned by the military forces of Japan at any time during the period beginning on 7 December 1941 and ending at the end of 29 October 1945.

(4) A civilian is eligible for a prisoner of war recognition supplement if:
   (a) the civilian was interned by the military forces of Japan at any time during the period beginning on 7 December 1941 and ending at the end of 29 October 1945; and
   (b) the civilian was domiciled in Australia immediately before the civilian's internment.

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North Korean internments

(5) A veteran is eligible for a prisoner of war recognition supplement if the veteran was interned by the military forces of North Korea at any time during the period beginning on 27 June 1950 and ending at the end of 19 April 1956.

One supplement only

(6) A person is not entitled to more than one prisoner of war recognition supplement.

Definitions

(7) In this section:

civilian means a person who is not a veteran.

enemy State means:

(a) a European State that was at war with the Crown at any time during the period starting on 3 September 1939 and ending at the end of 11 May 1945; or

(b) a European ally (whether or not a State) of a State covered by paragraph (a).

interned means:

(a) confined in a camp, building, prison, cave or other place (including a vehicle); or

(b) restricted to residing within specified limits.

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

115N When prisoner of war recognition supplement is payable

(1) If, on 20 September 2011, the Commission is satisfied that a person is eligible for a prisoner of war recognition supplement, the supplement is payable to the person without the person having to make a claim for the supplement under Division 3.

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(2) If subsection (1) does not apply in relation to a person, a prisoner of war recognition supplement is not payable to the person unless the person makes a claim for the supplement under Division 3.

(3) A prisoner of war recognition supplement is not payable to a person in relation to a pension period if before the start of that period:

(a) the person had elected not to be covered by this Part; and

(b) that election had not been withdrawn.

(4) An election, or a withdrawal of an election, under this section:

(a) must be by document lodged at an office of the Department in Australia in accordance with section 5T; and

(b) is taken to have been made on a day determined under that section.

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Division 2—Rate of prisoner of war recognition supplement

115P Rate of prisoner of war recognition supplement

The rate of prisoner of war recognition supplement under section 115M is $500.00 per fortnight.

Note: The amount specified in this section is adjusted annually in line with CPI increases under section 198D.

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Division 3—Claims for prisoner of war recognition supplement

115Q Making of claims

(1) A claim for a prisoner of war recognition supplement must be made in accordance with procedures determined by the Commission under subsection (2).

Note: A prisoner of war recognition supplement will be made automatically to those eligible persons the Department is aware of.

(2) The Commission may, in writing, determine the procedures for making claims.

(3) A determination made under subsection (2) is not a legislative instrument.

115R Determination of claims

(1) Claims are to be determined by the Commission.

(2) If the Commission determines that a prisoner of war recognition supplement is payable to a person, the determination takes effect on the day on which the determination is made or on such earlier day as is specified in the determination.

(3) A person who is dissatisfied with the Commission's decision on a claim may apply to the Administrative Review Tribunal for review of the decision.

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Part VIC—Acute support

115S Acute support package

Acute support package

(1) The Commission may, by legislative instrument, make provision for and in relation to the granting of a package (an ***acute support package***) of assistance or benefits of a specified kind to a person:

(a) who is a veteran; or

(b) who is or was a related person of a veteran or a deceased veteran;

to assist the person to adjust to challenging life circumstances.

Note: Decisions of the Commission under the instrument are reviewable (see section 345B of the MRCA).

Eligibility criteria for an acute support package

(2) The instrument must provide that a person is not eligible for an acute support package unless the criteria mentioned in subsection (3), (4), (5), (5A) or (6) are satisfied.

(3) If the person is a veteran, the criteria are as follows:

(a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;

(b) the person is receiving, or is eligible to receive, a pension at a rate provided for by section 23, 24 or 25 or a veteran payment;

(c) the Commission is satisfied that the person, or a related person, is experiencing, or is at risk of experiencing, crisis.

(4) If the person is a related person of a veteran, the criteria are as follows:

(a) the veteran is under 65 years of age at the time the person's eligibility for an acute support package is determined;

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(b) the veteran is receiving, or is eligible to receive, a pension at a rate provided for by section 23, 24 or 25 or a veteran payment;

(c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

(5) If the person is a war widow or war widower, the criterion is that the person is under 65 years of age at the time the person's eligibility for an acute support package is determined.

(5A) If the person is a parent or step-parent of:

(a) a deceased veteran; or

(b) a war widow or war widower in relation to a deceased veteran; or

(c) another person who was the partner of a deceased veteran;

the criteria are as follows:

(d) the Commission is satisfied that the person is parenting a child of the deceased veteran;

(e) at the time the person's eligibility for an acute support package is determined, the child is under 18 years;

(f) the Commission is satisfied that the person, or the child, is experiencing, or is at risk of experiencing, crisis.

(6) If the person was the partner of a veteran, the criteria are as follows:

(a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;

(b) at the time the person's eligibility for the package is determined, either or both of the following apply:

(i) the person ceased being the veteran's partner within the previous 12 months;

(ii) a child of the veteran who is under 18 years lives with the person;

(c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

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Instrument may deal with various matters

(7) Without limiting subsection (1), the instrument may make provision for and in relation to the following:

(a) additional eligibility criteria for an acute support package;

(b) criteria for the granting of assistance or benefits;

(c) the kinds of assistance or benefits that may be granted, which may include child care, counselling, household assistance, services to build capacity and academic and extra-curricular support for children;

(d) the conditions on which assistance or benefits are granted;

(e) limits (whether financial or otherwise) on the provision of assistance or benefits;

(f) the suspension or cancellation of the provision of assistance or benefits;

(g) arrangements for the payment of assistance or benefits.

(8) Without limiting paragraph (7)(a) or (b), the criteria may depend on the Commission being satisfied of one or more specified matters.

Meaning of related person etc.

(9) For the purposes of this section, a ***related person*** of a veteran is:

(a) any of the following persons:

(i) the partner of the veteran;

(ii) a parent or step-parent of the veteran;

(iii) a parent or step-parent of the partner of the veteran;

(iv) a grandparent of the veteran;

(v) a child of the veteran;

(vi) a child of the partner of the veteran;

(vii) a grandchild of the veteran;

(viii) a sibling of the veteran; or

(b) a person in respect of whom the veteran stands in the position of a parent; or

(c) a person who stands in the position of a parent to the veteran.

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(10) For the purposes of this section, the ***partner*** of a veteran is a person in respect of whom at least one of the following applies:

(a) if the veteran is a member of the Aboriginal race of Australia or a descendant of Indigenous inhabitants of the Torres Strait Islands—the person is recognised as the veteran's husband, wife or spouse by the custom prevailing in the group to which the veteran belongs;

(b) the person is legally married to the veteran;

(c) a relationship between the person and the veteran (whether the person and the member are the same sex or different sexes) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(d) the person (whether of the same sex or a different sex to the member):

(i) is, in the Commission's opinion, in a de facto relationship with the veteran; and

(ii) is not an ancestor, descendant, brother, sister, half-brother or half-sister of the veteran.

(11) The definition of ***child*** in subsection 5F(1) does not apply for the purposes of this section.

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Part VII—Veterans' Children Education Scheme

116 Interpretation

(1) In this Part, unless the contrary intention appears:

eligible child means:

(a) an eligible child of a member of the Forces, or of a member of a Peacekeeping Force; or

(b) an eligible child of a veteran.

eligible child of a member of the Forces, or of a member of a Peacekeeping Force means:

(a) a child of a deceased member of the Forces, or of a deceased member of a Peacekeeping Force, being a member:

(i) whose death was defence-caused; or

(ii) who was, immediately before his or her death, a member to whom subsection 22(4) or section 24 applied; or

(iii) who was, immediately before his or her death, in receipt of a pension under Part IV in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1); or

(b) a child of a member of the Forces, or of a member of a Peacekeeping Force, being a member:

(i) to whom subsection 22(4) or section 24 applies; or

(ii) who is in receipt of a pension under Part IV in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1).

eligible child of a veteran means:

(a) a child of a deceased veteran, being a veteran:

(i) whose death was war-caused; or

(ii) who was, immediately before his or her death, a veteran to whom subsection 22(4) or section 24 applied; or

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(iii) who was, immediately before his or her death, in receipt of a pension under Part II in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1); or

(iv) who was a prisoner of war at a time when the veteran was on operational service; or

(b) a child of a veteran, being a veteran:

(i) to whom subsection 22(4) or section 24 applies; or

(ii) who is in receipt of a pension under Part II in respect of incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1); or

(d) a child of a deceased veteran, being a child who is in receipt of, or is eligible to be granted, a pension under subsection 13(4); or

(e) a person determined under subsection 116C(2) to be included in a class that has been determined by the Commission under subsection 116A(1) for the purposes of this paragraph.

eligible grandchild of a Vietnam veteran means a person determined under subsection 116CC(2) to be included in a class of persons that has been determined by the Commission under subsection 116CA(1) for the purposes of this definition.

grandchild of a veteran means a person who is a child of a person who is a child of the veteran. The definition of ***child*** in subsection 5F(1) does not apply for the purposes of this definition.

Note: Section 10 deals with interpreting references to a child of a veteran or to a child of a person who is not a veteran.

member of the Forces and ***member of a Peacekeeping Force*** have the same respective meanings as they have in Part IV.

Vietnam service means operational service in Vietnam that is covered by section 6C, 6E or 6F.

(2) If, after the death of a member of the Forces, or of a member of a Peacekeeping Force, a pension is granted in respect of the member under Part IV, or the rate of the pension granted to the member

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under Part IV is increased, as from a date before the death of the member in circumstances where:

(a) subsection 22(4) or section 24 applied to the member; or

(b) the member was suffering from an incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1);

then, the member is taken, for the purposes of the definition of ***eligible child of a member of the Forces, or of a member of a Peacekeeping Force*** in subsection (1), to have been:

(c) if paragraph (a) applies—a member to whom subsection 22(4) or section 24 applied immediately before his or her death; or

(d) if paragraph (b) applies—in receipt of that pension or of pension at that increased rate, as the case may be, immediately before his or her death.

(3) If, after the death of a veteran, a pension is granted in respect of the veteran under Part II, or the rate of the pension granted to the veteran under Part II is increased, as from a date before the death of the veteran in circumstances where:

(a) subsection 22(4) or section 24 applied to the veteran; or

(b) the veteran was suffering from an incapacity of a kind described in item 1, 2, 3, 4, 5 or 6 of the table in subsection 27(1);

then, the veteran is taken, for the purposes of the definition of ***eligible child of a veteran*** in subsection (1), to have been:

(c) if paragraph (a) applies—a veteran to whom subsection 22(4) or section 24 applied immediately before his or her death; or

(d) if paragraph (b) applies—in receipt of that pension or of pension at that increased rate, as the case may be, immediately before his or her death.

(4) Where:

(a) before an eligible child attains the age of 25 years, approval is given under the Veterans' Children Education Scheme for the child to undertake a course of education or training;

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(b) the child attains the age of 25 years before completing that course; and

(c) the child continues, after attaining the age of 25 years, to undertake that course for the purpose of completing it;

this Part applies to and in relation to the continued undertaking of that course by the child after he or she attained the age of 25 years as if he or she were under the age of 25 years.

116A Determination of class of persons for the purposes of paragraph (e) of the definition of *eligible child* in subsection 116(1)

(1) The Commission may, by legislative instrument, determine a class of persons for the purposes of paragraph (e) of the definition of eligible child of a veteran in subsection 116(1). However, the persons must be the children of veterans who render service before the MRCA commencement date.

Variation or revocation

(2) The Commission may, by legislative instrument, vary or revoke a determination under subsection (1).

116B Eligible child of a veteran—person may apply for determination under subsection 116C(2)

(1) An application for a determination under subsection 116C(2) to be made in respect of a person who is, or was, the child of a veteran may be made, in writing, to the Commission:

(a) in the case of a person (the ***child***) who is, or was, the child of a veteran and who is over the age of 18 years:

(i) by the child; or

(ii) with the approval of the child, by another person on behalf of the child; or

(iii) if the child is unable, by reason of physical or mental incapacity, to approve a person to make the claim or application on his or her behalf—by another person,

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being a person approved by the Commission, on behalf of the child; or

(b) in the case of a person who is, or was, the child of a veteran and who is under the age of 18 years:

(i) by a parent or guardian of the child; or

(ii) by another person approved by a parent or guardian of the child; or

(iii) if there is no parent or guardian of the child alive, or willing and able to make, or approve a person to make, such an application on behalf of the child—by another person, being a person approved by the Commission;

on behalf of the child.

(2) An application under subsection (1) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

116C Eligible child of a veteran—Commission may determine that a person is a member of a class under section 116A

(1) If an application has been made under section 116B in respect of a person, the Commission must decide whether the person the subject of the application falls within a class of persons determined by the Commission under subsection 116A(1).

(2) If the Commission decides that the person falls within a class of persons determined by the Commission under subsection 116A(1), the Commission must determine, in writing, that the person is included in the specified class.

(3) The Commission must give the person written notice of the Commission's decision under subsection (1).

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116CA Determination of class of persons for the purposes of the definition of *eligible grandchild of a Vietnam veteran* in subsection 116(1)

(1) The Commission may, by legislative instrument, determine a class of persons for the purposes of the definition of ***eligible grandchild of a Vietnam veteran*** in subsection 116(1). However, the persons must be the grandchildren of veterans who have rendered Vietnam service.

Note: The Veterans' Children Education Scheme already covers children of veterans who have rendered Vietnam service.

Variation or revocation

(2) The Commission may, by legislative instrument, vary or revoke a determination under subsection (1).

116CB Eligible grandchild of a Vietnam veteran—person may apply for determination under subsection 116CC(2)

(1) An application for a determination under subsection 116CC(2) to be made in respect of a person who is, or was, the grandchild of a veteran may be made, in writing, to the Commission:

(a) in the case of a person who is, or was, the grandchild of a veteran and who is over the age of 18 years:

(i) by the grandchild; or

(ii) with the approval of the grandchild, by another person on behalf of the grandchild; or

(iii) if the grandchild is unable, by reason of physical or mental incapacity, to approve a person to make the claim or application on the grandchild's behalf—by another person, being a person approved by the Commission, on behalf of the grandchild; or

(b) in the case of a person who is, or was, the grandchild of a veteran and who is under the age of 18 years:

(i) by a parent or guardian of the grandchild; or

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(ii) by another person approved by a parent or guardian of the grandchild; or

(iii) if there is no parent or guardian of the grandchild alive, or willing and able to make, or approve a person to make, such an application on behalf of the grandchild—by another person, being a person approved by the Commission;

on behalf of the grandchild.

(2) An application under subsection (1) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

116CC Eligible grandchild of a Vietnam veteran—Commission may determine that a person is a member of a class under section 116CA

(1) If an application has been made under section 116CB in respect of a person, the Commission must decide whether the person the subject of the application falls within a class of persons determined by the Commission under subsection 116CA(1).

(2) If the Commission decides that the person falls within a class of persons determined by the Commission under subsection 116CA(1), the Commission must determine, in writing, that the person is included in the specified class.

(3) The Commission must give the person written notice of the Commission's decision under subsection (1).

116D Review of Commission's decisions

(1) A person who is dissatisfied with a decision of the Commission under subsection 116C(1) or 116CC(1) may, in writing, request the Commission to review the decision.

(1A) A request under subsection (1) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

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(2) If a written request is made, the Commission must review the decision, or cause the decision to be reviewed by a person to whom the Commission has delegated its powers under this section (not being the person who made the decision).

(3) When the Commission reviews a decision under subsection (2), it must make a written record of its decision (the ***review decision***) upon review.

(4) The written record must include a statement that:

(a) sets out the Commission's findings on material questions of fact; and

(b) refers to the evidence or other material on which those findings are based; and

(c) provides reasons for the review decision.

(5) If the review decision affirms or sets aside a decision under subsection 116C(1) or 116CC(1), it must give the person who requested the review of the decision:

(a) a copy of the Commission's review decision; and

(b) subject to subsection (6), a copy of the statement about the review decision; and

(c) a statement that the person has a right to apply to the Administrative Review Tribunal for a review of the review decision.

(6) If the statement referred to in paragraph (5)(b) contains any matter that, in the opinion of the Commission:

(a) is of a confidential nature; or

(b) might, if communicated to the person who requested review, be prejudicial to his or her physical or mental health or well-being;

the copy given to the person is not to contain that matter.

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117 Veterans' Children Education Scheme

(1) The Commission may, in writing, determine a scheme for providing education and training for eligible children and eligible grandchildren of Vietnam veterans.

(5) Without limiting the powers of the Commission under subsection (1), the scheme may make provision for and in relation to:

(a) the provision of free scholarships at schools, colleges and universities for allocation, under the scheme, to eligible children or eligible grandchildren of Vietnam veterans; and

(b) the payment of maintenance allowances in respect of eligible children for whom education or training is being provided under the scheme; and

(c) the making of applications for the provision of education or training for eligible children or eligible grandchildren of Vietnam veterans; and

(d) the investigation and determination of applications referred to in paragraph (c); and

(e) the establishment, membership and operation of Education Boards to perform such functions, and exercise such powers, in, and in connection with, the operation of the scheme as are conferred on them by or under the scheme; and

(f) guidance and counselling services.

Determination must be approved by the Minister

(6) A determination under subsection (1) has no effect unless the Minister has approved it in writing.

(7) A determination under subsection (1) approved by the Minister and as in force from time to time is the ***Veterans' Children Education Scheme***.

Variation or revocation of Veterans' Children Education Scheme

(8) The Commission may, by written determination, vary or revoke the Veterans' Children Education Scheme.

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(9) A determination under subsection (8) has no effect unless the Minister has approved it in writing.

Legislative instruments

(10) A determination under subsection (1) or (8) made by the Commission and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination is approved.

118 Commission may provide benefits under Veterans' Children Education Scheme

(1) The Commission may provide benefits for, and in respect of, eligible children or eligible grandchildren of Vietnam veterans under and in accordance with the Veterans' Children Education Scheme.

(2) The Commission may provide guidance and counselling services under the Veterans' Children Education Scheme for such other people as the Minister, by legislative instrument, determines.

(3) This section does not apply in relation to a person if the person is receiving a veteran payment.

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Part VIIAA—Education entry payment

118AA Eligibility

A person is eligible for an education entry payment under this section if:

(a) either:

(i) the person is receiving a partner service pension, an invalidity service pension or income support supplement, and the person has not reached pension age; or

(ii) the person is receiving a veteran payment, and the person has not reached pension age (within the meaning of subsections 5QB(2), (3), (4) and (5)); and

(c) the person is qualified, or if he or she were not in receipt of financial supplement under the Student Financial Supplement Scheme constituted by Part 4A of the *Student Assistance Act 1973* or established under Chapter 2B of the *Social Security Act 1991* would be qualified, to receive pensioner education supplement under the Social Security Act or the *Student Assistance Act 1973*; and

(d) either:

(i) the Commission is satisfied that the person intends to enrol in a full-time or part-time course of education that is the subject of a determination made under section 5D of the *Student Assistance Act 1973* by the Minister administering that Act; or

(ii) the person is enrolled in such a course; and

(e) the person has not received a payment under this Part for which he or she made a claim in the current calendar year.

118AAB Need for a claim

(1) A person who wants to be granted an education entry payment must make a claim for the payment:

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(a) in writing; and
(b) in a form approved by the Commission.

(1A) A claim under subsection (1) is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been made on a day determined under that section.

(2) A claim may be withdrawn at any time before it is determined, either orally or by document lodged at an office of the Department in Australia in accordance with section 5T.

(2A) A withdrawal by document lodged in accordance with section 5T is taken to have been made on a day determined under that section.

(3) A claim that is withdrawn is taken not to have been made.

118AAC Entitlement to and amount of payment

(1) An education entry payment is payable to the person if, after considering the claim, the Commission determines that the claim is to be granted.

(2) The amount of an education entry payment is $208.

118AAD Payment to be refunded

If:
(a) the Commission determined that a claim for education entry payment was to be granted to a person because the Commission was satisfied that the person intended to enrol in a course referred to in subparagraph 118AA(d)(i); and
(b) an amount of education entry payment was paid to the person; and
(c) subsequently the person is not enrolled in the course;

the person must repay to the Commonwealth the amount of the payment.

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Part VIIA—Veterans supplement

Division 1—Eligibility for veterans supplement

118A Veterans supplement for dependants of deceased veterans or for persons eligible for pharmaceutical benefits

(1) Subject to this section, a person is eligible for veterans supplement under this section if:

(a) the person is receiving a pension whose rate is specified under subsection 30(2); or

(b) but for subsection 13(7), a pension would have been payable to the person at a rate specified under subsection 30(2); or

(c) the person is eligible for pharmaceutical benefits under the Repatriation Pharmaceutical Benefits Scheme.

(2) A person is not eligible for veterans supplement under this section if:

(a) the person is receiving a social security payment; or

(b) the person is receiving a service pension or a veteran payment; or

(c) the person is a war widow/war widower—pensioner.

Note: For ***war widow/war widower—pensioner*** see section 5Q.

(3) A person who leaves Australia otherwise than temporarily is not eligible for veterans supplement under this section after the day on which he or she left Australia.

(4) A person who is temporarily absent from Australia and has been so absent for more than 26 weeks is not eligible for veterans supplement under this section after the first 26 weeks of the absence.

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118B Veterans supplement for certain Part II and Part IV pensioners or for World War 1 veterans

(1) Subject to this section, a person is eligible for veterans supplement under this section if:

(a) the person is eligible for a pension at a rate specified in subsection 22(4); or

(b) the person is eligible for a pension at a rate specified in section 24; or

(c) the person is eligible for a pension, the rate of which is increased under subsection 27(2) by an amount specified in any of items 1 to 8 of the table in subsection 27(1); or

(d) the person is eligible for a pension at the rate specified in subsection 30(1) and the person is under qualifying age.

Note: For ***qualifying age*** see section 5Q.

(2) Subject to this section, a person is eligible for veterans supplement under this section if the person is:

(a) a veteran who rendered eligible war service during World War 1; or

(b) a Commonwealth veteran who rendered continuous full-time service during World War 1; or

(c) an allied veteran who rendered continuous full-time service during World War 1.

Note: For ***World War 1*** see subsections 5B(1) and (3).

(3) A person is not eligible for veterans supplement under this section if:

(a) the person is receiving a social security payment; or

(b) the person is receiving a service pension, income support supplement or a veteran payment; or

(c) the person is receiving energy supplement under Part VIIAD of this Act or Part 2.25B of the Social Security Act; or

(d) the person is receiving MRCA supplement under Division 4 of Part 7 of Chapter 4, or Division 5 of Part 2 of Chapter 5, of the MRCA.

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(4) A person who leaves Australia otherwise than temporarily is not eligible for veterans supplement under this section after the day on which he or she left Australia.

(5) A person who is temporarily absent from Australia and has been so absent for more than 26 weeks is not eligible for veterans supplement under this section after the first 26 weeks of the absence.

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Division 2—Rate of veterans supplement

118C Rate of veterans supplement—section 118A

The rate of veterans supplement under section 118A is $6.00 per fortnight.

Note: The amount specified in this section is adjusted annually in line with CPI increases under section 198F.

118D Rate of veterans supplement—section 118B

The rate of veterans supplement under section 118B is $6.00 per fortnight.

Note: The amount specified in this section is adjusted annually in line with CPI increases under section 198F.

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Part VIIAD—Energy supplement

Division 1—Eligibility

118P Eligibility for energy supplement

Person holds a seniors health card

(1) A person is eligible for energy supplement if:
  (a) the person is the holder of a seniors health card; and
  (aa) the person:
    (i) is in Australia; or
    (ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks; and
  (b) the person is not receiving any of the following:
    (i) a service pension;
    (ii) income support supplement;
    (iii) a social security pension or social security benefit;
    (iv) energy supplement under Part 2.25B of the Social Security Act.

(1A) Subject to subsections (1C), (1E) and (1G), subsection (1) applies to a person on or after the commencement of this subsection only if on 19 September 2016:
  (a) energy supplement was payable to the person under section 118PA; or
  (b) energy supplement was payable to the person under section 1061UA of the *Social Security Act 1991*.

Note: For subsection (1) to apply to the person on a day on or after that commencement, the person needs to satisfy paragraphs (1)(a) to (b) on that day.

(1B) Subject to subsection (1G), if:

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(a) energy supplement was payable to a person under section 118PA, or section 1061UA of the *Social Security Act 1991*, on 19 September 2016; and

(b) energy supplement ceases to be payable to the person under either of those sections on or after 20 September 2016;

then subsection (1) of this section does not apply, and never again applies, to the person from:

(c) if the cessation occurred before the commencement of this subsection—the start of the day this subsection commences; or

(d) if the cessation occurred on or after the commencement of this subsection—the start of the day of that cessation.

(1C) If:

(a) a person was not eligible for energy supplement under subsection (1) on 19 September 2016; and

(b) on 19 September 2016 the person was receiving an income support payment (within the meaning of the *Social Security Act 1991*), where energy supplement was used to work out the rate of that payment; and

(c) on a day (the ***cessation day***) on or after the commencement of this subsection the person ceases to be in receipt of any income support payment (within the meaning of the *Social Security Act 1991*); and

(d) on the day before the cessation day the person was receiving an income support payment (within the meaning of the *Social Security Act 1991*) where energy supplement was used to work out the rate of that payment; and

(e) the person is required to make a claim for a seniors health card in order for such a card to be granted to the person;

the person can become eligible for energy supplement under subsection (1) only if the person makes a claim for a seniors health card within the period of 6 weeks beginning on the cessation day.

(1D) Subject to subsection (1G), if:

(a) as a result of a claim mentioned in subsection (1C), a person becomes the holder of a seniors health card on a day; and

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(b) energy supplement ceases to be payable to the person under section 118PA on or after that day;

then subsection (1) of this section does not apply, and never again applies, to the person from the start of the day of that cessation.

(1E) If:

(a) a person was not eligible for energy supplement under subsection (1) on 31 December 2016; and

(b) on that day, the person was receiving a service pension and an amount of energy supplement was added to the rate of that pension; and

(c) under subsection 118XA(3), the Commission made a determination under section 118ZG that the person is entitled to a seniors health card;

the person can become eligible for energy supplement under subsection (1) of this section because of being the holder of that card.

(1F) Subject to subsection (1G), if:

(a) as mentioned in paragraph (1E)(c), a person becomes the holder of a seniors health card on a day; and

(b) energy supplement ceases to be payable to the person under section 118PA on or after that day;

then subsection (1) of this section does not apply, and never again applies, to the person from:

(c) if the cessation occurred before the commencement of this subsection—the start of the day this subsection commences; or

(d) if the cessation occurred on or after the commencement of this subsection—the start of the day of that cessation.

(1G) If:

(a) on a day on or after 20 September 2016 the person ceases to hold a seniors health card under this Act or the *Social Security (Administration) Act 1999*; and

(b) on that day the person receives an income support payment (within the meaning of the *Social Security Act 1991*) where

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energy supplement was used to work out the rate of that payment; and

(c) on a day (the ***cessation day***) on or after the commencement of this subsection the person ceases to be in receipt of any income support payment (within the meaning of the *Social Security Act 1991*); and

(d) on the day before the cessation day the person was receiving an income support payment (within the meaning of the *Social Security Act 1991*) where energy supplement was used to work out the rate of that payment; and

(e) the person is required to make a claim for a seniors health card in order for such a card to be granted to the person;

the person can become eligible for energy supplement under subsection (1) only if the person makes a claim for a seniors health card within the period of 6 weeks beginning on the cessation day.

Person holds a gold card

(2) A person is eligible for energy supplement if:

(a) the person is the holder of a gold card; and

(b) the person has reached qualifying age; and

(c) the person:

(i) is in Australia; or

(ii) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks; and

(d) the person is not receiving any of the following:

(i) a service pension;

(ii) income support supplement;

(iii) a social security pension or social security benefit;

(iv) energy supplement under Part 2.25B of the Social Security Act.

(3) In this section:

gold card means a card known as the Repatriation Health Card—For All Conditions, that evidences a person's eligibility, under this Act, the *Military Rehabilitation and Compensation Act 2004*, the

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Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006 or the *Treatment Benefits (Special Access) Act 2019*, to be provided with treatment for all injuries or diseases.

Portability

(4) If:

(a) on 19 September 2016 energy supplement was payable to a person under section 118PA; and

(b) either:

(i) the person is absent from Australia on 19 September 2016 and has been so for a continuous period not exceeding 6 weeks; or

(ii) the person leaves Australia on a day on or after 20 September 2016 and, on the day before so leaving, energy supplement was payable to the person under section 118PA; and

(c) the person returns to Australia, where the period of that absence has exceeded 6 weeks but not exceeded 19 weeks; and

(d) the person is the holder of a seniors health card on the day before the person returns to Australia;

then the person is taken to have been eligible for energy supplement under this section on each day that occurs in the period beginning on the day after the end of that 6-week period of absence and ending at the end of the day before the person returned to Australia.

(5) Subsection (4) does not limit section 118PB.

Note: After the person's period of absence exceeds 6 weeks, there will be no daily rate of energy supplement for the person: see subsection 118PB(2).

118PA When energy supplement is payable

(1) Energy supplement is payable to a person in relation to each day on which the person is eligible for the supplement.

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(2) However, energy supplement is not payable to the person in relation to a day if:

(a) before that day:

(i) the person had elected not to be covered by this Part; and

(ii) that election had not been withdrawn; or

(b) subsection 122A(1C) (failing to nominate a bank account) applies to the person.

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Division 2—Rate of energy supplement

118PB Rate of energy supplement

(1) If subsection (2) applies to the person on a day, the person's daily rate of energy supplement, for that day, is $^{1}/_{364}$ of the amount worked out using the following table:

Energy supplement		
Item	**Person's family situation**	**Amount of energy supplement**
1	Not a member of a couple	$366.60
2	Partnered	$275.60
3	Member of an illness separated couple	$366.60
4	Member of a respite care couple	$366.60

Note: For ***member of a couple***, ***partnered***, ***illness separated couple*** and ***respite care couple*** see subsections 5E(1) and (5) and 5R(5) and (6) respectively.

(2) This subsection applies to a person on a day if on that day the person is residing in Australia and either:
  (a) is in Australia; or
  (b) is temporarily absent from Australia and has been so for a continuous period not exceeding 6 weeks.

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Division 3—Payment of energy supplement

118PC Payment of energy supplement

(1) Energy supplement under this Part is to be paid by instalments.

(2) An instalment of energy supplement is to be paid to a person as soon as is reasonably practicable after the end of an instalment period.

(3) The amount of the instalment is worked out by:
  (a) working out the person's amount of energy supplement for each day in the instalment period (using the daily rate of the supplement for that day); and
  (b) adding up the amounts resulting from paragraph (a).

(4) In this section:

instalment period means a period:
  (a) in relation to each day of which energy supplement is payable to the person; and

    Note: For when energy supplement is payable to the person, see section 118PA.

  (b) that either begins on any 20 March, 20 June, 20 September or 20 December or does not include any such day; and
  (c) that either ends on any 19 March, 19 June, 19 September or 19 December or does not include any such day; and
  (d) that is not included in a longer instalment period.

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Part VIIC—Seniors health card

Division 1—Eligibility for and entitlement to a seniors health card

Subdivision A—Eligibility

118V Eligibility for seniors health card

(1) Subject to subsection (4) and sections 118XA and 118XB, a person is eligible for a seniors health card if the person:

(a) is a veteran; and

(b) has rendered qualifying service; and

(c) has reached pension age; and

(d) is an Australian resident; and

(f) is not receiving a service pension; and

(fa) is not receiving a veteran payment; and

(g) is not receiving a social security pension or benefit; and

(h) satisfies the seniors health card income test.

Note 1: For ***qualifying service*** see section 7A.

Note 2: For ***Australian resident*** see section 5G.

Note 3: For ***seniors health card income test*** see section 118ZZA.

Note 4: For ***pension age*** see section 5QA.

(1A) Subject to subsection (4) and sections 118XA and 118XB, a person is eligible for a seniors health card if the person:

(a) is a war widow or a war widower; and

(b) has reached qualifying age; and

(c) is an Australian resident; and

(e) is not receiving income support supplement; and

(f) satisfies the seniors health card income test; and

(g) is not eligible for a seniors health card under subsection (1).

Note 1: For ***Australian resident*** see section 5G.

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Note 2: For ***seniors health card income test*** see section 118ZZA.

Note 3: For ***war widow*** and ***war widower*** see subsection 5E(1).

Note 4: For ***qualifying age*** see section 5Q.

Partner of person eligible for card under subsection (1)

(2) Subject to subsection (4) and sections 118XA and 118XB, a person is eligible for a seniors health card if:

(a) the person is a member of a couple; and

(b) the person's partner is eligible for a seniors health card under subsection (1); and

(c) the person has reached:

(i) if the person is not a veteran—pension age; or

(ii) if the person is a veteran—the age that would be the pension age for that person if he or she were not a veteran; and

(d) the person is an Australian resident; and

(f) the person is not receiving a service pension; and

(fa) the person is not receiving a veteran payment; and

(g) the person is not receiving a social security pension or benefit; and

(h) the person satisfies the seniors health card income test; and

(i) the person is not eligible for a seniors health card under subsection (1) or (1A).

Note 1: For ***member of couple*** and ***partner*** see section 5E.

Note 3: For ***Australian resident*** see section 5G.

Note 4: For ***seniors health card income test*** see section 118ZZA.

Note 5: For ***pension age*** see section 5QB.

(3) Subject to subsection (4) and sections 118XA and 118XB, a person is eligible for a seniors health card if:

(a) the person is:

(i) the non-illness separated spouse of a person who is receiving an age or invalidity service pension; or

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(ii) the non-illness separated spouse of a person who is eligible for a seniors health card under subsection (1); or

(iii) a widow or widower of a veteran; and

(b) the person is eligible for a partner service pension; and

(c) the person has reached:

(i) if the person is not a veteran—pension age; or

(ii) if the person is a veteran—the age that would be the pension age for that person if he or she were not a veteran; and

(d) the person is an Australian resident; and

(f) the person is not receiving a service pension; and

(fa) the person is not receiving a veteran payment; and

(g) the person is not receiving a social security pension or benefit; and

(h) the person satisfies the seniors health card income test; and

(i) the person is not eligible for a seniors health card under subsection (1) or (1A).

Note 1: For ***non-illness separated spouse***, ***widow*** and ***widower*** see subsection 5E(1).

Note 2: For ***veteran*** see subsection 5C(1).

Note 3: For ***pension age*** see section 5QB.

Note 4: For ***Australian resident*** see section 5G.

Note 5: For ***seniors health card income test*** see section 118ZZA.

(4) A person is not eligible for a seniors health card at a particular test time if:

(a) the person has failed to comply with section 118ZJA in respect of the reference tax year; or

(b) where the person has made an estimate of taxable income for the reference tax year and the estimate was accepted—the person did not give the Commission a copy of a notice of assessment of the person's taxable income for that tax year within 12 months after the end of that tax year.

Note: If a person is eligible for a seniors health card, the Commission must not determine that the person is entitled to the card if the person fails

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to comply with a request in subsection 128A(3) or (3A) (about provision of tax file numbers).

(5) In subsection (4):

taxable income, ***test time*** and ***reference tax year*** have the same meanings as in the Seniors Health Card Income Test Calculator.

Subdivision B—Entitlement

118W Entitlement to a seniors health card

Even though a person is eligible for a seniors health card, it is only if the person is the holder of a seniors health card that benefits and concessions of various kinds relating to the person's health may be made available to the person by the Commonwealth.

Note 1: If there is a determination in force that a person is entitled to a seniors health card, the person is the holder of a seniors health card. For ***holder of a seniors health card*** see section 5PB.

Note 2: A person who is the holder of a seniors health card generally has access to concessional pharmaceutical benefits under the *National Health Act 1953*.

118X Social Security cardholder not entitled

If a person is the holder of a seniors health card within the meaning of the Social Security Act, the person is not entitled to a seniors health card under this Act.

Subdivision C—Modifications of provisions in this Division

118XA Modifications if person's rate of service pension or income support supplement is nil on 1 January 2017

(1) This section applies in relation to a person if:

(a) immediately before 1 January 2017, the person was receiving a service pension or income support supplement; and

(b) the Commission is satisfied that the rate of that pension or supplement is nil on 1 January 2017 because of the operation

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of the amendments made by Part 1 of Schedule 3 to the *Social Services Legislation Amendment (Fair and Sustainable Pensions) Act 2015*.

Seniors health card income test does not apply

(2) In determining whether the person is eligible for a seniors health card at any time on or after 1 January 2017, paragraphs 118V(1)(h), (1A)(f), (2)(h) and (3)(h) do not apply to the person.

Entitlement to seniors health card

(3) If the person is eligible for a seniors health card under this Part on 1 January 2017 and section 118X does not prevent the person from being entitled to a seniors health card, the Commission must make a determination under section 118ZG that the person is entitled to a seniors health card.

Note: The person does not need to make a claim for the card.

(4) The Commission must make a determination under section 118ZG that the person is entitled to a seniors health card if:

(a) the person was previously the holder of a seniors health card because of a determination under subsection (3) or this section; and

(b) the person is not currently the holder of a seniors health card; and

(c) section 118X does not prevent the person from being entitled to the card; and

(d) the person is eligible for the card under this Part.

Note 1: For ***holder of a seniors health card*** see section 5PB.

Note 2: The person does not need to make a claim for the card.

Note 3: A person may be issued a seniors health card more than once under this subsection.

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118XB Other modifications because of social security law

If section 1061ZJA of the *Social Security Act 1991* applies in relation to a person, then, in determining whether the person is eligible for a seniors health card under this Part at any time on or after 1 January 2017, paragraphs 118V(1)(h), (1A)(f), (2)(h) and (3)(h) do not apply to the person.

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Division 2—Claim for seniors health card

118Y Need for a claim

(1) A person who wants to be granted a seniors health card must make a proper claim.

Note: For ***proper claim*** see section 118ZA (form), section 118ZB (manner of lodgment) and section 118ZC (residence/presence in Australia).

(2) However, subsection (1) does not apply to a person if, because of subsection 118XA(3) or (4), the Commission made a determination under section 118ZG that the person is entitled to a seniors health card and the determination is in force.

118Z Who can claim?

(1) Subject to subsection (2), a claim must be made by:
  (a) the person who wants to be granted a seniors health card; or
  (b) with the approval of the person—another person on the person's behalf.

(2) If the person is unable, because of physical or mental incapacity, to approve another person to make the claim on his or her behalf, the Commission may approve another person to make the claim.

118ZA Making a claim

(1) To be a proper claim, the claim must be:
  (a) made in writing; and
  (b) in accordance with a form approved by the Commission; and
  (c) accompanied by any evidence available to the claimant that the claimant considers may be relevant to the claim; and
  (d) lodged at an office of the Department in Australia in accordance with section 5T.

(2) A claim lodged in accordance with section 5T is taken to have been made on a day determined under that section.

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118ZC Claimant must be an Australian resident and in Australia

A claim is not a proper claim unless the person making the claim, or on whose behalf the claim is being made, is:

(a) an Australian resident; and

(b) in Australia;

on the day on which the claim is lodged.

Note: For ***Australian resident*** see section 5G.

118ZD Claim may be withdrawn

(1) A claimant for a seniors health card or a person on behalf of a claimant may withdraw a claim that has not been determined.

(2) A claim that is withdrawn is taken to have not been made.

(3) A withdrawal may be made either orally or by document lodged at an office of the Department in Australia in accordance with section 5T.

(4) A withdrawal made by lodging a document in accordance with section 5T is taken to have been so made on a day determined under that section.

Oral withdrawal of a claim

(5) An oral withdrawal of a claim must be made to a person in an office of the Department in Australia.

Acknowledgment of oral withdrawal of a claim

(6) As soon as practicable after receiving an oral withdrawal of a claim, the Secretary must give the claimant an acknowledgment notice in writing stating that:

(a) an oral withdrawal of the claim was made; and

(b) the claimant, or a person on behalf of the claimant, may, within 28 days from the day the acknowledgment notice is given, request the Secretary to treat the withdrawal as if it had not been made.

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Reactivating the withdrawn claim

(7) If, within 28 days from the day on which the Secretary gave the acknowledgment notice, a claimant, or a person on behalf of a claimant, requests the Secretary to treat the oral withdrawal of the claim as if it had not been made, the oral withdrawal is taken not to have been made.

Note: A request made under paragraph (6)(b) has the effect of reactivating the claim. In particular, the commencement day of the claim stays the same.

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Division 3—Investigation of claim

118ZE Secretary to investigate claim and submit it to Commission

(1) If a person makes a proper claim for a seniors health card, the Secretary must investigate the matters to which the claim relates.

(2) When the investigation is completed, the Secretary must submit the claim to the Commission for consideration and determination.

(3) When the claim is submitted to the Commission it must be accompanied by:

(a) any evidence supplied by the claimant in support of the claim; and

(b) any documents or other evidence obtained by the Department in the course of the investigation that are relevant to the claim; and

(c) any other documents or other evidence under the control of the Department that are relevant to the claim.

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Division 4—Consideration and determination of claim

118ZF Duties of Commission in relation to claim

Determination of claim

(1) When the claim is submitted to the Commission, the Commission must consider all matters that are, in the Commission's opinion, relevant to the claim and must then determine the claim.

(2) In considering the claim, the Commission must:
   (a) satisfy itself with respect to; or
   (b) determine;

   (as the case requires) all matters relevant to the determination of the claim.

(3) Without limiting subsection (1), the Commission, in considering the claim, must consider:
   (a) the evidence submitted with the claim under section 118ZE; and
   (b) any further evidence subsequently submitted to the Commission in relation to the claim.

Record of determination and reasons

(4) When the Commission determines the claim it must make a written record of its determination.

(5) The Commission must also make a statement in writing about the determination that:
   (a) sets out the Commission's findings on material questions of fact; and
   (b) refers to the evidence or other material on which those findings are based; and
   (c) provides reasons for the Commission's determination.

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Notification of determination

(6) As soon as practicable after the Commission determines a claim under subsection (1), the Commission must give the person who made the claim:

(a) a copy of the record of the Commission's determination; and

(b) subject to subsection (7), a copy of the statement about the determination referred to in subsection (5); and

(c) particulars of the right of the person who made the claim to have the determination reviewed by the Commission.

(7) If the statement referred to in paragraph (6)(b) contains any matter that, in the opinion of the Commission:

(a) is of a confidential nature; or

(b) might, if communicated to the person who made the claim, be prejudicial to his or her physical or mental health or well-being;

the copy given to the person is not to contain that matter.

Note: A claimant may apply to the Commission for review of a determination made under this section (see section 118ZS).

118ZG Entitlement determination

Subject to section 118X and subsection 128A(2A), the Commission is to determine that a person is entitled to a seniors health card if the Commission is satisfied that the person is eligible for the card.

118ZH Date of effect of determination

A determination under section 118ZG takes effect on the day on which the determination is made or on such later day or earlier day as is specified in the determination.

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Division 5—Cardholder's obligations

118ZI Secretary may require notice of the happening of event or a change in circumstances

(1) The Secretary may give a person who is the holder of a seniors health card a notice that requires the person to inform the Department, or an officer specified in the notice, if:

(a) a specified event or change of circumstances occurs; or

(b) the person becomes aware that a specified event or change of circumstances is likely to occur.

Note: For ***holder of a seniors health card*** see section 5PB.

(2) An event or change of circumstances is not to be specified in a notice under subsection (1) unless the occurrence of the event or change of circumstances might affect whether the person is eligible for the card.

(3) A notice under subsection (1):

(a) must be in writing; and

(b) may be given personally or by post; and

(c) subject to subsection (3A), must specify how the person is to give the information to the Department or specified officer; and

(d) must specify the period within which the person is to give the information to the Department or specified officer.

(3A) A document lodged as a consequence of a notice issued under subsection (1) that requires a person to inform the Department in writing of the occurrence, or likely occurrence, of a specified event or change of circumstances:

(a) is to be lodged at an office of the Department in Australia in accordance with section 5T; and

(b) is taken to have been lodged on a day determined under that section.

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(4) The period specified under paragraph (3)(d) must end at least 14 days after:

(a) the day on which the event or change of circumstances occurs; or

(b) the day on which the person becomes aware that the event or change of circumstances is likely to occur.

(5) A person must not fail to comply with a notice under subsection (1).

Penalty: Imprisonment for 6 months.

(5A) An offence under subsection (5) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(5B) Subsection (5) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5B). See subsection 13.3(3) of the *Criminal Code*.

(5C) Subsection (5) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5C). See subsection 13.3(3) of the *Criminal Code*.

(6) A person must not, in purported compliance with a notice under subsection (1), knowingly furnish information that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

Note: Subsections 4B(2) and (3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

(7) This section extends to:

(a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and

(b) all persons irrespective of their nationality or citizenship.

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(8) In this section, ***officer*** means a person performing duties, or exercising powers or functions, under or in relation to this Act.

118ZJ Secretary may require particular information relevant to eligibility for seniors health card

(1) The Secretary may give a person who is the holder of a seniors health card a notice that requires the person to give the Department, or an officer specified in the notice, a statement in writing about a matter that might affect whether the person is eligible for the card.

Note: For ***holder of a seniors health card*** see section 5PB.

(2) A notice under subsection (1):
(a) must be in writing; and
(b) may be given personally or by post; and
(c) subject to subsection (3A), must specify how the statement is to be given to the Department or specified officer; and
(d) must specify the period within which the person is to give the statement to the Department or specified officer.

(3) The period specified under paragraph (2)(d) must end at least 14 days after the day on which the notice is given.

(3A) A document lodged as a consequence of a notice issued under subsection (1) that requires a person to give the Department a statement about a matter of a kind specified in that subsection:
(a) is to be lodged at an office of the Department in Australia in accordance with section 5T; and
(b) is taken to have been lodged on a day determined under that section.

(4) A statement given in response to a notice under subsection (1) must be in accordance with a form approved by the Commission.

(5) A person must not fail to comply with a notice under subsection (1).

Penalty: Imprisonment for 6 months.

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(5A) An offence under subsection (5) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(5B) Subsection (5) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5B). See subsection 13.3(3) of the *Criminal Code*.

(5C) Subsection (5) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5C). See subsection 13.3(3) of the *Criminal Code*.

(6) A person must not, in purported compliance with a notice under subsection (1), knowingly furnish information that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

Note: Subsections 4B(2) and (3) of the *Crimes Act 1914* allow a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

(7) This section extends to:

(a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and

(b) all persons irrespective of their nationality or citizenship.

(8) In this section, ***officer*** means a person performing duties, or exercising powers or functions, under or in relation to this Act.

118ZJA When copy of notice of assessment of taxable income to be given to Department

(1) If a person who is the holder of a seniors health card receives a notice of assessment or amended assessment of his or her taxable income for a particular tax year, the person must, if requested by the Secretary to do so, give a copy of the notice to the Department within 3 months after the day on which the notice was received.

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(2) In this section:

taxable income has the same meaning as in the Seniors Health Card Income Test Calculator.

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Division 6—Continuation, variation and termination

118ZK Continuing effect of determination

A determination that a person is entitled to a seniors health card continues in effect until:

(a) the person ceases to be entitled to the card under section 118ZL or 118ZM; or

(b) a further determination under section 118ZN or 118ZO or subsection 128A(2B) has taken effect.

118ZL Person ceases to be entitled to card automatically—recipient *complying* with section 118ZI notification obligations

If:

(a) a person who is the holder of a seniors health card is given a notice under section 118ZI; and

(b) the notice requires the person to inform the Department or a specified officer of the occurrence of an event or change in circumstances within a specified period (the ***notification period***); and

(c) the event or change in circumstances occurs; and

(d) the person informs the Department or specified officer of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and

(e) because of the occurrence of the event or change in circumstances, the person ceases to be eligible for the card; and

(f) a determination is not made that the person ceases to be entitled to the card before the end of the notification period;

the person continues to be entitled to the card until the end of the notification period and the person then ceases to be entitled to the card.

Note: For ***holder of a seniors health card*** see section 5PB.

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118ZM Person ceases to be entitled to card automatically—recipient *not complying* with section 118ZI notification obligations

If:

(a) a person who is the holder of a seniors health card is given a notice under section 118ZI; and

(b) the notice requires the person to inform the Department or a specified officer of the occurrence of an event or change in circumstances within a specified period (the ***notification period***); and

(c) the event or change in circumstances occurs; and

(d) the person does not inform the Department or specified officer of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and

(e) because of the occurrence of the event or the change in circumstances the person ceases to be eligible for the card;

the person ceases to be entitled to the card immediately after the day on which the event or change in circumstances occurs.

Note: For ***holder of a seniors health card*** see section 5PB.

118ZN Determination that a person ceases to be entitled to a seniors health card

(1) If the Commission is satisfied that a person is, or was, the holder of a seniors health card when the person is not, or was not, eligible for the card, the Commission is to determine that the person ceases to be entitled to the card.

Note 1: For ***holder of a seniors health card*** see section 5PB.

Note 2: A determination under this section is not necessary in a case where an automatic loss of eligibility is produced by section 118ZL or 118ZM.

Note 3: For the date of effect of a determination under this section see section 118ZR.

(2) A determination under subsection (1) must be in writing.

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118ZO Person may cease to be entitled to a seniors health card for failure to comply with section 118ZJ notice

(1) If:

(a) a person who is the holder of a seniors health card is given a notice under section 118ZJ; and

(b) the person does not comply with the requirements set out in the notice;

the Commission may determine that the person ceases to be entitled to the card.

Note 1: For ***holder of a seniors health card*** see section 5PB.

Note 2: This section will not apply in a case where section 118ZN applies.

Note 3: For the date of effect of a determination under this section see section 118ZR.

(2) A determination under subsection (1) must be in writing.

118ZP Resumption of entitlement

(1) If the Commission:

(a) determines that a person ceases to be entitled to a seniors health card under section 118ZN or 118ZO; and

(b) reconsiders that decision; and

(c) becomes satisfied that because of that decision:

(i) the person was not entitled to a seniors health card when in fact the person was eligible for the card; or

(ii) the person is not entitled to a seniors health card when in fact the person is eligible for the card;

the Commission is to determine that the person was or is entitled to the card.

(2) The reconsideration referred to in paragraph (1)(b) might be a reconsideration on a claim under section 118ZS for review or a reconsideration on the Commission's own initiative.

(3) A determination under subsection (1) must be in writing.

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Note: For the date of effect of a determination under this section see section 118ZQ.

118ZQ Date of effect of favourable determination

A determination under section 118ZP takes effect on the day on which the determination is made or on such later day or earlier day as is specified in the determination.

118ZR Date of effect of adverse determination

(1) The day on which a determination under section 118ZN or 118ZO or subsection 128A(2B) (the ***adverse determination***) takes effect is worked out in accordance with this section.

(2) The adverse determination takes effect on:
  (a) the day on which the determination is made; or
  (b) if another day is specified in the determination—on that day.

(3) Subject to subsections (4) and (5), the day specified under paragraph (2)(b) must be later than the day on which the determination is made.

Contravention of Act

(4) If:
  (a) the person's entitlement to a seniors health card is affected by the adverse determination and the person has contravened a provision of this Act (other than subsection 118ZI(5), 118ZJ(5) or 128(4)); and
  (b) the contravention causes a delay in making the determination;

the day specified under paragraph (2)(b) may be earlier than the day on which the determination is made.

False statement or misrepresentation

(5) If:
  (a) a person has made a false statement or misrepresentation; and

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(b) because of the false statement or misrepresentation, the person became the holder of a seniors health card when in fact the person was not eligible for the card;

the day specified under paragraph (2)(b) may be earlier than the day on which the determination is made.

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Division 7—Review of decisions

118ZS Review of certain decisions

(1) A claimant who is dissatisfied with a decision of the Commission in relation to a claim for a seniors health card may request the Commission to review the decision.

(2) A person who is dissatisfied with a decision of the Commission that the person ceases to be entitled to a seniors health card may request the Commission to review the decision.

118ZT Application for review

(1) A request for review of a decision under section 118ZS must:
  (a) be made within 3 months after the person seeking review was notified of the decision; and
  (b) set out the grounds on which the request is made; and
  (c) be in writing; and
  (d) be lodged at an office of the Department in Australia in accordance with section 5T.

(1A) A request lodged in accordance with section 5T is taken to have been made on a day determined under that section.

(2) If a request for review of a decision is made in accordance with subsection (1), the Commission must review the decision.

(3) If the Commission has delegated its powers under this section to the person who made the decision under review, that person must not review the decision.

118ZU Commission's powers where request for review

(1) If the Commission reviews a decision under this Division, the Commission must affirm the decision or set it aside.

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(2) If the Commission sets the decision aside it must, subject to subsection (3), substitute a new decision in accordance with this Act.

(3) If the decision set aside is a decision that a person ceases to be entitled to a seniors health card, the Commission need not substitute another decision.

Note: For the Commission's evidence gathering powers see section 118ZY.

118ZV Date of effect of certain review decisions

(1) If the Commission sets aside a decision and substitutes for it a decision that a person is entitled to a seniors health card, the substituted decision takes effect from a date specified by the Commission.

(2) The date specified by the Commission must not be earlier than the date from which, had the Commission determined that the person is entitled to a seniors health card, such a determination could have taken effect.

118ZW Commission must make written record of review decision and reasons

(1) When the Commission reviews a decision under this Division it must make a written record of its decision upon review.

(2) The written record must include a statement that:

(a) sets out the Commission's findings on material questions of fact; and

(b) refers to the evidence or other material on which those findings are based; and

(c) provides reasons for the Commission's decision.

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118ZX Person who requested review to be notified of decision

(1) When the Commission affirms or sets aside a decision under this Division it must give the person who requested the review of the decision:

(a) a copy of the Commission's decision; and

(b) subject to subsection (2), a copy of the statement about the decision referred to in subsection 118ZW(1); and

(c) if the person has a right to apply to the Administrative Review Tribunal for a review of the Commission's decision—a statement giving the person particulars of that right.

(2) If the statement referred to in paragraph (1)(b) contains any matter that, in the opinion of the Commission:

(a) is of a confidential nature; or

(b) might, if communicated to the person who requested review, be prejudicial to his or her physical or mental health or well-being;

the copy given to the person is not to contain that matter.

118ZY Powers of Commission to gather evidence

(1) The Commission or the Commission's delegate may, in reviewing a decision under this Division:

(a) take evidence on oath or affirmation for the purposes of the review; and

(b) adjourn a hearing of the review from time to time.

(2) The presiding member of the Commission or the Commission's delegate may, for the purposes of the review:

(a) summon a person to appear at a hearing of the review to give evidence and to produce such documents (if any) as are referred to in the summons; and

(b) require a person appearing at a hearing of the review for the purpose of giving evidence either to take an oath or to make an affirmation; and

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(c) administer an oath or affirmation to a person so appearing.

(3) The person who applied for the review under this Division is a competent and compellable witness upon the hearing of the review.

(4) The oath or affirmation to be taken or made by a person for the purposes of this section is an oath or affirmation that the evidence that the person will give will be true.

(5) The Commission's power under paragraph (1)(a) to take evidence on oath or affirmation:

(a) may be exercised on behalf of the Commission by:

(i) the presiding member or the Commission's delegate; or

(ii) by another person (whether a member or not) authorised by the presiding member or the Commission's delegate; and

(b) may be exercised within or outside Australia; and

(c) must be exercised subject to any limitations specified by the Commission.

(6) Where a person is authorised under subparagraph (5)(a)(ii) to take evidence for the purposes of a review, the person has:

(a) all the powers of the Commission under subsection (1); and

(b) all the powers of the presiding member under subsection (2);

for the purposes of taking that evidence.

(7) In this section:

Commission's delegate means a person to whom the Commission has delegated its powers under section 118ZT and who is conducting the review in question.

118ZZ Withdrawal of request for review

(1) A person who requests a review under section 118ZS may withdraw the request at any time before it is determined by the Commission.

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(2) To withdraw the request, the person must give written notice of withdrawal to the Secretary and the notice must be lodged at an office of the Department in Australia in accordance with section 5T.

(3) Subject to section 118ZT, a person who withdraws a request for review may subsequently make another request for review of the same decision.

Note: Section 118ZT provides that a person who wants to request a review of a decision must do so within 3 months after the person has received notice of the decision.

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Division 8—Seniors Health Card Income Test Calculator

118ZZA Seniors Health Card Income Test Calculator

The Seniors Health Card Income Test Calculator at the end of this section is to be used in working out whether a person satisfies the seniors health card income test for the purposes of this Act.

Seniors Health Card Income Test Calculator

Satisfying the seniors health card income test

118ZZA-1 This is how to work out whether a person satisfies the seniors health card income test at a particular time (the ***test time***).

Method statement

Step 1. Work out the amount of the person's adjusted taxable income for the reference tax year.

Step 1A. If, at the test time, the person, or the person's partner (if any), has at least one long-term financial asset (see point 118ZZA-12), work out the person's deemed income amount under:

(a) if, at the test time, the person is not a member of a couple—point 118ZZA-10A; or

(b) if, at the test time, the person is a member of a couple—point 118ZZA-10B.

Step 1B. Work out the sum of the amounts at step 1 and step 1A (if any).

Step 2. Work out the person's seniors health card income limit using point 118ZZA-11.

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Step 3.	Work out whether the amount at step 1B exceeds the seniors health card income limit.
Step 4.	If the amount at step 1B is less than the person's seniors health card income limit, the person satisfies the seniors health card income test.
Step 5.	If the amount at step 1B is equal to or exceeds the person's seniors health card income limit, the person does not satisfy the seniors health card income test.

Reference tax year

118ZZA-2(1) In the ordinary case, a person's ***reference tax year*** is:

(a) if the person has received a notice of assessment of his or her taxable income for the tax year immediately preceding the tax year in which the test time occurred—that immediately preceding tax year; or

(b) otherwise—the tax year immediately preceding the tax year applicable under paragraph (a).

(2) However, if the person has informed the Secretary in writing that the person wishes to have his or her entitlement to a seniors health card determined by reference to his or her adjusted taxable income for the tax year in which the test time occurred (the ***current tax year***), the person's ***reference tax year*** is the current tax year.

Adjusted taxable income

118ZZA-3 For the purposes of this Division, a person's ***adjusted taxable income*** for a particular tax year is the sum of the following amounts (***income components***):

(a) the person's taxable income for that year, disregarding the person's assessable FHSS released amount (within the meaning of the *Income Tax Assessment Act 1997*) for that year;

(b) the person's fringe benefits value for that year;

(c) the person's target foreign income for that year;

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(d) the person's total net investment loss (within the meaning of the *Income Tax Assessment Act 1997*) for that year;

(e) the person's reportable superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for that year.

Note 1: For ***taxable income*** see point 118ZZA-4.

Note 2: For ***fringe benefits value*** see point 118ZZA-5.

Note 3: For ***target foreign income*** see point 118ZZA-6.

Taxable income

118ZZA-4(1) In this Division:

taxable income has the same meaning as in the *Income Tax Assessment Act 1997*.

(2) For the purposes of this Division, a person's ***taxable income*** for a particular tax year is:

(a) the person's assessed taxable income for that year; or

(b) if the person does not have an assessed taxable income for that year—the person's accepted estimate of taxable income for that year.

(3) For the purposes of this Division, a person's ***assessed taxable income*** for a particular tax year at a particular time is the most recent of:

(a) if, at that time, the Commissioner of Taxation has made an assessment or an amended assessment of that taxable income—that taxable income according to the assessment or amended assessment; or

(b) if, at that time, a tribunal has amended an assessment or an amended assessment made by the Commissioner—that taxable income according to the amendment made by the tribunal; or

(c) if, at that time, a court has amended an assessment or an amended assessment made by the Commissioner or an

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amended assessment made by a tribunal—that taxable income according to the amendment made by the court.

Fringe benefits value

118ZZA-5(1) For the purposes of this Division, a person's ***fringe benefits value*** for a particular tax year is the person's accepted estimate of the amount by which the total of the assessable fringe benefits received or to be received by the person in the tax year exceeds $1,000.

(2) In this point:

assessable fringe benefit has the meaning given by subsection 10A(2) of the *Social Security Act 1991*.

(3) The value of an assessable fringe benefit is to be worked out in accordance with Part 3.12A of the *Social Security Act 1991* except that references in that Part to the Minister and to the Secretary are to be taken to be references to the Minister for Veterans' Affairs and to the Secretary of the Department of Veterans' Affairs, respectively.

Target foreign income

118ZZA-6(1) In this Division:

foreign income, in relation to a person, means:

(a) an income amount earned, derived or received by the person from a source outside Australia for the person's own use or benefit; or

(b) a periodical payment by way of gift or allowance from a source outside Australia; or

(c) a periodical benefit by way of gift or allowance from a source outside Australia.

target foreign income means foreign income that is not:

(a) taxable income; or

(b) received in the form of a fringe benefit.

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(2) For the purposes of this Division, a person's ***target foreign income*** for a particular tax year is the person's accepted estimate of the amount of that income for that year.

Total net investment loss

118ZZA-7 For the purposes of this Division, a person's ***total net investment loss*** for a particular tax year is the person's accepted estimate of the amount of that loss for that year.

Accepted estimate

118ZZA-8 For the purposes of this Division, a person's ***accepted estimate*** of an income component for a particular tax year is that income component according to the most recent notice given by the person to the Secretary under point 118ZZA-9 and accepted by the Commission for the purposes of this Part.

Notice estimating income component

118ZZA-9(1) A person may give the Secretary a notice, in a form approved by the Commission, setting out the person's estimate of an income component of the person for a tax year.

(2) The notice is to contain, or be accompanied by, such information as is required by the form to be contained in it or to accompany it, as the case may be.

(3) The Commission is to accept a notice only if the Commission is satisfied that the estimate is reasonable.

Adjusted taxable income of members of couples

118ZZA-10 If a person is a member of a couple, add the couple's adjusted taxable incomes for the reference tax year and divide by 2 to work out the amount of the person's adjusted taxable income for the reference tax year.

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Deemed income amount

118ZZA-10A This is how to work out the person's deemed income amount under this point:

Method statement

Step 1. Work out the total value of all of the person's long-term financial assets (see point 118ZZA-12) at the test time.

Step 2. Work out under section 46D the amount of ordinary income the person would be taken to receive per year on his or her financial assets:

(a) on the assumption that the only financial assets of the person were the financial assets referred to in step 1; and

(b) on the assumption that the total value of the person's financial assets were the amount at step 1.

Step 3. The result at step 2 is the person's ***deemed income amount***.

118ZZA-10B This is how to work out the person's deemed income amount under this point:

Method statement

Step 1. Work out the total value of all of the person's long-term financial assets (see point 118ZZA-12) at the test time.

Step 2. If, at the test time, the person's partner has reached the minimum age mentioned in section 301-10 of the *Income Tax Assessment Act 1997*, work out the total value of all of the person's partner's long-term financial assets (see point 118ZZA-12) at the test time.

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Step 3. Work out under section 46E the amount of ordinary income the couple would be taken to receive per year on their financial assets:

(a) on the assumption that the only financial assets of the person and the person's partner were the financial assets referred to in steps 1 and 2; and

(b) on the assumption that the total value of the couple's financial assets were the sum of the amounts at steps 1 and 2.

Step 4. Divide the amount at step 3 by 2: the result is the person's ***deemed income amount***.

Seniors health card income limit

118ZZA-11 A person's seniors health card income limit is worked out using the Seniors Health Card Income Limit Table. Work out which family situation in the table applies to the person. The person's seniors health card income limit is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each dependent child of the person.

Seniors Health Card Income Limit Table

Column 1 **Item**	**Column 2** **Person's family situation**	**Column 3** **Amount per year**	**Column 4** **Additional dependent child** **Amount per year**
1	Not member of couple	$90,000	$639.60
2	Partnered	$72,000	$639.60
3	Member of illness separated couple	$90,000	$639.60

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Seniors Health Card Income Limit Table			
Column 1 **Item**	**Column 2** **Person's family situation**	**Column 3** **Amount per year**	**Column 4** **Additional dependent child** **Amount per year**
4	Member of respite care couple	$90,000	$639.60

Note 1: For ***member of couple*** and ***partnered***, see section 5E.

Note 2: For ***illness separated couple*** and ***respite care couple***, see section 5R.

Note 3: For ***dependent child***, see section 5F.

Note 4: The amounts in column 3 are to be indexed annually on 20 September in line with CPI increases (see section 198FAA).

Long-term financial asset

118ZZA-12 For the purposes of this Division, a ***long-term financial asset*** is:

(a) a financial investment within the meaning of paragraph (i) of the definition of ***financial investment*** in subsection 5J(1), where the asset-tested income stream (long term) arises under a complying superannuation plan (within the meaning of the *Income Tax Assessment Act 1997*) that is not a constitutionally protected fund (within the meaning of that Act); or

(b) a financial investment within the meaning of paragraph (j) of the definition of ***financial investment*** in subsection 5J(1).

Note: Schedule 7 to the *Social Services and Other Legislation Amendment (2014 Budget Measures No. 6) Act 2014* preserves the rules in this Calculator for a certain kind of long-term financial asset that was being provided to a person immediately before 1 January 2015 where the person held a seniors health card immediately before that day provided that, since that day, the person has held a seniors health card.

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Part VIII—General provisions applicable to pensions etc.

119 Commission not bound by technicalities

(1) In considering, hearing or determining, and in making a decision in relation to:

(a) a claim or application or the grant of a veteran payment;

(b) a review, under Division 16 of Part IIIB, of a decision of the Commission with respect to a pension, a veteran payment or qualifying service;

(ba) a review, under Division 16 of Part IIIB, of a decision of the Commission under Part IIIAB (pension bonus and pension bonus bereavement payment); or

(c) a reconsideration, under section 31, of a decision of the Commission with respect to a pension under Part II or IV or an attendant allowance under section 98;

(da) a review, under Division 7 of Part IVA, of a decision of the Commission with respect to an advance payment of an amount of pension;

(e) the suspension, cancellation or variation of a pension or a veteran payment; or

(ee) a review, under subsection 115(1), of a decision of the Commission in respect of an application for an allowance, payment or benefit specified in that subsection;

the Commission:

(f) is not bound to act in a formal manner and is not bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks just;

(g) shall act according to substantial justice and the substantial merits of the case, without regard to legal form and technicalities; and

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(h) without limiting the generality of the foregoing, shall take into account any difficulties that, for any reason, lie in the way of ascertaining the existence of any fact, matter, cause or circumstance, including any reason attributable to:

(i) the effects of the passage of time, including the effect of the passage of time on the availability of witnesses; and

(ii) the absence of, or a deficiency in, relevant official records, including an absence or deficiency resulting from the fact that an occurrence that happened during the service of a veteran, or of a member of the Defence Force or of a Peacekeeping Force, as defined by subsection 68(1), was not reported to the appropriate authorities.

(2) In subsection (1):

application means:

(a) an application to increase the rate of:

(i) a pension granted under Part II or IV; or

(ii) a service pension granted under Part III; or

(iii) income support supplement granted under Part IIIA; or

(b) an application for a pension under Part II or IV made in accordance with subsection 15(2); or

(c) an application to be provided with treatment under Part V; or

(d) an application for an allowance, payment or benefit specified in subsection 111(1); or

(e) an application under Part IIIAB for registration as a member of the pension bonus scheme.

claim means:

(a) a claim for a pension under Part II or IV; or

(b) a claim for service pension or other benefit under Part III; or

(c) a claim for a qualifying service determination under Part III; or

(d) a claim for income support supplement under Part IIIA; or

(e) a claim for a pension bonus or pension bonus bereavement payment under Part IIIAB; or

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(f) a claim for prisoner of war recognition supplement under Part VIB.

120 Standard of proof

(1) Where a claim under Part II for a pension in respect of the incapacity from injury or disease of a veteran, or of the death of a veteran, relates to the operational service rendered by the veteran, the Commission shall determine that the injury was a war-caused injury, that the disease was a war-caused disease or that the death of the veteran was war-caused, as the case may be, unless it is satisfied, beyond reasonable doubt, that there is no sufficient ground for making that determination.

Note: This subsection is affected by section 120A.

(2) Where a claim under Part IV:

(a) in respect of the incapacity from injury or disease of a member of a Peacekeeping Force or of the death of such a member relates to the peacekeeping service rendered by the member; or

(b) in respect of the incapacity from injury or disease of a member of the Forces, or of the death of such a member, relates to the hazardous service rendered by the member; or

(c) in respect of the incapacity from injury or disease of a member of the Forces, or of the death of such a member, relates to British nuclear test defence service rendered by the member;

the Commission shall determine that the injury was a defence-caused injury, that the disease was a defence-caused disease or that the death of the member was defence-caused, as the case may be, unless it is satisfied, beyond reasonable doubt, that there is no sufficient ground for making that determination.

Note 1: For ***member of a Peacekeeping Force***, ***peacekeeping service***, ***member of the Forces***, ***hazardous service*** and ***British nuclear test defence service*** see subsection 5Q(1A).

Note 2: This subsection is affected by section 120A.

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(3) In applying subsection (1) or (2) in respect of the incapacity of a person from injury or disease, or in respect of the death of a person, related to service rendered by the person, the Commission shall be satisfied, beyond reasonable doubt, that there is no sufficient ground for determining:

(a) that the injury was a war-caused injury or a defence-caused injury;

(b) that the disease was a war-caused disease or a defence-caused disease; or

(c) that the death was war-caused or defence-caused;

as the case may be, if the Commission, after consideration of the whole of the material before it, is of the opinion that the material before it does not raise a reasonable hypothesis connecting the injury, disease or death with the circumstances of the particular service rendered by the person.

Note: This subsection is affected by section 120A.

(4) Except in making a determination to which subsection (1) or (2) applies, the Commission shall, in making any determination or decision in respect of a matter arising under this Act or the regulations, including the assessment or re-assessment of the rate of a pension granted under Part II or Part IV, decide the matter to its reasonable satisfaction.

Note: This subsection is affected by section 120B.

(5) Nothing in the provisions of this section, or in any other provision of this Act, shall entitle the Commission to presume that:

(a) an injury suffered by a person is a war-caused injury or a defence-caused injury;

(b) a disease contracted by a person is a war-caused disease or a defence-caused disease;

(c) the death of a person is war-caused or defence-caused; or

(d) a claimant or applicant is entitled to be granted a pension, allowance or other benefit under this Act.

(6) Nothing in the provisions of this section, or in any other provision of this Act, shall be taken to impose on:

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(a) a claimant or applicant for a pension or increased pension, or for an allowance or other benefit, under this Act; or

(b) the Commonwealth, the Department or any other person in relation to such a claim or application;

any onus of proving any matter that is, or might be, relevant to the determination of the claim or application.

(7) In this section:

hazardous service means service in the Defence Force, before the MRCA commencement date, that is of a kind determined in writing by the Minister administering section 1 of the *Defence Act 1903* to be hazardous service for the purposes of this section.

120A Reasonableness of hypothesis to be assessed by reference to Statement of Principles

(1) This section applies to any of the following claims made on or after 1 June 1994:

(a) a claim under Part II that relates to the operational service rendered by a veteran;

(b) a claim under Part IV that relates to:

(i) the peacekeeping service rendered by a member of a Peacekeeping Force; or

(ii) the hazardous service rendered by a member of the Forces; or

(iii) the British nuclear test defence service rendered by a member of the Forces.

Note 1: Subsections 120(1), (2) and (3) are relevant to these claims.

Note 2: For ***peacekeeping service***, ***member of a Peacekeeping Force***, ***hazardous service***, ***member of the Forces*** and ***British nuclear test defence service*** see subsection 5Q(1A).

(2) If the Repatriation Medical Authority has given notice under section 196G that it intends to carry out an investigation in respect of a particular kind of injury, disease or death, the Commission is not to determine a claim in respect of the incapacity of a person

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from an injury or disease of that kind, or in respect of a death of that kind, unless or until the Authority:

(a) has determined a Statement of Principles under subsection 196B(2) in respect of that kind of injury, disease or death; or

(b) has declared that it does not propose to make such a Statement of Principles.

(3) For the purposes of subsection 120(3), a hypothesis connecting an injury suffered by a person, a disease contracted by a person or the death of a person with the circumstances of any particular service rendered by the person is reasonable only if there is in force:

(a) a Statement of Principles determined under subsection 196B(2) or (11); or

(b) a determination of the Commission under subsection 180A(2);

that upholds the hypothesis.

Note: See subsection (4) about the application of this subsection.

(4) Subsection (3) does not apply in relation to a claim in respect of the incapacity from injury or disease, or the death, of a person if the Authority has neither determined a Statement of Principles under subsection 196B(2), nor declared that it does not propose to make such a Statement of Principles, in respect of:

(a) the kind of injury suffered by the person; or

(b) the kind of disease contracted by the person; or

(c) the kind of death met by the person;

as the case may be.

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120B Reasonable satisfaction to be assessed in certain cases by reference to Statement of Principles

(1) This section applies to any of the following claims made on or after 1 June 1994:

(a) a claim under Part II that relates to the eligible war service (other than operational service) rendered by a veteran;

(b) a claim under Part IV that relates to the defence service (other than hazardous service and British nuclear test defence service) rendered by a member of the Forces.

Note 1: Subsection 120(4) is relevant to these claims.

Note 2: For ***hazardous service***, ***member of the Forces*** and ***British nuclear test defence service*** see subsection 5Q(1A).

(2) If the Repatriation Medical Authority has given notice under section 196G that it intends to carry out an investigation in respect of a particular kind of injury, disease or death, the Commission is not to determine a claim in respect of the incapacity of a person from an injury or disease of that kind, or in respect of a death of that kind, unless or until the Authority:

(a) has determined a Statement of Principles under subsection 196B(3) in respect of that kind of injury, disease or death; or

(b) has declared that it does not propose to make such a Statement of Principles.

(3) In applying subsection 120(4) to determine a claim, the Commission is to be reasonably satisfied that an injury suffered by a person, a disease contracted by a person or the death of a person was war-caused or defence-caused only if:

(a) the material before the Commission raises a connection between the injury, disease or death of the person and some particular service rendered by the person; and

(b) there is in force:

(i) a Statement of Principles determined under subsection 196B(3) or (12); or

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(ii) a determination of the Commission under subsection 180A(3);

that upholds the contention that the injury, disease or death of the person is, on the balance of probabilities, connected with that service.

(4) Subsection (3) does not apply in relation to a claim in respect of the incapacity from injury or disease, or the death, of a person if the Authority has neither determined a Statement of Principles under subsection 196B(3), nor declared that it does not propose to make such a Statement of Principles, in respect of:

(a) the kind of injury suffered by the person; or

(b) the kind of disease contracted by the person; or

(c) the kind of death met by the person;

as the case may be.

121 Instalments of pension

Payment in arrears in relation to pension periods

(1) Pension is payable:

(a) in arrears; and

(b) by instalments relating to each pension period.

Total instalment relating to a pension period

(2) Subject to subsections (3) and (4), the amount payable to a person as an instalment of pension in relation to a pension period is the total amount of pension payable to the person for the days in that period on which pension was payable to the person.

Circumstances in which no instalment is payable in relation to a pension period

(3) If a person who is receiving a pension is ineligible for payment in respect of the last day of a pension period, no amount is payable to the person as an instalment of pension in relation to the pension period.

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(4) Subject to subsection (4A), if a person who is receiving a pension dies, no amount is payable to the person as an instalment of pension in relation to the pension period in which the person died.

Exception—prisoner of war recognition supplement

(4A) If a person who is receiving a prisoner of war recognition supplement under Part VIB dies, an amount is payable to the person's estate as an instalment of that supplement in relation to the pension period in which the person died.

Pensions generally payable fortnightly

(5) Unless subsection (5A) applies to the person, an instalment of pension is payable to a person on the next payday after the end of the pension period to which the instalment relates.

Pensions may be payable weekly

(5A) The Commission may determine, in writing, that the total amount of an instalment of pension payable to a person in relation to a pension period is payable to the person in 2 payments (the ***part payments***) if the person is a member of a class specified under subsection (5C).

(5B) A determination made under subsection (5A) is not a legislative instrument.

(5C) The Commission may, by legislative instrument, specify a class of persons for the purposes of subsection (5A).

(5D) The first of the part payments:

(a) is not to exceed the total of the amount of pension (calculated in accordance with this section) payable to the person for days that:

(i) are days on which the pension was payable to the person; and

(ii) are included in the first 7 days of the pension period; and

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(c) is payable at a time determined by the Commission that is after the first 7 days of the pension period.

(5E) The other of the part payments:

(a) is the excess of the amount that is payable to the person as the instalment of pension in relation to the pension period over the first of the part payments; and

(b) is payable at a time determined by the Commission that is after the end of the pension period.

(5F) If the total amount of pension payable to a person in relation to a pension period is payable to the person in part payments, then it is taken for the purposes of this Act that:

(a) a single instalment of the pension is payable in relation to the period; and

(b) that instalment is payable when the last of the part payments is, or is to be, made; and

(c) that instalment is equal to the total of the part payments.

Note: The total of the part payments equals the amount worked out under subsection (2) as the amount payable to the person as the instalment of the pension in relation to the pension period.

(5G) However, section 122B (about deductions from instalments) applies as if each of the part payments were a separate instalment.

Calculation of rate of pension payable

(6) For the purpose of the calculation of the amount of an instalment of pension, the rate of pension payable to a person for a day is calculated by dividing the fortnightly rate of pension by 14.

Special rules for energy supplement payable under section 62A or 62B

(6B) For energy supplement payable under section 62A or 62B:

(a) this section has effect subject to section 62D (which is about quarterly payment of energy supplement); and

(b) subsection (2) of this section has effect as if energy supplement covered by an election in force under

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section 62D by a person on a day were not payable to the person for the day.

Definitions

(7) In this section:

pension includes energy supplement payable under section 62A or 62B, prisoner of war recognition supplement under Part VIB, veterans supplement under Part VIIA or an allowance under this Act, other than Victoria Cross allowance under section 103 or loss of earnings allowance under section 108, but does not include a pension or allowance to which section 58A applies.

122 Payment of pension

(1) Subject to subsection (2), a pension shall be paid to the person (the ***pensioner***) to whom the pension is payable.

(2) Where the pensioner, by document lodged at an office of the Department in Australia in accordance with section 5T, requests the Commission to do so, the Commission may, in writing, approve payment of the pension to a person specified in the request for such period as is specified in the approval.

(2A) A request lodged in accordance with section 5T is taken to have been made on a day determined under that section.

(3) The Commission shall not approve payment of the pension to the person specified in the request unless the Commission is satisfied that the person has agreed to receive payment as agent of the pensioner.

(3A) Where a payment of pension is made to a person in accordance with an approval under subsection (2):

(a) the payment shall, for all purposes, be deemed to be a payment of the pension to the pensioner;

(b) neither the Commonwealth nor the Commission is bound to oversee the application of the payment by the person; and

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(c) the person shall be taken to receive the payment as agent of the pensioner.

(4) A pension shall be paid in such manner as the Commission determines.

Note: For the procedure to be followed if the Commission determines that a person's pension is to be paid into an account see section 122A.

(5) Where, by reason of a public holiday or a bank holiday or for any other reason, an instalment of, or the amount of, a pension cannot be paid on the day on which it would normally be paid, the instalment or amount of the pension may be paid on an earlier day.

(6) In this section, ***pension*** means a pension, allowance or other pecuniary benefit payable under this Act, and includes an instalment of such a pension, allowance or other benefit.

122A Pension or supplement may be paid to bank etc.

(1) The Commission may direct that the whole or a part of the amount of a pension is to be paid, at such intervals as it directs, to the credit of an account nominated from time to time by the pensioner, being an account maintained by the pensioner, either alone or jointly or in common with another person, with:

(a) a bank; or

(b) if the pensioner is physically outside Australia—a foreign corporation that takes money on deposit.

(1AA) If the Commission gives a direction under subsection (1), the pension is payable in accordance with the direction.

(1A) If the payment is of an amount of pension that is not energy supplement under Part VIIAD and the person has not nominated an account for the purposes of subsection (1), the amount is not to be paid.

(1B) If:

(a) an amount has not been paid because of subsection (1A); and

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(b) the person nominates an account for the purposes of subsection (1);

the amount is to be paid under subsection (1AA).

(1C) If the payment is of an amount of energy supplement under Part VIIAD and the person has not nominated an account for the purposes of subsection (1) by the end of the period of 28 days (or such longer period determined by the Commission) starting on the day on which the Commission requested the person to do so, the supplement ceases to be payable to the person.

(1D) However, if the person referred to in subsection (1C) nominates an account for the purposes of subsection (1) after the end of the 28 day or other period, then subsection (1C) ceases to apply to the person on the day the person does so.

(1E) If:

(a) there is no nomination of an account by the person in force for the purposes of subsection (1); and

(b) there is a nomination of an account (the ***existing account***) by the person in force for the purposes of section 430 of the *Military Rehabilitation and Compensation Act 2004*;

the existing account is taken to be an account nominated by the person for the purposes of subsection (1) of this section.

(1F) Subsection (1E) ceases to apply in relation to the person if, in accordance with subsection (1), the person nominates an account for the purposes of subsection (1).

(2) In this section:

pension means a pension, allowance or other pecuniary benefit payable under this Act, and includes an instalment of such a pension, allowance or other benefit.

pensioner means a person to whom a pension is payable, whether on his or her own behalf or on behalf of another person.

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122AA Use and disclosure of account details

Use

(1) The Commission, a commissioner of the Commission or a staff member assisting the Commission may use the details of an account referred to in paragraph 122A(1E)(b) for the purposes of section 122A.

(2) A person to whom the details of an account are disclosed under subsection 430A(3) of the *Military Rehabilitation and Compensation Act 2004* may use those details for the purposes of section 122A of this Act.

Disclosure

(3) The Commission, a commissioner of the Commission or a staff member assisting the Commission may disclose the details of an account obtained for the purposes of section 122A to the Military Rehabilitation and Compensation Commission (the ***MRCC***), a member of the MRCC or a staff member assisting the MRCC for the purposes of section 430 of the *Military Rehabilitation and Compensation Act 2004*.

Interaction with Privacy Act 1988

(4) For the purposes of the *Privacy Act 1988*:
   (a) the use of the details of an account in accordance with subsection (1) or (2) is taken to be a use that is authorised by this Act; and
   (b) the disclosure of the details of an account in accordance with subsection (3) is taken to be a disclosure that is authorised by this Act.

122B Direct deductions at person's request

(1) This section applies if a person is receiving instalments of a pension, allowance or other pecuniary benefit payable under this

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Act of a class approved by the Commission for the purposes of this section.

(2) The person may request the Commission to make deductions from the instalments for the purpose of making:
  (a) payments to the Commissioner of Taxation; or
  (b) payments in a class approved by the Commission for the purposes of this section.

(3) The request must be in the form approved by the Commission for the purposes of this section.

(4) If a request is made:
  (a) the Commission may make the requested deductions; and
  (b) if it does so—the Commission must pay the amounts deducted in accordance with the request.

(5) The Commission may, for the purposes of this section, approve:
  (a) classes of pensions; and
  (b) classes of allowances; and
  (c) classes of pecuniary benefits; and
  (d) classes of payments.

(6) An approval under subsection (5) is a legislative instrument.

122C Payment of pension or allowance outside Australia

If a pension, allowance or other pecuniary benefit under this Act, other than a pension or allowance to which section 58A applies, is payable to a person who is physically outside Australia, then it may be paid:
  (a) in the manner determined by the Commission; and
  (b) in the instalments determined by the Commission.

123 Interpretation

(1) In this section and sections 123A to 123E (inclusive):

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applicable sections means this section and sections 123A to 123E (inclusive).

child, in relation to a person who has died (in this definition called the ***deceased***), means:

(a) a person who is a child of the deceased within the meaning of section 10;

(b) a person who was a natural child of the deceased; or

(ba) someone who was a child of the deceased within the meaning of the *Family Law Act 1975*; or

(c) a person who was adopted by the deceased or by the deceased and the deceased's partner or non-illness separated spouse.

parent, in relation to a person who has died, means someone whose child the person was.

sibling, in relation to a person who has died, means someone who was a sister, half-sister, brother or half-brother of the person.

waiting period, in relation to a person, means the period of 12 months commencing on:

(a) if subparagraph 123A(2)(c)(i) applies to the person—the death of the person; or

(b) if subparagraph 123A(2)(c)(ii) applies to the person—the date of the grant of the claim.

(2) For the purposes of paragraph (a) of the definition of ***child*** in subsection (1), a person shall be taken to be a child even though the person is in receipt of a pension, benefit or allowance of a kind referred to in the definition of ***child*** in subsection 5F(1).

(3) A reference in the applicable sections to an executor of a will includes a reference to:

(a) an executor of the will by representation; and

(b) if probate of the will has been granted and a person has subsequently been granted administration of the unadministered assets covered by the will—that person.

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(4) A reference in the applicable sections to the person to whom a grant of letters of administration with a will annexed has been made includes a reference to a person who has subsequently been granted administration of the unadministered assets covered by the will.

(5) A reference in the applicable sections, in relation to an approval of a payment, to a person who is known is a reference to a person:
  (a) who is alive at the time of the approval; and
  (b) whose existence and whereabouts are known to the Commission at that time.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

123A Payment of pension etc. on death of person

(1) The objects of the applicable sections are:
  (a) to ensure that moneys payable under this Act to a person who has died are paid out as promptly as possible;
  (b) to pay those moneys, so far as is consistent with paragraph (a), in accordance with the person's will;
  (c) to ensure that not more than $20,000, or the amount prescribed for the purposes of subsection 123B(6), is paid out without probate of the will having been obtained or letters of administration with the will annexed having been granted; and
  (d) to ensure that, in the event of intestacy, the payment of those moneys is made on principles that are uniform throughout Australia.

(2) Where:
  (a) a person (in the applicable sections called the ***deceased***) dies;
  (b) an amount (in the applicable sections called the ***distributable amount***) of a pension, allowance or other pecuniary benefit is payable under this Act to the deceased; and
  (c) the distributable amount:

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(i) has accrued, and was unpaid, on the deceased's death; or

(ii) has become payable after the deceased's death in respect of a period or event before that death by reason of the grant, after that death, of a claim for the pension, allowance or benefit made before that death;

the Commission shall deal with the distributable amount in accordance with the applicable sections and the distributable amount shall not, subject to subsections 123B(2) and (3), form part of the deceased's estate.

(3) Where an amount is paid in accordance with an approval given under the applicable sections, the Commonwealth is not liable to any action, claim or demand for payment in respect of that amount.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

123B Distribution where deceased leaves valid will

(1) This section applies where the Commission is satisfied that:

(a) the deceased left a valid will; and

(b) but for the applicable sections, the will would dispose of the deceased's right to the distributable amount (either expressly or as part of the residue of the deceased's estate).

(2) Where this section applies and the Commission is satisfied that the will appointed an executor or executors, the Commission may, subject to subsection (6), approve payment of the whole or part of that amount to an executor of the will.

(3) Where this section applies and the Commission is satisfied that:

(a) no-one is executor of the will; and

(b) a person has applied for and obtained a grant of letters of administration with the will annexed;

the Commission may approve payment of the whole or part of that amount to the person to whom the grant was made.

(4) Where this section applies and the Commission is satisfied that:

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(a) no-one is executor of the will;
(b) letters of administration with the will annexed have not been applied for or granted; and
(c) distribution of the whole or part of the distributable amount in accordance with the statutory order referred to in section 123D would not be inconsistent with the terms of the will;

the Commission may, subject to subsection (6), approve payment of the whole or part of that amount in accordance with the statutory order.

(5) Where this section applies and the Commission is satisfied that:
(a) no-one is executor of the will; and
(b) the waiting period has elapsed without an application for letters of administration with the will annexed having been made;

the Commission may, subject to subsection (6), approve payment of the whole or part of that amount in accordance with the statutory order referred to in section 123D.

(6) If probate of the will has not been obtained and letters of administration with the will annexed have not been granted, the Commission shall not approve a payment or payments under subsection (2), (4) or (5) in respect of the deceased if the amount of the payment, or the sum of the amounts of the payments made under those subsections, would exceed $20,000 or such higher amount as is prescribed for the purposes of this subsection.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

123C Intestacy

Where the Commission is satisfied that:
(a) the deceased did not leave a valid will; or
(b) the deceased left a valid will but, even if the applicable sections did not apply to the amount, the will would not dispose of the deceased's right to the distributable amount

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(either expressly or as part of the residue of the deceased's estate);

the Commission may approve payment of the whole or part of that amount in accordance with the statutory order referred to in section 123D.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

123D Statutory order of distribution

(1) Distribution of an amount in respect of the deceased in accordance with the statutory order shall, subject to subsections (2) and (3), be made to:

(a) the known widow or widower of the deceased or the known widows or widowers of the deceased in equal shares;

(b) if there is no known widow or widower of the deceased—the known child of the deceased or the known children of the deceased in equal shares;

(c) if there is no known widow or widower of the deceased and no known child of the deceased—the known parent of the deceased or the known parents of the deceased in equal shares; or

(d) if there is no known widow or widower of the deceased, no known child of the deceased and no known parent of the deceased—the known sibling of the deceased or the known siblings of the deceased in equal shares.

(2) Where:

(a) a child (in this subsection called the ***beneficiary***) of the deceased predeceases the deceased or dies before the approval of a payment under the applicable sections; and

(b) there is a known child of the beneficiary or there are known children of the beneficiary;

the amount that would have been paid to the beneficiary had the beneficiary been alive at the time of approval shall be distributed to the child or to those children in equal shares.

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(3) Where:

(a) a sibling of the deceased predeceases the deceased or dies before the approval of a payment under the applicable sections; and

(b) there is a known child of the sibling or there are known children of the sibling;

the amount that would have been paid to the sibling had the sibling been alive at the time of approval shall be distributed to that child or to those children in equal shares.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

123E Non-distributable amounts

Where the Commission determines in writing that it is not possible to pay the whole or part of the distributable amount in accordance with sections 123B and 123C, that amount or that part of that amount ceases to be payable to the deceased.

Note: Sections 123 to 123E do not apply if Subdivision C of Division 12A of Part IIIB applies.

124 Termination of pension

(1) Where a veteran or a dependant of a veteran has requested the Commission, in writing, to cancel a pension payable under Part II or IV, or an allowance under Part VI, the Commission may cancel the pension or allowance.

(2) Where a veteran or a dependant of a veteran has, for a continuous period of not less than 6 months, failed to draw instalments of a pension granted to the veteran or dependant under Part II or IV, or of an allowance under Part VI, the Commission may suspend or cancel the pension or allowance.

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(3) Where the Commission suspends a pension or allowance under subsection (2), it may, at any time, terminate the suspension from the date as from which the pension or allowance was suspended or such later date as the Commission deems proper.

(4) Where:

(a) a person in receipt of a pension under Part II or IV notifies the occurrence of an event or change of circumstances in accordance with a notice under subsection 127(1); and

(b) by reason of the occurrence of that event or change of circumstances, the person ceases to be eligible to receive that pension;

that pension ceases to be payable to the person as from the day after the last day on which the person could, in accordance with that notice, have notified the occurrence of that event or change of circumstances.

(5) Where:

(a) a person who is in receipt of a pension under Part II or IV is required to notify the occurrence of an event or a change in circumstances in accordance with a notice under subsection 127(1);

(b) the person does not notify the occurrence of that event or that change in circumstances within the period specified in the notice; and

(c) by reason of the occurrence of that event or that change in circumstances:

(i) the person ceases to be eligible to receive that pension; or

(ii) that pension is payable to the person at a lower rate;

that pension ceases to be payable to the person, or becomes payable to the person at the lower rate, as the case may be, as from the day after the day on which that event or that change in circumstances occurred.

(6) In this section:

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(b) a reference to a veteran shall be read as including a reference to a person who is a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1).

125 Pensions etc. absolutely inalienable

Subject to this Act and Parts 3B and 3C of the *Social Security (Administration) Act 1999*, a pension, allowance or other pecuniary benefit under this Act is absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy or otherwise.

126 Death of claimant etc.

(1) On the death of a claimant, the claim does not lapse in respect of any period before the death of the claimant, but the legal personal representative of the claimant, or a person approved by the Commission, may take such action in respect of the claim as the claimant could have taken if the claimant had not died and, for that purpose, the legal personal representative or person so approved shall be treated as the claimant.

(2) On the death of a person (the ***pensioner***), the legal personal representative of the pensioner, or a person approved by the Commission, may take such action in respect of a variation of, or the suspension or cancellation of, the pensioner's pension or veteran payment effected before the death of the pensioner, or effected after the death of the pensioner as from a date before the death of the pensioner, as the pensioner could have taken if he or she had not died and, for that purpose, the legal personal representative or person so approved shall be treated as the pensioner.

(3) If there is a legal personal representative of a deceased claimant or deceased pensioner, the Commission shall not approve a person for the purpose of subsection (1) or (2) unless it is satisfied that:

(a) the person has notified the legal personal representative of the deceased claimant, or deceased pensioner, that the legal

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personal representative has, or may have, a right under subsection (1) or (2), as the case may be; and

(b) the legal personal representative has refused, or failed within a reasonable time after having been so notified, to take any action in respect of the claim, pension or veteran payment, as the case may be.

(4) In this section, ***claim*** means a claim in accordance with section 14, 35B, 36D, 37D, 38D, 39D or 45I, an application in accordance with section 15, and an application for review under Division 16 of Part IIIB, section 175 of this Act or Part 4 or 5 of Chapter 8 of the MRCA (because of the operation of section 134 of this Act), and ***claimant*** has a corresponding meaning.

126A Death of a person who has not made a formal claim etc.

(1) If a deceased person has made a claim for a pension under Part II or IV in writing, but otherwise than in accordance with a form approved for the purposes of paragraph 14(3)(a), an authorised representative of the deceased person may make a claim for the pension in accordance with such a form.

(2) If a deceased person has made a claim for a pension under Part III or IIIA in writing, but otherwise than in accordance with the form approved for the purpose under paragraph 35D(b), 36F(b), 37F(b), 38F(b), 39F(b) or 45K(b) (as the case requires), an authorised representative of the deceased person may make a claim for the pension in accordance with that form.

(3) If a deceased person has made an application of a kind referred to in subsection 15(1) or (2) in writing, but otherwise than in accordance with a form approved for the purposes of paragraph 15(3)(a), an authorised representative of the deceased person may make an application of that kind in accordance with such a form.

(4) A person who, pursuant to subsection (1), (2) or (3), makes a claim for a pension under Part II, III, IIIA or IV, or an application of a kind referred to in subsection 15(1) or (2):

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(a) take such action in relation to the claim or application as the deceased person could have taken if he or she had made the claim or application and had not died; and

(b) the purposes of taking such action, shall be treated as if he or she were the deceased person.

(5) The Commission may authorise a person to take action under this section in relation to a deceased person if:

(a) there is no legal personal representative of the deceased person; or

(b) the Commission is satisfied that:

(i) person has notified the legal personal representative of the deceased person that the legal personal representative has, or may have, a right under this section to make a claim or application; and

(ii) legal personal representative has refused, or failed within a reasonable time after having been so notified, to make the claim or application.

(6) In this section:

authorised representative, in relation to a deceased person, means:

(a) the legal personal representative of the deceased person; or

(b) a person authorised by the Commission in accordance with subsection (5) to take action under this section in relation to the deceased person.

127 Power to obtain information

(1) The Secretary may serve on:

(a) a person to whom a pension, allowance or other benefit under this Act is being paid, including a person to whom the whole or a part of such a pension, allowance or benefit is being paid for the purpose of being applied for the benefit of the pensioner;

(b) a person whose claim or application for a pension, attendant allowance, recreation transport allowance or essential medical equipment payment under this Act is under

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consideration by the Commission, the Board or the Administrative Review Tribunal;

(c) a person who is being provided with treatment under Part V; or

(d) a person whose application to be provided with treatment under Part V is under consideration by the Commission;

a notice, in writing:

(e) if:

(i) an event or change of circumstances specified in the notice occurs; or

(ii) the person becomes aware that an event or change of circumstances so specified is likely to occur;

requiring the person to notify the Department, or an officer specified in the notice, of the occurrence or likely occurrence of that event or change of circumstances:

(iii) subject to subsection (2A)—in the manner specified in the notice; and

(iv) within such period after the occurrence of that event or change of circumstances, or after the person becomes so aware, as the case may be, as is specified in the notice; or

(f) requiring the person to give to the Department, or to an officer specified in the notice, a statement, in accordance with a form approved by the Commission:

(i) subject to subsection (2A)—in the manner specified in the notice; and

(ii) within the period specified in the notice;

relating to any matter specified in the notice that might affect the payment to that person of the pension, allowance or other pecuniary benefit under this Act, or the provision of treatment under Part V.

(2) An event or change of circumstances shall not be specified in a notice referred to in paragraph (1)(e) unless the occurrence of that event or change of circumstances might affect the payment of a

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pension, allowance or other pecuniary benefit under this Act or the provision of treatment under Part V.

(2A) A document lodged as a consequence of a notice under subsection (1) that either:

(a) requires a person to inform the Department in writing of the occurrence or likely occurrence of an event or change of circumstances specified in the notice; or

(b) requires the person to give the Department a statement relating to a matter referred to in paragraph (1)(f) that is specified in the notice;

is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been lodged on a day determined under that section.

(3) The period for compliance specified in a notice in accordance with subsection (1) shall not be less than 14 days.

(3A) A notice under subsection (1) may specify an event or change of circumstances by referring to an event or change of circumstance set out in a document referred to in the notice (being a document a copy of which is served on the person with the notice) and, if the notice does so, the event or change of circumstances shall be deemed, for the purposes of this section, to be specified in the notice.

(3B) Where a notice under subsection (1) specifies an event or change of circumstances by referring to an event or change of circumstances set out in a document, it may specify the period within which notification of the occurrence, or likely occurrence, of the event or change of circumstances is to be furnished to the Department by reference to the period set out in that document in respect of that event or change of circumstances and, if the notice does so, the period shall be deemed, for the purposes of this section, to be specified in the notice.

(4) A person who has been given a notice under subsection (1) must not fail to comply with the notice.

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Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(5) An offence under subsection (4) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(6) Subsection (4) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (6). See subsection 13.3(3) of the *Criminal Code*.

128 Secretary may obtain information etc.

(1) The Secretary may, for the purposes of this Act, by notice in writing given to a person (including a person employed in or in connection with a Department of the Government of the Commonwealth, of a State or of a Territory or by any authority of the Commonwealth or of a State or Territory), require the person:

(a) to:

(i) provide the Department, or an officer specified in the notice, with such information as the Secretary requires; or

(ii) produce to the Department, or to an officer so specified, any documents in the custody or under the control of the person;

within the period (not being less than 14 days after the notice is given) and in the manner specified in the notice; or

(b) to appear before an officer specified in the notice at such reasonable time (not being a time earlier than 14 days after the notice is given) and place as are specified in the notice to answer questions.

(2) Without limiting the generality of subsection (1), the Secretary may:

(a) by notice in writing given to a person who is indebted to the Commonwealth under or as a result of this Act, require the person:

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(i) to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning the person's financial situation as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents concerning that situation as are so specified; and

(ii) if the person's address changes, to notify the Department or an officer so specified, within 14 days of the change, of the new address; or

(b) by notice in writing given to a person who the Secretary believes may have information concerning the whereabouts of a person who is indebted to the Commonwealth under or as a result of this Act or the financial situation of such a person, require the person to provide the Department, or an officer specified in the notice, within the period specified in the notice (not being less than 14 days after the notice is given), with such information concerning those matters as is required by the notice or to produce to the Department, or to an officer so specified, within that period, such documents concerning those matters as are specified in the notice.

(2AA) A document lodged as a consequence:

(a) of a notice issued under subsection (1) requiring a person to provide the Department, in writing, with such information as the Secretary specifies in the notice; or

(b) of a notice issued under paragraph (2)(a) requiring a person to provide the Department with such written information concerning the person's financial situation as is required by that notice; or

(c) of a notice under paragraph (2)(b) requiring a person to provide the Department, in writing, with such information concerning the whereabouts or financial situation of a person indebted to the Commonwealth as is specified in the notice;

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is to be lodged at an office of the Department in Australia in accordance with section 5T and is taken to have been lodged on a day determined under that section.

(2A) The Secretary may require the information or answers to questions under this section to be verified or given, as the case may be, on oath or affirmation, and either orally or in writing, and for that purpose the Secretary or an officer to whom information or answers are verified or given may administer an oath or affirmation.

(3) The oath or affirmation to be taken by a person for the purposes of this section is an oath or affirmation that the evidence the person will give will be true.

(4) A person must not fail to comply with a notice under subsection (1).

Penalty: Imprisonment for 6 months or 10 penalty units.

(4A) An offence under subsection (4) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(4B) Subsection (4) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (4B). See subsection 13.3(3) of the *Criminal Code*.

(5) A person shall not, in purported compliance with a notice under subsection (1), intentionally furnish information or give evidence that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months or 20 penalty units, or both.

(6) This section binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory.

(7) This section does not require a person to furnish information, produce a document or give evidence to the extent that, in doing

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so, the person would contravene a law of the Commonwealth (not being a law of a Territory).

128A Provision of tax file numbers

(1) In this section:

income payment means:

(a) a pension under Part II, III, IIIA or IV; or

(b) a veteran payment; or

(c) a loss of earnings allowance under section 108; or

(d) an allowance under this Act payable to a person in receipt of a pension referred to in paragraph (a).

TFN declaration has the same meaning as in Part VA of the *Income Tax Assessment Act 1936*.

(2) An income payment, or an allowance under a scheme within the meaning of Part VII, that a person (the ***eligible person***) is eligible to receive is not to be paid to the person if the person fails to comply with the request in subsection (3) or (3A) (whichever applies).

(2A) If a person (the ***eligible person***) is eligible for a seniors health card under section 118V, the Commission must not determine that the person is entitled to the card if the person fails to comply with a request in subsection (3) or (3A) (whichever applies).

(2B) If a person (the ***eligible person***) is the holder of a seniors health card, the Commission is to determine that the person ceases to be entitled to the card if the person fails to comply with a request in subsection (3) or (3A) (whichever applies).

Note 1: For ***holder of a seniors health card*** see section 5PB.

Note 2: For the date of effect of a determination under this subsection see section 118ZR.

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(3) If an eligible person is in Australia, the Secretary may request but not compel the person:

(a) if the person has a tax file number—to give the Secretary a written statement of the person's tax file number; or

(b) if the person does not have a tax file number:

(i) to apply to the Commissioner of Taxation for a tax file number; and

(ii) to give the Secretary a written statement of the person's tax file number after the Commissioner of Taxation has issued it.

(3A) If an eligible person has a partner or non-illness separated spouse and the partner or spouse is in Australia, the Secretary may request but not compel the person:

(a) if the partner or spouse has a tax file number—to give the Secretary a written statement of the partner's or spouse's tax file number; or

(b) if the partner or spouse does not have a tax file number—to give the Secretary a written statement of the partner's or spouse's tax file number after the Commissioner of Taxation has issued it.

(3B) If:

(a) a person's income payment ceases to be paid because the person fails to comply with subsection (3) or (3A) by a particular day; and

(b) subsection (3) or (3A) is satisfied in relation to the person's tax file number within the 3 month period that starts on that day;

then the income payment that would have been paid to the person during that period if the person had complied with the request in subsection (3) or (3A) is to be paid to the person.

(3C) If subsection (3) or (3A) is satisfied in relation to the person's tax file number after the 3 month period has ended the person's income payment is to be paid from the day on which subsection (3) or (3A) is satisfied.

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(4) The request in subsection (3) or (3A) (whichever applies) in relation to a person's tax file number is satisfied if:

(a) the Secretary is given:

(i) where the person is the eligible person and the pension, veteran payment or allowance is assessable income for the purposes of the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*—a TFN declaration by the person; or

(ii) in any other case—a declaration by the person in a form approved by the Secretary; and

(b) the declaration states either:

(i) that the person has a tax file number but does not know what it is and has asked the Commissioner of Taxation to inform him or her of the number; or

(ii) that the person has applied for a tax file number; and

(c) where subparagraph (b)(i) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) whether the person has a tax file number; and

(ii) if so—the tax file number; and

(d) where subparagraph (b)(ii) applies—the person has given the Secretary a document authorising the Commissioner of Taxation to tell the Secretary:

(i) if a tax file number is issued to the person—the tax file number; or

(ii) if the application is refused—that the application has been refused; or

(iii) if the application is withdrawn—that the application has been withdrawn; and

(e) the Commissioner of Taxation has not told the Secretary that the person has no tax file number or that an application by the person for a tax file number has been refused; and

(f) if subparagraph (b)(ii) applies—the Commissioner of Taxation has not told the Secretary that:

(i) the application for a tax file number has been withdrawn; or

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(ii) the person has not applied for a tax file number.

(5) The Secretary may waive the requirement for a statement of the tax file number of the person's partner or non-illness separated spouse if satisfied that the person:

(a) does not know that number; and

(b) can obtain none of the following from the partner or non-illness separated spouse:

(i) that number;

(ii) a statement of that number;

(iii) a declaration by the partner or non-illness separated spouse under paragraph (4)(a).

129 Self-incrimination

A person is not excused from furnishing information, producing a document or giving evidence in pursuance of a notice under section 128 on the ground that the information or evidence, or the production of the document, may tend to incriminate the person, but any information furnished, evidence given or document produced in pursuance of a notice under section 128 is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection 128(4) or (5).

129A Manner of giving notice or other document

(1) If:

(a) a provision of this Act requires or permits a notice or other document to be given to a person by:

(i) the Secretary, the Department, an officer of the Department or the Commission; or

(iii) the Repatriation Medical Authority; or

(iv) the Review Council; and

(b) the provision does not specify how the notice or other document is to be given;

then the notice or other document must be given:

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(c) in accordance with section 28A of the *Acts Interpretation Act 1901*; or

(d) in a manner approved in writing by:

(i) in relation to subparagraph (a)(i)—the Commission; or

(iii) in relation to subparagraph (a)(iii)—the Chairperson of the Repatriation Medical Authority; or

(iv) in relation to subparagraph (a)(iv)—the Convener of the Review Council.

(2) This section does not limit the *Electronic Transactions Act 1999*.

130 Furnishing of information

(1) Nothing in a law of a State or of a Territory shall operate so as to prevent a person from furnishing any information, producing any documents, or giving any evidence to an officer for the purposes of this Act.

(2) The Secretary or another officer of the Department may provide any information obtained in the performance of his or her duties under this Act (whether before or after the commencement of this subsection) to the Secretary of another Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority.

(2A) If:

(a) an eligible person is entitled to treatment under Part V of this Act; and

(b) the treatment is provided to the eligible person through an arrangement, including a contractual arrangement, with a body that is not a corporate Commonwealth entity or a non-corporate Commonwealth entity;

the Secretary or another officer of the Department may provide any information that relates to the provision of that treatment:

(c) to a receiving Commonwealth body; and

(d) for a purpose relating to the performance of a function, or the exercise of a power, by that body.

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(3) To avoid doubt, if information is disclosed in accordance with subsection (2) or (2A), the disclosure is taken, for the purposes of the Australian Privacy Principles, to be authorised by this Act.

131 Interpretation

In sections 127 to 130 (inclusive), unless the contrary intention appears:

corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

eligible person means a person eligible under section 85, 86, 88A or 88B to be provided with treatment.

non-corporate Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

officer means a person performing duties, or exercising powers or functions, under, or in relation to, this Act.

person includes an unincorporated body.

receiving Commonwealth body means any of the following:

(a) the Aged Care Quality and Safety Commission;
(b) the Commission;
(c) the Military Rehabilitation and Compensation Commission;
(d) the National Disability Insurance Scheme Launch Transition Agency;
(e) the NDIS Quality and Safeguards Commission;
(f) the Department administered by the Minister administering the *Aged Care Act 2024*;
(g) the Department administered by the Minister administering the *Disability Services and Inclusion Act 2023*;
(h) if:
    (i) another Department of State, or another authority, of the Commonwealth has regulatory, compliance or enforcement functions in relation to the provision of

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care, support, treatment or other related services or assistance (including care, support, treatment or other related services or assistance provided through an arrangement, including a contractual arrangement); and

(ii) the Department or authority is prescribed in the regulations;

that Department or authority.

132 Payment of travelling expenses in certain cases

(1) Subject to such conditions as are prescribed, where:

(a) a claimant; or

(aa) a person whose eligibility for a veteran payment is being considered; or

(b) a person likely to be affected by a reconsideration under section 31;

travels:

(c) within Australia, for the purpose of attending, at the request of the Commission or a delegate of the Commission, before the Commission or such a delegate for a discussion in relation to the claim, consideration or reconsideration; or

(d) within or outside Australia, for the purpose of attending, at the request of the Secretary or the Commission, for a medical examination or medical investigation related to the claim, consideration or reconsideration;

he or she is entitled to receive such travelling expenses in connection with that travel as are prescribed.

(2) Subject to such conditions as are prescribed, an attendant who travels in Australia for the purpose of accompanying a claimant, a person whose eligibility for a veteran payment is being considered or a person likely to be affected by a reconsideration under section 31 to a discussion, or for a medical examination or a medical investigation referred to in subsection (1) of this section, is entitled to be paid such travelling expenses in connection with that travel as are prescribed.

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(3) Subject to such conditions as are prescribed, a person summoned under section 32 or 57F to give evidence or produce documents, or both, is entitled to receive such travelling expenses in connection with his or her travel to give that evidence or produce those documents, or both, as are prescribed.

(4) Subject to such conditions as are prescribed, an attendant who travels in Australia for the purpose of accompanying a person referred to in subsection (3) when that person gives evidence or produces documents, or both, in pursuance of a summons under section 32 or 57F is entitled to be paid such travelling expenses in connection with that travel as are prescribed.

(7) Subject to such conditions as are prescribed, where:

(a) the party (not being the Commission) to proceedings for a review of a reviewable decision who made application for the review under section 175; or

(b) if the Commission made application for the review—the other party to the proceedings for the review whose interests are affected by the reviewable decision;

travels within Australia for the purpose of attending before the Administrative Review Tribunal in connection with the review, the party is entitled to receive such travelling expenses in connection with that travel as are prescribed.

(8) Subject to such conditions as are prescribed, an attendant who travels within Australia for the purpose of accompanying a party referred to in subsection (7) on an attendance before the Administrative Review Tribunal referred to in that subsection is entitled to be paid such travelling expenses in connection with that travel as are prescribed.

(9) If:

(a) a claim for a pension:

(i) is made on behalf of the claimant by a person who is a dependant of the claimant or who is approved under paragraph 16(b), (c) or (d) to make the claim on behalf of the claimant; or

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(ii) is prosecuted by a person who is the legal personal representative of the claimant, or by a person approved under section 126, following the death of the claimant; and

(b) that person travels within Australia with the approval of the Commission for the purpose of an investigation, by the Department or the Commission, of the claim;

the person is, subject to such conditions as are prescribed, entitled to be paid such travelling expenses in connection with that travel as are prescribed.

(10) Travelling expenses to which a person is entitled to under this section are payable by the Commonwealth.

(11) Where a person who has travelled in Australia is entitled to be paid travelling expenses under this section in connection with that travel, application for payment of travelling expenses in respect of that travel:

(a) may be made:

(i) by that person; or

(ii) with the approval of that person or, if that person is, by reason of physical or mental ailment or of that person's death, unable to approve a person to make the application on his or her behalf, with the approval of the Commission, by another person on behalf of that person;

(b) shall be made in writing and in accordance with a form approved by the Commission;

(c) shall be accompanied by such evidence available to the applicant as the applicant considers may be relevant to the application;

(d) is to be lodged in accordance with subsection (11A); and

(e) must be made within:

(i) 12 months after the completion of that travel; or

(ii) if the Commission thinks that there are exceptional circumstances that justify extending that period—such further period as the Commission allows.

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(11A) An application must be lodged at an office of the Department in Australia in accordance with section 5T.

(11C) If an application is lodged with an office of the Department in Australia in accordance with section 5T, it is taken to have been made on a day determined under that section.

(12) In this section ***claim*** means a claim in accordance with section 14, 35B, 36D, 37D, 38D or 45I, an application in accordance with section 15 and an application for a review under Division 16 of Part IIIB, section 115 and ***claimant*** has a corresponding meaning.

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Part IX—Review of decisions by Board

133 Interpretation

In this Part, unless the contrary intention appears:

decision means:

(a) any decision of the Commission in respect of the following claims or applications (including a decision under section 20 or 21 but not a decision under subsection 19A(1)):

(i) a claim for a pension under section 14;

(ii) an application for a pension, or for an increased pension, under section 15;

(iii) an application for attendant allowance under section 98; or

(b) a determination made by the Commission under subsection 347(3) of the MRCA because of the operation of subsection 31(2) of this Act.

pension means pension under Part II or IV.

veteran means:

(a) a veteran as defined by subsection 5(1); or

(b) a member of the Forces or a member of a Peacekeeping Force, as defined by subsection 68(1).

134 Review of decisions by the Board

(1) Subject to this Part, Part 4 of Chapter 8 of the MRCA applies in relation to a decision as if:

(a) the decision were an original determination; and

(b) a person in respect of whom the decision was made were the claimant; and

(c) a reference in that Part to the Commission were a reference to the Repatriation Commission; and

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(d) a reference in that Part to subsection 323(2) were a reference to section 5T of this Act; and

(e) paragraph 353Q(3)(a) of that Part referred to a claim for a pension made by a person mentioned in paragraph 132(9)(a) of this Act.

Note: This means that a decision may be reviewed by the Board under Part 4 of Chapter 8 of the MRCA.

(2) Subject to Part X of this Act, if the Board reviews a decision (the ***VEA decision***) under Part 4 of Chapter 8 of the MRCA, Part 5 of that Chapter applies in relation to the determination made by the Board on review as if:

(a) the Board's determination on review were a reviewable determination; and

(b) a person in respect of whom the VEA decision was made were the claimant; and

(c) a reference in that Part to the Commission were a reference to the Repatriation Commission.

Note: This means that the Board's determination on review of a VEA decision may be reviewed by the Administrative Review Tribunal under Part 5 of Chapter 8 of the MRCA.

135 Application for review—timing requirements

(5) An application under Part 4 of Chapter 8 of the MRCA to the Board to review a decision of the Commission:

(a) assessing a rate of pension or increased rate of pension;

(b) refusing to grant a pension on the ground that the extent of the incapacity of the veteran is insufficient to justify the grant of a pension;

(c) refusing to increase the rate of a pension;

(d) reducing the rate of a pension; or

(e) cancelling or suspending a pension, or fixing the date of re-commencement of a pension that has been suspended;

may be made within 3 months after service on the person to whom the decision relates of a copy of that decision in accordance with subsection 34(2), but not otherwise.

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(5A) An application by a person under Part 4 of Chapter 8 of the MRCA to the Board to review a decision of the Commission, whether the decision was made before or is made after the commencement of this subsection, refusing to grant an application for attendant allowance under section 98 may be made within a period of 3 months after service on the person of notice of the decision or within a period of 3 months after the commencement of this subsection, whichever last expires, but not otherwise.

136 Application for review—who may make an application

(2) An application for review under Part 4 of Chapter 8 of the MRCA relating to a pension granted to, or claimed for, a veteran, or a dependant of a deceased veteran, may be made:

(a) by the veteran or dependant, as the case may be;

(b) with the approval of the veteran or dependant, as the case may be, by another person on behalf of the veteran or dependant;

(c) in the case of a veteran or dependant, as the case may be, who is unable, by reason of physical or mental incapacity, to approve a person to make an application on his or her behalf—on behalf of the veteran or dependant, by a person approved by the Commission; or

(d) in the case of a dependant who is under the age of 18 years, on behalf of the dependant:

(i) by a parent or guardian of the dependant;

(ii) by another person approved by a parent or guardian of the dependant; or

(iii) if there is not a parent or guardian of the dependant alive or willing and able to make, or approve a person to make, such an application on behalf of the dependant—by another person, being a person approved by the Commission.

(3) Subsection (2) does not limit the application of section 126 in relation to applications for review under Part 4 of Chapter 8 of the MRCA.

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137 Variation of pension assessment pending completion of review

If:

(a) a request has been made under subsection 352J(8) of the MRCA (requests by Principal Member) in relation to a review; and

(b) under subsection 352J(9) of that Act, the Board adjourns a hearing of the review; and

(c) the review is of a decision with respect to a pension assessment;

the Board may vary the pension assessment pending the completion of the review, having regard to the records and evidence on which the Commission reached that decision.

154 Period of operation of certain decisions of Board

(1) A decision of the Board on a review of a decision of the Commission of a kind referred to in paragraph 135(5)(a), (b), (c) or (d) shall, unless reviewed by the Administrative Review Tribunal and, subject to subsection (2) of this section, be binding upon the applicant and the Commission for a period of 6 months commencing on the day on which the Board makes that decision.

(2) If, during the period referred to in subsection (1), the applicant is of the opinion that his or her incapacity has increased, subsection (1) does not prevent:

(a) the applicant from making application under subsection 15(1) or (2) for an increased pension or for a pension; or

(b) the grant of an increased pension, or a pension, from a date within that period, by the Commission upon its consideration of such an application or by the Board upon review of the decision of the Commission on such an application.

156 Date of operation of decision by Board

(1) Except where:

(a) the Board affirms the decision under review; or

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(b) the Board sets aside the decision under review and makes a decision in substitution for the decision set aside that has the effect only of revoking a decision of the Commission to cancel or suspend a pension;

the Board shall specify in its decision on a review the date from which its decision is to operate, being a date fixed in accordance with section 157.

(2) Where the Board sets aside the decision under review and makes, in substitution for the decision set aside, a decision that has the effect only of revoking a decision of the Commission to cancel or suspend a pension, the decision to cancel or suspend the pension shall be deemed never to have had any force or effect.

157 Dates that may be specified

(1) In this section:

Board's decision, in relation to a review by the Board of a Commission's decision, means the decision of the Board, upon its review of the Commission's decision, setting aside the Commission's decision and substituting another decision for it or varying the Commission's decision, but does not include a decision of the Board affirming the Commission's decision.

Commission's decision, in relation to a review by the Board, means a decision of the Commission that has been reviewed by the Board.

substituted decision means a decision made by the Board in substitution for a decision of the Commission that has been set aside by the Board upon its review of that decision of the Commission.

varied decision means a decision of the Commission as varied by a decision of the Board upon its review of that decision of the Commission.

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(2) Where the Board, upon its review of a decision of the Commission, sets aside that decision and substitutes another decision for it, or varies that decision:

(a) if the effect of the substituted decision, or the varied decision, as the case may be, is to grant a pension or attendant allowance to a person, the Board may fix, as the date from which the Board's decision is to operate:

(i) if the person made application for the review within 3 months after service on the person of a copy of the Commission's decision—a date not earlier than the earliest date as from which the Commission could, if it had not refused to grant a pension or attendant allowance, as the case may be, to the person, have approved payment of a pension or of attendant allowance to the person; or

(ii) in any other case—a date not more than 6 months before the date on which the person's application for review of the Commission's decision was received by the Board;

(b) if the substituted decision, or the varied decision, as the case may be, is a decision of a kind specified in subsection (3)—the Board must remit the matter to the Commission to fix the date from which the Board's decision is to operate, being the date of the first available pension pay-day occurring after the date on which a copy of the Board's decision is given to the Commission under section 353B of the MRCA;

(c) if the substituted decision, or the varied decision, as the case may be, has the effect of altering the description or nature of the war-caused injury or war-caused disease from which a veteran is suffering, or the description or nature of the defence-caused injury or defence-caused disease from which a member of the Forces or a member of a Peacekeeping Force is suffering—the Board may fix, as the date as from which that alteration is to operate, such date, being the date on which its decision is made or an earlier or later date, as it determines is fair and reasonable in all the circumstances; or

(d) in any other case—the Board may fix, as the date as from which the Board's decision is to operate, a date not earlier

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than the earliest date that the substituted decision, or varied decision, could have operated if it had been made by the Commission in place of the Commission's decision.

(3) The kinds of decisions specified in this subsection are:

(a) a substituted decision or a varied decision that has the effect of reducing the rate at which a pension is to be paid (not being a pension that is suspended);

(b) a substituted decision that has the effect of suspending a pension (not being a pension that has been cancelled or is suspended); and

(c) a substituted decision that has the effect of cancelling a pension (not being a pension that is suspended).

(4) Where a Board's decision that sets aside a Commission's decision and substitutes another decision for it, or that varies a Commission's decision, is to operate as from a particular date, the substituted decision or the varied decision, as the case may be, shall operate as from the same date.

(4A) If the Board, upon its review of a decision of the Commission, sets aside that decision and subparagraph 353A(4)(c)(iii) of the MRCA applies, the decision to set aside the Commission's decision takes effect on the day the Board made its decision or an earlier or later date, as the Board determines is fair and reasonable in all the circumstances.

(5) In this section, a reference to the cancellation of a pension shall be read as including a reference to the cancellation of a pension for the reason that the degree of incapacity of the veteran from war-caused injury or war-caused disease, or both, or the degree of incapacity of the member of the Forces or of the member of a Peacekeeping Force, from defence-caused injury or defence-caused disease, or both, is less than 10 per centum (including nought per centum).

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Part X—Review of decisions by Administrative Review Tribunal

174 Interpretation

(1) In this Part, unless the contrary intention appears, ***reviewable decision*** means a decision in respect of which application may be made to the Administrative Review Tribunal under section 175.

Note: See subsection 134(2) for decisions of the Board that are reviewable by the Administrative Review Tribunal.

(2) In this Part:

veteran includes:

(a) a Commonwealth veteran; and

(b) an allied veteran; and

(c) an Australian mariner; and

(d) an allied mariner; and

(e) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1).

175 Applications for review

(1A) If the Commission under section 13AG makes a decision that a verification determination should not be made in respect of a person, the person may apply to the Administrative Review Tribunal for a review of the decision.

(2) Where the Commission, under section 57B, affirms a decision of the Commission referred to in section 57 or sets it aside and substitutes another decision for it, a person may apply to the Administrative Review Tribunal for a review of the decision so affirmed or substituted.

(2A) If the Commission, under section 64C, affirms a decision of the Commission referred to in that section or sets it aside and

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substitutes another decision, a person may apply to the Administrative Review Tribunal for review of the decision so affirmed or substituted.

(2B) If the Commission under section 79U:

(a) affirms a decision of the Commission referred to in subsection 79T(1); or

(b) sets it aside and substitutes another decision for it;

a person may apply to the Administrative Review Tribunal for a review of the decision so affirmed or substituted.

(2C) If the Commission, under section 93ZB, affirms a decision of the Commission referred to in section 93Z or sets it aside and substitutes another decision, a person may apply to the Administrative Review Tribunal for a review of the decision so affirmed or substituted.

(2D) If the Commission, under section 118ZU, affirms a decision of the Commission referred to in section 118ZS or sets it aside and substitutes another decision for it, a person may apply to the Administrative Review Tribunal for a review of the decision so affirmed or substituted.

(2E) A person's right to apply to the Administrative Review Tribunal under any of subsections (1A) to (2D) is subject to section 34 of the *Administrative Review Tribunal Act 2024*.

Note: Section 34 of the *Administrative Review Tribunal Act 2024* deals with how to apply for review.

(4) Where the Commission, under section 115, affirms a decision of the Commission in respect of an application for an allowance, payment or benefit referred to in subsection 115(1), or sets aside such a decision and substitutes another decision for it, then, subject to section 34 of the *Administrative Review Tribunal Act 2024*, application may be made to the Administrative Review Tribunal for a review:

(a) of the decision so affirmed; or

(b) of the decision made by the Commission under section 115 in substitution for the decision so set aside.

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(5) If the Commission, under subsection 116D(2):

(a) affirms a decision of the Commission under subsection 116C(1) or 116CC(1); or

(b) sets aside such a decision and substitutes another decision for it;

then, subject to section 34 of the *Administrative Review Tribunal Act 2024*, application may be made to the Administrative Review Tribunal for a review:

(c) of the decision so affirmed; or

(d) of the decision made by the Commission in substitution for the decision so set aside.

176 Application of Administrative Review Tribunal Act

(3) Section 268 of the *Administrative Review Tribunal Act 2024* does not apply to or in relation to a person whose interests are affected by a reviewable decision if:

(a) the decision is of a kind referred to in subsection 175(2), (2A), (2D) or (4); and

(b) the person has been served with a copy of that decision, and with the statement related to that decision, in accordance with section 57E, 64F, 118ZX or 140 of this Act, whichever was applicable.

(4) Despite section 18 of the *Administrative Review Tribunal Act 2024*, an application to the Administrative Review Tribunal for review of a decision must be made within the period of 3 months after the applicant is given a document setting out the terms of the decision.

(4A) Despite section 19 of the *Administrative Review Tribunal Act 2024*, the Administrative Review Tribunal must not extend the period during which an application may be made beyond the period of 12 months after the day on which the document setting out the terms of the decision was given to the applicant.

(5) Despite subsection 22(1) of the *Administrative Review Tribunal Act 2024*, the parties to a proceeding before the Administrative Review Tribunal for a review of a reviewable decision are:

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(a) if the person who has applied for a review of the decision is a person other than the Commission:
(i) the person who has so applied; and
(ii) the Commission; or
(b) in any other case:
(i) the Commission; and
(ii) the veteran, or dependant of a deceased veteran, affected by that decision.

(8) Despite section 105 of the *Administrative Review Tribunal Act 2024*, where the Administrative Review Tribunal sets aside a decision:
(a) to cancel or suspend a pension under section 56E; or
(b) to reduce the rate of a pension under section 56D; or
(c) to increase the rate of a pension under section 56C;
and the decision was one that was:
(d) affirmed by the Commission under section 57B; or
(e) made by the Commission in substitution for a decision set aside under section 57B;
the Tribunal need not make another decision in substitution for the decision set aside by it.

(9) Despite section 105 of the *Administrative Review Tribunal Act 2024*, where the Administrative Review Tribunal:
(a) sets aside a decision that a person ceases to be entitled to a seniors health card; and
(b) the decision was one that was:
(i) affirmed by the Commission under section 118ZU; or
(ii) made by the Commission in substitution for a decision set aside under that section;
the Tribunal need not make another decision in substitution for the decision set aside by it.

(10) Despite section 123 of the *Administrative Review Tribunal Act 2024*, an application cannot be made under that section to refer a decision of the Tribunal in relation to an application for review of a

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reviewable decision by the Board under Division 3 of Part IX of this Act.

177 Effective dates of certain determinations relating to payment of pension or seniors health card

(1) This section is in addition to, and not in substitution for, section 108 of the *Administrative Review Tribunal Act 2024* in its application to proceedings for a review by the Administrative Review Tribunal of a reviewable decision.

(2) Where the Administrative Review Tribunal, upon application for a review of a decision of the Commission that has been affirmed or varied by a decision of the Board or a decision of the Board made in substitution for a decision of the Commission, grants a pension (not being a service pension or income support supplement) or attendant allowance, or increases the rate at which a pension (not being a service pension or income support supplement) is to be paid, the Tribunal may approve payment of the pension or of attendant allowance, or payment of the pension at the increased rate, as the case may be:

(a) if the application is made within 3 months after service on the applicant of a document setting out the terms of that decision of the Board—from a date not earlier than the earliest date as from which the Board could, if it had granted a pension or attendant allowance or increased the rate of the pension, have approved payment of the pension or attendant allowance, or payment of the pension at an increased rate, as the case may be; or

(b) in any other case:

(i) if the review relates to a claim in accordance with section 14—from a date not more than 6 months before the date on which the application for review by the Tribunal was made; or

(ii) if the review relates to an application in accordance with section 15, or to an application for attendant allowance—from the date on which the application for review by the Tribunal was made.

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(3) Where the Administrative Review Tribunal, on a review of a decision of a kind described in subsection 176(8) or (9), varies or sets aside that decision, the Administrative Review Tribunal may fix, as the date as from which its decision (including any decision made by it in substitution for the decision set aside) is to operate, a date, being:

(a) if application for the review was made within 3 months after service on the applicant of a copy of the decision of the Board or the Commission, as the case may be—a date not earlier than the date as from which the decision under review was to operate; or

(b) in any other case—a date not earlier than the date on which the application was made to the Administrative Review Tribunal.

(4) Where the Administrative Review Tribunal fixes, as the date from which its decision to set aside a decision of the Commission, or of the Board, to cancel a pension is to have operated, a date (in this subsection referred to as the ***later date***) after the date (in this subsection referred to as the ***earlier date***) on which that pension was to be cancelled, that decision to cancel that pension shall, by force of this subsection, have effect, and be deemed to have had effect, as if it had not cancelled that pension but had suspended it from that earlier date until that later date.

(5) Where the Administrative Review Tribunal, upon application made under subsection 175(2) for a review of a decision of the Commission under section 57B, grants a pension or increases the rate at which a pension is to be paid, the Tribunal may approve payment of the pension, or payment of the pension at the increased rate, as the case may be:

(a) if the application is made within 3 months after the service on the applicant of a document setting out the terms of that decision of the Commission made under section 57B—from a date not earlier than the earliest date as from which the Commission could, if it had, on its review under section 57B, granted a pension or increased the rate of the pension, have

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approved payment of the pension, or payment of the pension at the increased rate, as the case may be; or

(b) in any other case—from the date on which the application under subsection 175(2) was made.

(5A) Subject to subsections (5B) and (5C), if the Administrative Review Tribunal, upon application made under subsection 175(2D) for a review of a decision of the Commission under section 118ZU, determines that a person is entitled to a seniors health card, the determination takes effect from a date specified by the Tribunal.

(5B) If the application to the Administrative Review Tribunal is made within 3 months after the service on the applicant of a document setting out the terms of the decision of the Commission made under section 118ZU, the date specified by the Tribunal must not be earlier than the date from which, had the Commission determined that the person is entitled to a seniors health card, such a determination could have taken effect.

(5C) If subsection (5B) does not apply to a person, the date specified by the Administrative Review Tribunal must not be earlier than the date on which the application under subsection 175(2D) was made.

(6) Where the Administrative Review Tribunal, upon application under subsection 175(4) for a review of a decision made by the Commission with respect to an application for an allowance under section 97, 102, 103 or 104, grants the allowance referred to in that section, or increases the rate at which the allowance so referred to is to be paid, the Tribunal may approve payment of the allowance, or of the allowance at the increased rate, as the case may be:

(a) if the application was made within 3 months after service on the applicant of a document setting out the terms of that decision—from a date not earlier than the earliest date as from which the Commission could, if it had not made that decision, have approved payment of the allowance, or payment of the allowance at the increased rate, as the case may be; or

(b) in any other case—from the date on which the application under subsection 175(4) was made.

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178 Period of operation of certain decisions of Administrative Review Tribunal

(1) Where, on a review of a decision, the decision of the Administrative Review Tribunal expressly, or in effect:

(a) assesses a rate of pension or increased rate of pension;

(b) refuses to grant a pension, on the ground that the extent of the incapacity of the veteran was insufficient to justify the grant of such a pension;

(c) refuses to increase the rate of a pension; or

(d) reduces the rate of a pension;

that decision of the Administrative Review Tribunal shall, subject to subsection (2), be binding on the parties to the proceedings before that Tribunal for a period of 6 months commencing on the day on which that Tribunal makes the decision.

(2) If, during the period referred to in subsection (1), the person to whom the pension is payable, or who was refused a pension, is of the opinion that his or her incapacity has increased, subsection (1) does not prevent:

(a) the person from making application for an increased pension or for a pension; or

(b) the grant of increased pension or of a pension, from a date within that period, by the Commission upon its consideration of such an application or by the Board on a review of the decision of the Commission on such an application.

(3) In this section, ***pension*** does not include service pension or income support supplement.

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Part XI—The Repatriation Commission

Division 1—Establishment, functions and powers

179 Continuance of Commission

(1) The body corporate that was, immediately before the commencement of this Act, in existence, by virtue of section 7 of the *Repatriation Act 1920*, under the name Repatriation Commission continues in existence, by force of this subsection, under and subject to the provisions of this Act.

(2) The Commission:
  (a) is a body corporate with perpetual succession;
  (b) shall have a seal; and
  (c) may sue and be sued.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Commission appearing on a document and shall presume that the document was duly sealed.

(4) Debts incurred by the Commission in the performance of its functions shall, for all purposes, be deemed debts incurred by the Commonwealth.

179A Application of the *Public Governance, Performance and Accountability Act 2013* to the Commission

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of ***Department of State*** in section 8 of that Act, the Commission is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the commissioners are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

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180 Functions of Commission

(1) The functions of the Commission are:

(a) to grant pensions, allowances and other benefits to veterans, dependants of veterans and certain other persons under and in accordance with the provisions of this Act;

(b) to establish, operate and maintain hospitals and other institutions for the provision of treatment for veterans, dependants of veterans and other persons eligible to be provided with treatment under Part V;

(c) to arrange for the provision of treatment and other services for veterans, dependants of veterans and other persons in accordance with this Act;

(d) to provide the Minister with information concerning, and to advise the Minister on, matters relating to the operation of this Act, including, but without limiting the generality of the foregoing, matters relating to pensions, allowances and other benefits for veterans, and dependants of veterans, incapacitated from injury or disease suffered as a result of service in a war or in war-like operations and for dependants of veterans whose deaths are attributable to any such service; and

(e) such other functions as are conferred on the Commission by this or any other Act.

(2) The Commission shall, subject to the control of the Minister, have the general administration of this Act.

180A Determination by Commission

(1) If:

(a) the Repatriation Medical Authority has determined, or has declared that it does not propose to make or amend, a Statement of Principles in respect of a particular kind of injury, disease or death (see section 196B); and

(b) the Commission is of the opinion that, because the Statement of Principles is in force, or because of the decision by the Authority not to make or amend the Statement of Principles:

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(i) claims for pensions in respect of incapacity from injury or disease of that kind made by veterans, members of the Forces, or members of a Peacekeeping Force, of a particular class; or

(ii) claims for pensions made by dependants of those veterans or members in respect of the death of such a veteran or member;

cannot succeed; and

(c) the Commission is also of the opinion that, in all the circumstances of the case, those veterans, members or their dependants should receive a pension;

the Commission may, in its discretion, make a determination in respect of that kind of injury, disease or death under subsection (2) or (3), or determinations under both subsections (as the case requires).

Note: For ***member of the Forces*** and ***member of a Peacekeeping Force*** see subsection 5Q(1A).

(2) A determination under this subsection in respect of a particular kind of injury, disease or death must be by legislative instrument and must:

(a) state that it has effect only in relation to the class of veterans, members of the Forces, or members of a Peacekeeping Force referred to in subparagraph (1)(b)(i); and

(b) state that it applies only in respect of claims relating to:

(i) operational service rendered by a veteran; or

(ii) peacekeeping service rendered by a member of a Peacekeeping Force; or

(iii) hazardous service rendered by a member of the Forces; or

(iv) British nuclear test defence service rendered by a member of the Forces; and

(c) set out:

(i) the factors that must as a minimum exist; and

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(ii) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note 1: For ***peacekeeping service***, ***member of a Peacekeeping Force***, ***hazardous service***, ***member of the Forces*** and ***British nuclear test defence service*** see subsection 5Q(1A).

Note 2: For ***factor related to service*** see subsection (7).

(3) A determination under this subsection in respect of a particular kind of injury, disease or death must be by legislative instrument and must:

(a) state that it has effect only in relation to the class of veterans or members of the Forces referred to in subparagraph (1)(b)(i); and

(b) state that it applies only in respect of claims relating to:

(i) eligible war service (other than operational service) rendered by a veteran; or

(ii) defence service (other than hazardous service and British nuclear test defence service) rendered by a member of the Forces; and

(c) set out:

(i) the factors that must exist; and

(ii) which of those factors must be related to service rendered by a person;

before it can be said, on the balance of probabilities, that an injury, disease or death of that kind is connected with the circumstances of that service.

Note 1: For ***defence service***, ***hazardous service***, ***British nuclear test defence service*** and ***member of the Forces*** see subsection 5Q(1A).

Note 2: For ***factor related to service*** see subsection (7).

(5) While there is in force under subsection (2) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under subsection 196B(2) in respect of that kind of injury, disease or death does not apply in

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respect of any veteran, member of the Forces, member of any Peacekeeping Force or dependant in relation to whom the determination has effect.

(6) While there is in force under subsection (3) a determination in respect of a particular kind of injury, disease or death, any Statement of Principles in force under subsection 196B(3) in respect of that kind of injury, disease or death does not apply in respect of any veteran or member of the Forces or dependant in relation to whom the determination has effect.

(7) A factor causing, or contributing to, an injury, disease or death is ***related to service*** rendered by a person if:

(a) it resulted from an occurrence that happened while the person was rendering that service; or

(b) it arose out of, or was attributable to, that service; or

(c) it resulted from an accident that occurred while the person was travelling, while rendering that service but otherwise than in the course of duty, on a journey:

(i) to a place for the purpose of performing duty; or

(ii) away from a place of duty upon having ceased to perform duty; or

(d) it was contributed to in a material degree by, or was aggravated by, that service; or

(e) in the case of a factor causing, or contributing to, an injury—it resulted from an accident that would not have occurred:

(i) but for the rendering of that service by the person; or

(ii) but for changes in the person's environment consequent upon his or her having rendered that service; or

(f) in the case of a factor causing, or contributing to, a disease—it would not have occurred:

(i) but for the rendering of that service by the person; or

(ii) but for changes in the person's environment consequent upon his or her having rendered that service; or

(g) in the case of a factor causing, or contributing to, the death of a person—it was due to an accident that would not have occurred, or to a disease that would not have been contracted:

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(i) but for the rendering of that service by the person; or
(ii) but for changes in the person's environment consequent upon his or her having rendered that service.

181 Powers of Commission

(1) The Commission has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions, duties and powers.

(2) The generality of subsection (1) shall not be taken to be limited by any other provision of this Act conferring a power on the Commission.

(3) The Commission has power, for or in connection with the performance of its functions:
(a) to enter into contracts;
(b) to acquire, hold and dispose of real or personal property;
(c) to erect buildings and structures and carry out works; and
(d) to engage persons to perform services for the Commission.

(4) The Commission may engage a person under paragraph (3)(d) even if the contract under which the person is engaged provides benefits to the person that are normally provided only to persons who are engaged as employees.

(5) Where a person is engaged under paragraph (3)(d) and the contract under which the person is engaged provides benefits to the person that are normally provided only to persons who are engaged as employees, the contract shall, for the purposes of this Act and any other law of the Commonwealth be taken to be a contract for the performance of services and not a contract of employment.

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Division 2—Constitution and meetings of Commission

182 Membership of the Commission

(1) The Commission shall consist of not less than 4 and not more than 5 commissioners.

(2) The commissioners shall be appointed by the Governor-General.

(3) The Minister may, from time to time, request organizations representing veterans to submit to the Minister lists of names of persons from which the organization concerned recommends that a selection be made of persons to serve as commissioners.

(4) In making recommendations to the Governor-General about the appointment of commissioners, the Minister must ensure the following:

(a) at least one of the commissioners is a person whose name was on a list submitted in accordance with a request made under subsection (3);

(b) at least one of the commissioners is a person who the Minister is satisfied will represent families of veterans.

(5) Subject to section 184, a commissioner holds office on a full-time basis.

(7) A commissioner holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(8) A commissioner holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Governor-General by instrument in writing.

(9) The appointment of a commissioner is not invalidated, and shall not be called in question, by reason of a defect or irregularity in, or in connection with, the appointment.

(10) In this section, ***appointment*** includes re-appointment.

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183 President and Deputy President

(1) The Governor-General shall appoint one of the commissioners to be the President and another commissioner to be the Deputy President.

(2) The commissioner appointed to be the President or the Deputy President holds office as President or Deputy President until the expiration of the term of office that is current or commences at the time of his or her appointment, but ceases to be the President or Deputy President if the commissioner ceases to be a commissioner or resigns the office of President or Deputy President in accordance with subsection (3).

(3) The commissioner appointed to be the President or the Deputy President may resign the office of President or Deputy President by writing signed by the commissioner and delivered to the Governor-General.

(4) A commissioner is eligible to be re-appointed as the President or Deputy President.

184 Appointment of Secretary as a Commissioner and President

The person holding office under the *Public Service Act 1999* as Secretary of the Department may be appointed as a commissioner and as President while retaining the office of Secretary of the Department and, in that event:

(a) the person shall perform his or her duties as commissioner and President concurrently with the performance of his or her duties as Secretary; and

(b) the person shall cease to hold the offices of commissioner and President if the person ceases to hold office as Secretary; and

(c) the person shall not be paid remuneration or allowances in the capacity of commissioner and President, but, for the purpose of the payment of allowances to the person, his or her duties as Secretary shall be deemed to include his or her duties as commissioner and President; and

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(d) subject to this section, the provisions of this Act, other than the provisions of section 185, apply to and in relation to the person as commissioner and President.

185 Remuneration and allowances

(1) A commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in operation, the commissioner shall be paid such remuneration as is prescribed.

(2) A commissioner shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

186 Leave of absence

(1) A commissioner or an acting commissioner has such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2) The Minister may grant a commissioner or an acting commissioner leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

187 Resignation

A commissioner may resign office by writing signed by the commissioner and delivered to the Governor-General.

188 Termination of appointment

(1) The Governor-General may remove a commissioner from office on an address praying for his or her removal on the ground of proved misbehaviour or physical or mental incapacity being presented to the Governor-General by each House of the Parliament in the same session of the Parliament.

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(2) The Minister may suspend a commissioner from office on the ground of misbehaviour or physical or mental incapacity.

(3) Where the Minister suspends a commissioner from office, the Minister shall cause a statement of the grounds of the suspension to be laid before each House of the Parliament within 7 sitting days of that House after the suspension.

(4) If, at the expiration of 15 sitting days of a House of the Parliament after the day on which the statement has been laid before that House, an address under subsection (1) has not been presented to the Governor-General by each House of the Parliament, the suspension terminates.

(5) The suspension of a commissioner from office under this section does not affect any entitlement of the commissioner to be paid remuneration and allowances.

(6) If:

(a) a commissioner becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

(b) a commissioner engages, except with the approval of the Minister, in paid employment outside the duties of his or her office;

(c) a commissioner is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or 28 days in any 12 months; or

(d) a commissioner fails, without reasonable excuse, to comply with his or her obligations under:

(i) section 189; or

(ii) section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section;

the Governor-General shall remove that commissioner from office.

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(7) The Governor-General may, with the consent of a commissioner who is:

(a) an eligible employee for the purposes of the *Superannuation Act 1976*; or

(b) a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; or

(c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

by notice in writing, retire the commissioner on the ground of physical or mental incapacity.

(7A) The notice must specify the day on which the commissioner is to be retired.

(7B) The day specified in the notice must not be a day earlier than the day on which the Governor-General signed the notice.

(8) A commissioner shall not be suspended, removed or retired from office except as provided by this section.

(9) In spite of anything contained in this section, a commissioner who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age (within the meaning of that Act);

is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless CSC has given a certificate under section 54C of that Act.

(10) In spite of anything contained in this section, a commissioner who:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given a certificate under section 13 of that Act.

(11) In spite of anything contained in this section, a commissioner who:

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(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given an approval and certificate under section 43 of that Act.

189 Commissioner to disclose any interest in claims for pensions etc.

(1) For the purposes of this section:

(a) a claim or application for a pension that the Commission is considering or is to consider;

(b) a pension that the Commission is reviewing or is to review; and

(c) a decision in relation to:

(i) a pension; or

(ii) a claim or application for a pension;

that the Commission is reviewing or is to review;

are each a matter to which this section applies.

(2) Where a commissioner has, or acquires, any interest, pecuniary or otherwise, that could conflict with the proper performance of his or her functions in relation to a matter to which this section applies, the commissioner:

(a) shall disclose the interest to the claimant, applicant or person receiving the pension, as the case requires, and to the Minister; and

(b) except with the consent of the claimant, applicant or person receiving the pension, as the case requires, and of the Minister, shall not take part in the consideration or review of the matter by the Commission.

(3) Where the Minister becomes aware that:

(a) the Commission is considering or reviewing, or is to consider or review, a matter to which this section applies; and

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(b) a commissioner has, in relation to the matter, an interest of a kind described in subsection (2);

the Minister shall:

(c) if the Minister considers that the commissioner should not take part in, or continue to take part in, the consideration or review of the matter by the Commission—give a direction to the commissioner accordingly; or

(d) in any other case—cause the interest of the commissioner to be disclosed to the claimant, applicant or person receiving the pension, as the case requires.

(4) In this section a reference to the Commission reviewing a decision shall be read as including a reference to the Commission considering whether to review the decision.

(5) In this section:

commissioner includes an acting commissioner.

pension means a pension under Part II or IV, a service pension, income support supplement, or an allowance or other benefit under this Act.

191 Acting commissioners

(1) The Minister may appoint a person to act in the office of a commissioner:

(a) during a vacancy in that office; or

(b) during any period, or during all periods, when the holder of that office:

(i) is absent from duty or from Australia;

(ii) is suspended under section 188; or

(iii) is, for any other reason, unable to perform the functions of that office.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

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(3) A person appointed to act during a vacancy in an office of commissioner shall not continue so to act for more than 12 months.

(4) The Minister may:

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed under this section; and

(b) at any time, terminate such an appointment.

(5) Where a person is acting in the office of a commissioner in accordance with paragraph (1)(b) and that office becomes vacant while that person is so acting, that person may, subject to subsections (2) and (6), continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(6) The appointment of a person to act in the office of a commissioner ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

(7) While a person is acting in an office of a commissioner, the person has, and may exercise, all the powers, and shall perform all the functions, of the commissioner in whose office the person is acting.

(8) The validity of anything done by a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the person's appointment had not arisen, that there is a defect or irregularity in or in connection with the person's appointment, that the person's appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

192 Acting President or Deputy President

(1) In this section, an office to which this section applies is:

(a) the office of President of the Commission; or

(b) the office of Deputy President of the Commission.

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(2) Subject to section 193, the Minister may appoint one of the commissioners to act in an office to which this section applies:
  (a) during a vacancy in that office; or
  (b) during any period, or during all periods, when the holder of that office:
    (i) is absent from duty or from Australia;
    (ii) is suspended under section 188;
    (iii) being the Deputy President, is acting in the office of President of the Commission in pursuance of an appointment under this section or section 193; or
    (iv) is, for any other reason, unable to perform the functions of that office.

(3) An appointment of a commissioner under subsection (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) A commissioner appointed to act during a vacancy in an office to which this section applies shall not continue so to act for more than 12 months.

(5) The Minister may:
  (a) determine the terms and conditions of appointment, including remuneration and allowances, of a commissioner appointed, under this section, to act in an office to which this section applies; and
  (b) at any time, terminate the appointment.

(6) The appointment of a commissioner to act in an office to which this section applies ceases to have effect:
  (a) if the commissioner ceases to be a commissioner;
  (b) if the commissioner is suspended from office under section 188; or
  (c) if the commissioner resigns the appointment by writing signed by the commissioner and delivered to the Minister.

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(7) Where a commissioner is acting in an office to which this section applies in accordance with paragraph (2)(b) and that office becomes vacant while the commissioner is so acting, that commissioner may, subject to subsections (3) and (6), continue so to act until the Minister otherwise determines, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(8) While a commissioner is acting in an office to which this section applies, the commissioner has, and may exercise, all the powers, and shall perform all the functions, of that office.

(9) The validity of anything done by a commissioner purporting to act under subsection (2) shall not be called in question on the ground that the occasion for the commissioner's appointment had not arisen, that there is a defect or irregularity in or in connection with the commissioner's appointment, that the commissioner's appointment had ceased to have effect or that the occasion for the commissioner to act had not arisen or had ceased.

(10) The Minister may appoint a person who holds an appointment as acting commissioner under section 191 to act in an office to which this section applies as if the reference in subsection (2) of this section to one of the commissioners included a reference to a person holding an appointment as acting commissioner under section 191 and, if the Minister does so:

(a) subsections (3) to (9), inclusive, of this section apply to and in relation to the person as if the references in those subsections to a commissioner included references to an acting commissioner; and

(b) without limiting the application of those subsections in accordance with paragraph (a) of this subsection, the person so appointed is not entitled to act in that office in pursuance of the appointment under subsection (2) of this section at any time when the person is not acting in an office of commissioner in pursuance of an appointment under section 191.

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193 Appointment to act as President and also Secretary

(1) This section applies to:
  (a) the office of President of the Commission; and
  (b) the office, under the *Public Service Act 1999*, of Secretary of the Department of Veterans' Affairs.

(2) The Governor-General may appoint a commissioner to act in both of the offices to which this section applies:
  (a) during a period, or during all periods, when there are vacancies in both of those offices; or
  (b) if another commissioner holds both of those offices—during any period, or during all periods, when that other commissioner:
    (i) is absent from duty or from Australia;
    (ii) is suspended under section 188; or
    (iii) is, for any other reason, unable to perform the functions of those offices.

(3) An appointment of a commissioner under this section may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(4) A commissioner appointed to act during vacancies in both of the offices to which this section applies shall not continue so to act for more than 12 months.

(5) An appointment under subsection (2), by reason of vacancies in both of the offices to which this section applies, shall not be made after the expiration of a period of 12 months after the date of the occurrence of the vacancies or, if the vacancies did not both occur on the same date, after the date of the occurrence of the vacancy in the office that last became vacant.

(6) Where a commissioner is acting in both of the offices to which this section applies in accordance with paragraph (2)(b), and those offices both become vacant at the same time while the commissioner is so acting, the commissioner may continue so to act until the Governor-General otherwise directs, the vacancy in

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either of the offices is filled or a period of 12 months from the date on which those vacancies occurred expires, whichever first happens.

(7) Subject to this section, the Governor-General may:
  (a) determine the terms and conditions of appointment of a commissioner appointed under this section; and
  (b) at any time terminate such an appointment.

(8) A person appointed under subsection (2):
  (a) shall, in the capacity of a person appointed to act as Secretary of the Department of Veterans' Affairs, be paid such remuneration and allowances as the Governor-General determines; and
  (b) shall not be paid remuneration or allowances in the capacity of commissioner or in the capacity of Acting President.

(9) For the purpose of payment of allowances under paragraph (8)(a) to a person appointed under subsection (2), the duties appertaining to the office of Secretary of the Department of Veterans' Affairs shall be deemed to include the duties appertaining to the office of commissioner and to the office of President of the Commission.

(10) The appointment of a commissioner under this section ceases to have effect if the commissioner resigns the appointment by writing signed by the commissioner and delivered to the Governor-General.

(11) While a commissioner is acting in the offices to which this section applies, the commissioner has, and may exercise, all the powers, and shall perform all the functions, of the holder of each of those offices.

(12) The validity of anything done by or in relation to a commissioner appointed under this section shall not be called in question on the ground that the occasion for the commissioner's appointment had not arisen, that there is a defect or irregularity in or in connection with the commissioner's appointment, that the commissioner's appointment (not being an appointment to act during vacancies in

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both of the offices to which this section applies) had ceased to have effect or that the occasion for the commissioner to act had not arisen or had ceased.

(13) The Governor-General may appoint a person who holds an appointment as acting commissioner under section 191 to act in both the offices to which this section applies as if the reference in subsection (2) of this section to a commissioner (first occurring) included a reference to a person holding an appointment as an acting commissioner under section 191 and, if the Governor-General does so:

(a) subsections (3) to (12), inclusive, of this section apply to and in relation to the person as if the references in those subsections to a commissioner included references to an acting commissioner; and

(b) without limiting the application of those subsections in accordance with paragraph (a) of this subsection, the person so appointed is not entitled to act in those offices in pursuance of the appointment under subsection (2) of this section at any time when the person is not acting in an office of commissioner in pursuance of an appointment under section 191.

194 Appointments

(1) The Governor-General may, in the same instrument:

(a) appoint a person, under section 182, to be a commissioner and appoint the person, under section 183, to be the President or Deputy President; or

(b) appoint a person, under section 182, to be a commissioner and appoint the person, under section 193, to act in both the offices to which that section applies;

and, if the Governor-General does so, the appointment under section 183 or 193, as the case may be, (in this subsection called the second appointment) shall take effect:

(c) if a date, being a date after the date on which the appointment under section 182 takes effect, is specified in the instrument

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of appointment as the date on which the second appointment is to take effect—on the date so specified; or

(d) in any other case—immediately after the appointment under section 182 takes effect.

(2) The Minister may, in the same instrument, appoint a person, under section 191, (in this subsection called the first appointment) to act in the office of a commissioner and appoint the person, under section 192, (in this subsection called the second appointment) to act in an office to which that section applies and, if the Minister does so, the second appointment shall take effect:

(a) if a date, being a date after the date on which the first appointment takes effect, is specified in the instrument of appointment as the date on which the second appointment is to take effect—on the date so specified; or

(b) in any other case—immediately after the first appointment takes effect.

195 Meetings

(1) The Commission shall hold such meetings as are necessary for the performance of its functions.

(2) The President:

(a) shall convene such meetings of the Commission as the President considers necessary for the efficient performance of its functions; and

(b) shall convene a meeting of the Commission on receipt of a written request signed by a number of commissioners equal to or exceeding a majority of the commissioners for the time being holding office.

(3) The President shall preside at all meetings of the Commission at which the President is present.

(4) In the absence of the President from a meeting of the Commission, the Deputy President shall preside at the meeting if the Deputy President is present.

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(5) In the absence of both the President and Deputy President from a meeting of the Commission, the commissioners present at the meeting shall elect one of their number to preside at the meeting.

(6) At a meeting of the Commission:

(a) a quorum is constituted by 3 commissioners; and

(b) all questions shall be decided by a majority of the votes of the commissioners present and voting; and

(c) the commissioner presiding has a deliberative vote and, in the event of an equality of votes, does not have a casting vote; and

(d) in the event of an equality of votes on a question, the question shall be taken to have been decided in the negative.

(7) The Commission may, subject to this section, regulate the conduct of proceedings at its meetings as it thinks fit and shall cause minutes of those proceedings to be kept.

(8) In this section:

commissioner includes an acting commissioner.

Deputy President includes an acting Deputy President.

President includes an acting President.

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Division 3—Staff

196 Staff

The staff necessary to assist the Commission shall be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary.

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Part XIA—The Repatriation Medical Authority

Division 1—Establishment, functions and powers

196A Establishment of Authority

(1) A Repatriation Medical Authority is established.

(2) The Repatriation Medical Authority:
  (a) is a body corporate with perpetual succession; and
  (b) has a common seal; and
  (c) may sue and be sued.

(3) All courts, judges and persons acting judicially must:
  (a) take judicial notice of the imprint of the seal of the Authority appearing on a document; and
  (b) presume that the document was duly sealed.

(4) Debts incurred by the Authority in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

196AA Application of the *Public Governance, Performance and Accountability Act 2013* to the Authority

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of ***Department of State*** in section 8 of that Act, the Repatriation Medical Authority is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the members of the Authority are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

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196B Functions of Authority

(1) This section sets out the functions of the Repatriation Medical Authority. The main function of the Authority is to determine Statements of Principles for the purposes of this Act and the MRCA.

Determination of Statement of Principles

(2) If the Authority is of the view that there is sound medical-scientific evidence that indicates that a particular kind of injury, disease or death can be related to:

(a) operational service rendered by veterans; or

(b) peacekeeping service rendered by members of Peacekeeping Forces; or

(c) hazardous service rendered by members of the Forces; or

(caa) British nuclear test defence service rendered by members of the Forces; or

(ca) warlike or non-warlike service rendered by members;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

(d) the factors that must as a minimum exist; and

(e) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note 1: For ***sound medical-scientific evidence*** see subsection 5AB(2).

Note 2: For ***peacekeeping service***, ***member of a Peacekeeping Force***, ***hazardous service***, ***member of the Forces*** and ***British nuclear test defence service*** referred to in paragraphs (2)(b), (c) and (caa), see subsection 5Q(1A).

Note 2A: For ***warlike service***, ***non-warlike service*** and ***members*** referred to in paragraph (2)(ca), see section 196KA. (These definitions are for the purposes of the MRCA.)

Note 3: For ***factor related to service*** see subsection (14).

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(3) If the Authority is of the view that on the sound medical-scientific evidence available it is more probable than not that a particular kind of injury, disease or death can be related to:

(a) eligible war service (other than operational service) rendered by veterans; or

(b) defence service (other than hazardous service and British nuclear test defence service) rendered by members of the Forces; or

(ba) peacetime service rendered by members;

the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out:

(c) the factors that must exist; and

(d) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Note 1: For ***sound medical-scientific evidence*** see subsection 5AB(2).

Note 2: For ***defence service***, ***hazardous service***, ***British nuclear test defence service*** and ***member of the Forces*** referred to in paragraph (3)(b), see subsection 5Q(1A).

Note 2A: For ***peacetime service*** and ***members*** referred to in paragraph (3)(ba), see section 196KA. (These definitions are for the purposes of the MRCA.)

Note 3: For ***factor related to service*** see subsection (14).

(3A) The Authority may determine a Statement of Principles under subsection (2) or (3) for the purposes of this Act, the MRCA, or both Acts.

Investigation

(4) If the Authority:

(a) receives a request under section 196E to carry out an investigation in respect of a particular kind of injury, disease or death; or

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(b) of its own initiative, decides that a particular kind of injury, disease or death ought to be investigated for the purposes of this Act, or the MRCA, to find out whether a Statement of Principles may be determined in respect of it;

the Authority must carry out an investigation to obtain information that would enable the Authority to establish:

(c) how the injury may be suffered or sustained, the disease may be contracted or the death may occur; and

(d) the extent (if any) to which:

(i) the injury, disease or death may be war-caused or defence-caused; or

(ii) the injury, disease or death may be a service injury, a service disease or a service death.

Note 1: For ***war-caused*** see sections 8 and 9.

Note 2: For ***defence-caused*** see section 69.

Note 3: For ***service injury***, ***service disease*** and ***service death*** see section 196KA. (These definitions are for the purposes of the MRCA.)

(5) If, after carrying out the investigation, the Authority is of the view that there is sound medical-scientific evidence on which it can rely to determine a Statement of Principles under subsection (2) or (3), in respect of that kind of injury, disease or death, the Authority must do so as soon as practicable.

Note: This subsection does not mean that the Authority must carry out an investigation before it can determine a Statement of Principles under subsection (2) or (3).

(6) If, after carrying out the investigation, the Authority is of the view:

(a) that there is no sound medical-scientific evidence on which it can rely to determine a Statement of Principles under subsection (2) or (3) in respect of that kind of injury, disease or death; or

(b) that the sound medical-scientific evidence on which it can rely is insufficient to allow it to do so;

the Authority must make a declaration in writing:

(c) stating that it does not propose to make a Statement of Principles; and

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(d) giving the reasons for its decision.

Subsequent investigation and review of determinations concerning Statement of Principles

(7) If the Authority:

(a) is asked under section 196E to review:

(i) some or all of the contents of a Statement of Principles; or

(ii) a decision of the Authority not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or

(b) thinks that there are grounds for such a review; or

(c) is directed by the Review Council under subsection 196W(7) to carry out an investigation in respect of a particular kind of injury, disease or death;

the Authority must, subject to subsection 196C(4) and section 196CA in a case where paragraph (a) applies, carry out an investigation to find out if there is new information available about:

(d) how the injury may be suffered or sustained, the disease may be contracted or the death may occur; or

(e) the extent (if any) to which:

(i) the injury, disease or death may be war-caused or defence-caused; or

(ii) the injury, disease or death may be a service injury, a service disease or a service death.

Note 1: For ***war-caused*** see sections 8 and 9.

Note 2: For ***defence-caused*** see section 69.

Note 3: For ***service injury***, ***service disease*** and ***service death*** see section 196KA. (These definitions are for the purposes of the MRCA.)

(7A) If the investigation:

(a) relates to a request under section 196E to review some of the contents of a Statement of Principles; or

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(b) is one to which paragraph (7)(b) applies and that relates to some of the contents of a Statement of Principles; or

(c) is carried out because of a direction under subsection 196W(7) by the Review Council following a request to the Review Council under section 196Z to review the Authority's refusal to carry out an investigation relating to a request under section 196E to review some of the contents of a Statement of Principles;

the Authority may limit its investigation to matters relating to those contents.

Note: For ***Review Council*** see subsection 5AB(1).

(8) If, after carrying out the investigation, the Authority is of the view that there is a new body of sound medical-scientific evidence available that, together with the sound medical-scientific evidence previously considered by the Authority, justifies the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death, the Authority must:

(a) determine a Statement of Principles in respect of that kind of injury, disease or death under subsection (2) or (3); or

(b) make a determination amending the Statement of Principles determined under subsection (2) or (3) in respect of that kind of injury, disease or death; or

(c) make a determination revoking the Statement of Principles determined under subsection (2) or (3), and determine a new Statement of Principles under subsection (2) or (3) in respect of that kind of injury, disease or death;

as the case requires.

Note: For ***sound medical-scientific evidence*** see subsection 5AB(2).

(9) If, after carrying out the investigation, the Authority is of the view:

(a) that there is no new sound medical-scientific evidence about that kind of injury, disease or death; or

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(b) that the new sound medical-scientific evidence available is not sufficient to justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined in respect of that kind of injury, disease or death;

the Authority must make a declaration in writing:

(c) stating that it does not propose to make a Statement of Principles, or amend the Statement of Principles already determined (as the case may be); and

(d) giving the reasons for its decision.

(10) If the Review Council has, by a decision notified in the *Gazette*, directed the Authority to amend a Statement of Principles in respect of a particular kind of injury, disease or death, the Authority must make a determination amending the Statement of Principles determined in respect of that kind of injury, disease or death in accordance with the directions of the Review Council.

(11) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(2) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Review Council:

(a) the factors that must as a minimum exist; and

(b) which of those factors must be related to service rendered by a person;

before it can be said that a reasonable hypothesis has been raised connecting an injury, disease or death of that kind with the circumstances of that service.

Note 1: For ***factor related to service*** see subsection (14).

Note 2: The Statement of Principles may be determined for the purposes of this Act, the MRCA, or both Acts, in accordance with the directions of the Review Council (see subsection 196W(4A)).

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(12) If, after reviewing a decision of the Authority not to determine a Statement of Principles under subsection 196B(3) in respect of a particular kind of injury, disease or death, the Review Council has, by a decision notified in the *Gazette*, directed the Authority to make such a Statement of Principles, the Authority must determine a Statement of Principles in respect of that kind of injury, disease or death setting out, in accordance with the directions of the Review Council:

(a) the factors that must exist; and

(b) which of those factors must be related to service rendered by a person;

before it can be said that, on the balance of probabilities, an injury, disease or death of that kind is connected with the circumstances of that service.

Note 1: For ***factor related to service*** see subsection (14).

Note 2: The Statement of Principles may be determined for the purposes of this Act, the MRCA, or both Acts, in accordance with the directions of the Review Council (see subsection 196W(4A)).

(13) A determination under subsection (10) of this section amending a Statement of Principles, or a Statement of Principles under subsection (11) or (12) is taken to have commenced on the day on which the decision of the Review Council was notified in the *Gazette*. The determination or Statement of Principles must specify that day.

(13AA) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply in relation to a determination under subsection (10) of this section amending a Statement of Principles, or a Statement of Principles under subsection (11) or (12).

(13A) A determination under this section:

(a) must be in writing; and

(b) is a legislative instrument.

(14) A factor causing, or contributing to, an injury, disease or death is ***related to service*** rendered by a person if:

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(a) it resulted from an occurrence that happened while the person was rendering that service; or

(b) it arose out of, or was attributable to, that service; or

(c) it resulted from an accident that occurred while the person was travelling, while rendering that service but otherwise than in the course of duty, on a journey:

(i) to a place for the purpose of performing duty; or

(ii) away from a place of duty upon having ceased to perform duty; or

(d) it was contributed to in a material degree by, or was aggravated by, that service; or

(e) in the case of a factor causing, or contributing to, an injury—it resulted from an accident that would not have occurred:

(i) but for the rendering of that service by the person; or

(ii) but for changes in the person's environment consequent upon his or her having rendered that service; or

(f) in the case of a factor causing, or contributing to, a disease—it would not have occurred:

(i) but for the rendering of that service by the person; or

(ii) but for changes in the person's environment consequent upon his or her having rendered that service; or

(g) in the case of a factor causing, or contributing to, the death of a person—it was due to an accident that would not have occurred, or to a disease that would not have been contracted:

(i) but for the rendering of that service by the person; or

(ii) but for changes in the person's environment consequent upon his or her having rendered that service.

196C Powers of Authority with respect to investigations

(1) The Repatriation Medical Authority may not, for the purposes of an investigation, carry out any new research work (including any test or experiment).

(2) The Authority may, for the purposes of an investigation, ask the Secretary:

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(a) to forward to the Authority any information:
(i) in the possession of the Secretary; or
(ii) that the Secretary may obtain;
relating to the kind of injury, disease or death under investigation; or
(b) to carry out research (including any test or experiment) to obtain, confirm, or disprove, specific information about that kind of injury, disease or death and forward a report to the Authority.

(3) In forming any view during the investigation, the Authority:
(a) may rely only on sound medical-scientific evidence:
(i) that has been submitted to it; or
(ii) that it has obtained on its own initiative or from the Secretary (under subsection (2)) or from a consultant; and
(b) must consider and evaluate all the evidence so made available to it.

(4) If:
(a) the Authority has carried out the investigation in respect of a particular kind of injury, disease or death; and
(b) within 12 months after the Authority has, at the end of the investigation:
(i) determined or amended a Statement of Principles; or
(ii) declared that it does not propose to make or amend a Statement of Principles;
a person or organisation asks the Authority under section 196E to review:
(iii) some or all of the contents of the Statement of Principles; or
(iv) its decision not to make a Statement of Principles; and
(c) the Authority thinks that there are no grounds for such a review;
the Authority may decide not to carry out an investigation in respect of that kind of injury, disease or death. The Authority must

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then inform the person or organisation in writing of its decision, stating the reasons for it.

196CA Authority not required to investigate certain requests

(1) The Authority may decide not to carry out an investigation in respect of a request for a review made under paragraph 196E(1)(e) or (f) if:

(a) the request does not state the grounds on which the review is sought; or

(b) the Authority considers that the request does not identify sufficient relevant information:

(i) to support the grounds on which the review is sought; or

(ii) to otherwise justify the review; or

(c) the request is vexatious or frivolous.

(2) If the Authority decides not to carry out an investigation, it must inform the person or organisation in writing of the decision, stating the reasons for it.

196CB Authority may consolidate requests

If:

(a) 2 or more requests for review are made under subsection 196E(1); and

(b) the requests are in relation to the same injury, disease or death;

the Authority may carry out one investigation in relation to those requests.

196E Request for an investigation, review etc.

(1) Any of the following:

(a) the Commission;

(aa) the Military Rehabilitation and Compensation Commission;

(b) a person eligible to make a claim for a pension under Part II or IV of this Act;

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(ba) a person eligible to make a claim for compensation under section 319 of the MRCA;

(c) an organisation representing veterans, Australian mariners, members of the Forces, members of Peacekeeping Forces, or members within the meaning of the MRCA, or their dependants;

may request the Repatriation Medical Authority:

(d) to carry out an investigation under subsection 196B(4) in respect of a particular kind of injury, disease or death; or

(e) to review a decision of the Authority under subsection 196B(6) not to make a Statement of Principles in respect of a particular kind of injury, disease or death; or

(f) to review some or all of the contents of a Statement of Principles in force under this Part.

(2) A request under subsection (1) must:

(a) be in a form approved by the Authority; and

(b) be lodged at an office of the Authority in Australia in accordance with the directions of the Chairperson of the Authority under subsection (2A).

(2A) The Chairperson of the Authority may give directions:

(a) as to the manner of lodging requests, including electronic requests, with the Authority for the purposes of subsection (1); and

(b) as to the time at which such requests are to be taken to have been so communicated.

(3) If the request is a request for a review made under paragraph (1)(e) or (f), the request must also:

(a) state the grounds on which the review is sought; and

(b) identify any information relied on to support those grounds.

196F Submissions to the Authority

(1) If the Repatriation Medical Authority is carrying out an investigation under subsection 196B(4) or (7), any person or

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organisation referred to in any of paragraphs 196E(1)(a) to (c) may make a submission in writing to the Authority on any matter (other than a legal matter) relevant to the investigation.

(2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Authority on any matter (other than a legal matter) within his or her expertise that is relevant to the investigation.

(3) If an individual, the Commission, the Military Rehabilitation and Compensation Commission or an organisation has made a written submission, the individual or his or her representative, or a representative of the relevant Commission or of the organisation may, subject to subsection (4), appear before the Authority to make an oral submission complementing the written submission. The oral submission may not cover any legal matter.

(4) A person or organisation may not be represented before the Authority by a legal practitioner.

196G Notice of investigation

(1) As soon as practicable after the Repatriation Medical Authority:

(a) has been asked under section 196E to carry out:

(i) an investigation; or

(ii) a review of a decision of the Authority not to make a Statement of Principles; or

(iii) a review of some or all of the contents of a Statement of Principles;

regarding a particular kind of injury, disease or death; or

(b) has decided on its own initiative to carry out such an investigation or such a review;

the Authority must publish in the *Gazette* a notice:

(c) stating that the Authority intends to carry out an investigation in respect of that kind of injury, disease or death; and

(d) inviting persons or organisations authorised under subsection 196F(1) to do so to make written submissions to the Authority.

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(2) A notice is to specify:

(a) the date on which the Authority will hold its first meeting for the purposes of the investigation; and

(b) the date by which all submissions must have been received by the Authority.

(3) A notice must be published in the *Gazette* at least 28 days before the date of the first meeting of the Authority.

(4) A notice is not invalid merely because it fails to comply with subsection (2).

196H Copyright in submissions

(1) The Repatriation Medical Authority is not the owner of any copyright subsisting in material (***submitted material***) contained in a submission made to the Authority for the purposes of an investigation under section 196B.

(2) In spite of the *Copyright Act 1968*, the Authority does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Authority does an act comprised in the copyright without the licence of the owner of the copyright.

196I Access to information

(1) Subject to subsection (2), any person or organisation referred to in any of paragraphs 196E(1)(a) to (c) is entitled, on request made in writing to the Repatriation Medical Authority, to have reasonable access to any document containing information considered by the Authority for the purposes of an investigation.

(2) The Authority may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

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196J Notice of decision not to make etc. Statement of Principles

(1) When the Repatriation Medical Authority decides not to make, or not to review or not to amend, a Statement of Principles, it must, within 14 days, notify the Commission or the Military Rehabilitation and Compensation Commission (as the case requires) in writing of its decision.

(2) If the decision is made following a request from a person or organisation under section 196E, the Authority must also notify the person or organisation in writing of its decision.

196K Repatriation Medical Authority to send information to Review Council

The Repatriation Medical Authority must, within 28 days after being notified that the Review Council has been asked to review:

(a) a Statement of Principles; or

(b) its decision not to determine a Statement of Principles in respect of a particular kind of injury, disease or death; or

(ba) its decision not to amend a Statement of Principles in respect of a particular kind of injury, disease or death; or

(c) its decision under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death;

send to the Review Council a copy of all the information that was available to it when it:

(d) determined, amended, or last amended, the Statement of Principles; or

(e) decided, or last decided, not to determine, or not to amend, a Statement of Principles in respect of that kind of injury, disease or death; or

(f) decided not to carry out the investigation.

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196KA Definitions for the purposes of the MRCA

In this Division:

(a) for the purposes of paragraphs 196B(4)(d) and 196B(7)(e), ***service death*** has the same meaning as in the MRCA; and

(b) for the purposes of paragraphs 196B(4)(d) and 196B(7)(e), ***service disease*** has the same meaning as in the MRCA; and

(c) for the purposes of paragraphs 196B(4)(d) and 196B(7)(e), ***service injury*** has the same meaning as in the MRCA; and

(d) for the purposes of paragraphs 196B(2)(ca) and 196B(3)(ba), ***members*** has the same meaning as in the MRCA; and

(e) for the purposes of paragraph 196B(3)(ba), ***peacetime service*** has the same meaning as in the MRCA; and

(f) for the purposes of paragraph 196B(2)(ca), ***non-warlike service*** does not have the meaning given by this Act but instead has the same meaning as in the MRCA; and

(g) for the purposes of paragraph 196B(2)(ca), ***warlike service*** does not have the meaning given by this Act but instead has the same meaning as in the MRCA.

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Division 2—Constitution and meetings

196L Membership

(1) The Repatriation Medical Authority consists of a Chairperson and 4 other members.

(2) All members are to be appointed on a part-time basis by the Minister.

(3) One of the members must be a person having at least 5 years experience in the field of epidemiology.

196M Qualifications

The Minister is to appoint a person as Chairperson or as a member only if the person is a registered medical practitioner, or a medical scientist, with at least 10 years experience.

196N Tenure of office

(1) Subject to this Act, a person appointed as Chairperson or as a member holds office for the period specified in the instrument of appointment.

(2) A person may not hold office for a period of more than 5 years but is eligible for reappointment.

196O Resignation

A member may resign from office by written notice given to the Minister.

196P Termination of appointment

The Minister may terminate the appointment of a person as Chairperson or as a member:

(a) for misbehaviour or for physical or mental incapacity; or

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(b) if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankruptcy or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit.

196Q Acting Chairperson

The Minister may appoint a member to act as Chairperson:

(a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Chairperson is absent from office.

196R Meetings

(1) The Chairperson may convene meetings of the Repatriation Medical Authority as he or she considers necessary for the performance of its functions. The Chairperson may delegate this power to another member or to a member of the staff of the Authority.

(2) The Chairperson presides at all meetings of the Authority.

(3) At a meeting, 3 members constitute a quorum.

(4) A question arising at a meeting is to be determined by a majority of votes of the members present and voting. The Chairperson has only a deliberative vote.

(5) The Authority must keep minutes of the proceedings at each meeting.

(6) Subject to this section, the Authority determines the procedures for convening its meetings and for conducting its business.

196S Remuneration and allowances

(1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that

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remuneration by the Tribunal is in operation, a member shall be paid such remuneration as the Minister determines in writing.

(2) A member shall be paid such allowances as the Minister determines in writing.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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Division 3—Staff and consultants

196T Staff

The staff necessary to assist the Repatriation Medical Authority consists of persons engaged under the *Public Service Act 1999* and made available to the Authority by the Secretary.

196U Consultants

(1) The Repatriation Medical Authority may, under written agreement, engage consultants to provide expert advice to the Authority about any disease, injury or death that the Authority is investigating.

(2) The Authority may not engage a consultant without the approval of the Minister.

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Division 4—Annual report

196UA Annual report

The Repatriation Medical Authority must, as soon as practicable after the end of each financial year, prepare and give to the Minister, for presentation to the Parliament, a report on the Authority's activities during the financial year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

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Part XIB—The Specialist Medical Review Council

Division 1—Establishment and functions

196V Establishment of Specialist Medical Review Council

(1) A Specialist Medical Review Council is established.

Note: All references in this Part to the Review Council are references to the Specialist Medical Review Council: see the definition of ***Review Council*** in subsection 5AB(1).

(2) The Review Council:
(a) is a body corporate with perpetual succession; and
(b) has a common seal; and
(c) may sue and be sued.

(3) All courts, judges and persons acting judicially must:
(a) take judicial notice of the imprint of the seal of the Review Council appearing on a document; and
(b) presume that the document was duly sealed.

(4) Debts incurred by the Review Council in the performance of its functions are, for all purposes, taken to be debts incurred by the Commonwealth.

196VA Application of the *Public Governance, Performance and Accountability Act 2013* to the Review Council

Despite paragraph 10(1)(d) of the *Public Governance, Performance and Accountability Act 2013* and the definition of ***Department of State*** in section 8 of that Act, the Review Council is not a Commonwealth entity for the purposes of that Act and is taken to be part of the Department for those purposes.

Note: This means that the councillors are officials of the Department for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

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196W Functions of Review Council

(1) This section sets out the functions of the Review Council.

(2) If the Review Council is asked under section 196Y to review:

(a) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or

(b) a decision of the Repatriation Medical Authority not to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of a particular kind of injury, disease or death; or

(ba) a decision of the Repatriation Medical Authority not to amend a Statement of Principles in respect of a particular kind of injury, disease or death;

subject to subsection (3), the Review Council must, for that purpose, carry out a review of all the information that was available to the Authority when it:

(c) determined, amended, or last amended, the Statement of Principles; or

(d) decided, or last decided, not to determine, or not to amend, a Statement of Principles;

in respect of that kind of injury, disease or death.

(3) If the Review Council has been asked to review some or all of the contents of a Statement of Principles, the Review Council may carry out a review under subsection (2) only if:

(a) the period within which the Statement of Principles may be disallowed under section 42 of the *Legislation Act 2003* has ended; and

(b) the Statement of Principles has not been disallowed.

(3A) If:

(a) the Review Council has been asked to review some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; and

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(b) there is another Statement of Principles in force in respect of that kind of injury, disease or death, but the Review Council has not been asked to review some or all of the contents of that other Statement of Principles;

then the Review Council must also review that other Statement of Principles by reviewing the information subsection (2) requires it to review in reviewing the Statement of Principles it has been asked to review.

(4) If after carrying out the review, the Review Council is of the view that there is sound medical-scientific evidence on which the Authority could have relied:

(a) to amend either or both of the Statements of Principles in force in respect of that kind of injury, disease or death; or

(b) to determine a Statement of Principles under subsection 196B(2), or a Statement of Principles under subsection 196B(3), in respect of that kind of injury, disease or death;

the Review Council must make a declaration in writing stating its views, setting out the evidence in support and:

(c) directing the Authority to amend either or both of the Statements of Principles, or determine a Statement of Principles (as the case may be), in accordance with the directions given by the Review Council; or

(d) remitting the matter for reconsideration in accordance with any directions or recommendations of the Review Council.

(4A) The Review Council may give directions under subsection (4) for the purposes of this Act, the MRCA, or both Acts.

(5) If, after carrying out the review, the Review Council is of the view:

(a) that there is no sound medical-scientific evidence that justifies the making of a Statement of Principles, or an amendment of either or both of the Statements of Principles in force, in respect of that kind of injury, disease or death; or

(b) that the sound medical-scientific evidence available to the Authority is insufficient to justify the making of a Statement of Principles, or an amendment of either or both of the

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Statements of Principles, in respect of that kind of injury, disease or death;

the Review Council must make a declaration in writing to that effect giving the reasons for its decision. The Review Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

(6) If the Review Council is asked under section 196Z to review a decision of the Repatriation Medical Authority under subsection 196C(4) not to carry out an investigation in respect of a particular kind of injury, disease or death, the Review Council must consider:

(a) the reasons given by the Authority for making the decision; and

(b) the information on which it relied in making that decision; and

(c) the grounds on which the request for the review was made and any submission made in support of those grounds.

(7) If, after considering the matters referred to in paragraphs (6)(a), (b) and (c), the Review Council is of the view that:

(a) there appears to be a new body of sound medical-scientific evidence in respect of that kind of injury, disease or death that has not been previously considered by the Authority; and

(b) that new body of evidence, together with the sound medical-scientific evidence available to the Authority, could justify the making of a Statement of Principles, or an amendment of the Statement of Principles already determined, in respect of that kind of injury, disease or death;

the Review Council must make a declaration in writing to that effect giving the reasons for its decision and directing the Authority to carry out an investigation under subsection 196B(7) in respect of that kind of injury, disease or death. The Review Council may include in the declaration any recommendation or direction that the Review Council considers fit to make about the carrying out of the investigation.

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(8) If, after considering the matters referred to in paragraphs (6)(a), (b) and (c), the Review Council is not of the view referred to in subsection (7) in respect of that kind of injury, disease or death, the Review Council must make a declaration in writing:

(a) affirming the decision of the Authority not to carry out the investigation; and

(b) giving the reasons for its decision.

The Review Council may include in the declaration any recommendation that it considers fit to make about any future investigation that the Authority may carry out in respect of that kind of injury, disease or death.

196X Notification of decision of Review Council to be notified in *Gazette*

(1) A decision of the Review Council under section 196W must be notified in the *Gazette*.

(2) The Review Council must also give a copy of the decision to:

(a) the person or organisation that asked for the review; and

(b) the Commission, or the Military Rehabilitation and Compensation Commission, (if it is not the person referred to in (a)); and

(c) the Repatriation Medical Authority.

196Y Request for review of contents of Statement of Principles etc.

(1) Subject to subsection (2), any of the following:

(a) the Commission;

(aa) the Military Rehabilitation and Compensation Commission;

(b) a person eligible to make a claim for a pension under Part II or IV of this Act;

(ba) a person eligible to make a claim for compensation under section 319 of the MRCA;

(c) an organisation representing veterans, Australian mariners, members of the Forces, members of Peacekeeping Forces, or

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members within the meaning of the MRCA, or their dependants;

may ask the Review Council to review:

(d) some or all of the contents of a Statement of Principles in force under Part XIA; or

(e) a decision of the Repatriation Medical Authority not to make, or not to amend, a Statement of Principles in respect of a particular kind of injury, disease or death.

(2) The request must be made:

(a) in the case of a request to review some or all of the contents of a Statement of Principles—within 3 months after the Statement of Principles was made, amended or last amended; or

(b) if paragraph (a) does not apply—within 3 months after the decision of the Authority.

(3) A request must:

(b) state the grounds on which the review is sought; and

(c) be lodged with the Review Council in accordance with the directions of the Convener under section 196ZR.

(4) The Review Council must notify the Secretary and the Repatriation Medical Authority of the request within 28 days of the request being lodged.

196Z Request for review of decision of Repatriation Medical Authority not to carry out an investigation

(1) If:

(a) a person or organisation asks the Repatriation Medical Authority under section 196E to review:

(i) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death; or

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(ii) its decision not to make a Statement of Principles in respect of a particular kind of injury, disease or death; and

(b) the Authority refuses under subsection 196C(4) to carry out an investigation in respect of that kind of injury, disease or death;

the person or organisation may, within 3 months, ask the Review Council to review the decision of the Authority not to carry out the investigation.

(2) The request must:

(b) state the grounds on which the review is sought; and

(c) be accompanied by any submission that the person or organisation wishes to submit in support of those grounds; and

(d) be lodged with the Review Council in accordance with the directions of the Convener under section 196ZR.

(3) The Review Council must notify the Secretary and the Repatriation Medical Authority of the request within 28 days of the request being lodged.

196ZA Submissions to Review Council

(1) If the Review Council is carrying out a review under subsection 196W(2), any person or organisation referred to in any of paragraphs 196Y(1)(a) to (c) may make a submission in writing to the Review Council about any information that was available to the Repatriation Medical Authority and is relevant to the review (***relevant information***).

(2) A person having expertise in a field relevant to the investigation may make a submission in writing to the Review Council on any relevant information pertaining to that field.

(3) If an individual, the Commission, the Military Rehabilitation and Compensation Commission or an organisation has made a written submission, the individual or his or her representative, or a

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representative of the relevant Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission.

(4) If the Review Council is carrying out a review under subsection 196W(6) at the request of an individual, the Commission, the Military Rehabilitation and Compensation Commission or an organisation, the individual or his or her representative, or a representative of the relevant Commission or of the organisation may, subject to subsection (5), appear before the Review Council to make an oral submission complementing the written submission (if any) lodged under paragraph 196Z(2)(c).

(5) A person or organisation may not be represented before the Review Council by a legal practitioner.

(6) In this section, a reference to a submission does not include a submission on a legal matter.

196ZB Notice of investigation

(1) As soon as practicable after the Review Council has been asked under section 196Y to review:

(a) a decision of the Repatriation Medical Authority not to make, or not to amend, a Statement of Principles in respect of a particular kind of injury, disease or death; or

(b) some or all of the contents of a Statement of Principles in respect of a particular kind of injury, disease or death;

the Review Council must publish in the *Gazette* a notice:

(c) stating that the Review Council intends to carry out a review of the information available to the Authority about that kind of injury, disease or death; and

(d) inviting persons or organisations authorised under subsection 196ZA(1) to do so to make written submissions to the Review Council.

(2) A notice must specify the date by which all submissions must be received by the Review Council.

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(3) A notice must be published in the *Gazette* at least 28 days before the date of the first meeting of the Review Council.

(4) A notice is not invalid merely because it fails to comply with subsection (2).

196ZC Copyright in submissions

(1) The Review Council is not the owner of any copyright subsisting in material (***submitted material***) contained in a submission made to the Review Council for the purposes of an investigation under section 196B.

(2) In spite of the *Copyright Act 1968*, the Review Council does not infringe any copyright subsisting in submitted material if, in performing its functions or exercising its powers, the Review Council does an act comprised in the copyright without the licence of the owner of the copyright.

196ZD Access to information

(1) Subject to subsection (2), any person or organisation referred to in any of paragraphs 196Y(1)(a) to (c) is entitled, on request made in writing to the Review Council, to have reasonable access to any document containing information considered by the Review Council for the purposes of an investigation.

(2) The Review Council may not disclose any personal information about a particular person if the information is likely to reveal the identity of that person.

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Division 2—Constitution and meetings

196ZE Membership

(1) The Review Council consists of such number of members as the Minister determines from time to time to be necessary for the proper exercise of the functions of the Review Council.

(2) The councillors are to be appointed on a part-time basis by the Minister as provided in this section.

(3) When appointing councillors, the Minister must have regard to the branches of medical science expertise which would be necessary for deciding matters referred to the Review Council for review.

(4) One of the councillors must be a person having at least 5 years' experience in the field of epidemiology.

(5) The Minister must appoint one of the councillors to be the Convener.

196ZF Qualifications

The Minister is to appoint a person to be a councillor only if the person is a registered medical practitioner, or a medical scientist, with at least 10 years experience.

196ZG Tenure of office

(1) Subject to this Act, a person appointed as Convener or as a councillor holds office for the period specified in the instrument of appointment.

(2) A person may not hold office for a period of more than 5 years but is eligible for reappointment.

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196ZH Resignation

A councillor may resign from office by written notice given to the Minister.

196ZI Termination of appointment

The Minister may terminate the appointment of a person as councillor:

(a) for misbehaviour or for physical or mental incapacity; or

(b) if he or she becomes bankrupt, applies to take the benefit of a law for the relief of bankruptcy or insolvent debtors, compounds with his or her creditors or assigns remuneration or property for their benefit.

196ZJ Acting Convener

The Minister may appoint a councillor to act as Convener:

(a) during a vacancy in the office of Convener, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Convener is absent from Australia or from duty.

196ZK Conduct of reviews

(1) The Review Council is, for the purposes of a review, to be constituted by at least 3, but not more than 5, councillors selected by the Convener.

(2) If the Review Council as constituted for the purposes of a review includes the Convener, the Convener presides at all meetings of the Review Council as so constituted.

(3) If the Review Council as constituted for the purposes of a review does not include the Convener, the Convener must appoint one of the councillors selected for the purposes of the review (***presiding councillor***) to preside at all meetings of the Review Council as so constituted.

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(4) The Convener or the presiding councillor may convene meetings of the Review Council as he or she considers necessary to carry out the review. The Convener may delegate this power to another councillor or to a member of the staff of the Review Council.

(5) A question before the Review Council is to be decided by a majority of the votes of the councillors present and voting. The Convener or presiding councillor has only a deliberative vote.

(6) The Review Council must keep minutes of the proceedings at each meeting.

(7) Subject to this section, the Review Council determines the procedures for convening its meetings and for conducting its business.

196ZL Remuneration and allowances

(1) A councillor is to be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, a member is to be paid such remuneration as the Minister determines in writing.

(2) A councillor is to be paid such allowances as the Minister determines in writing.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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Division 3—Staff

196ZM Staff

The staff necessary to assist the Review Council consists of persons engaged under the *Public Service Act 1999* and made available to the Review Council by the Secretary.

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Division 4—Payment of medical and travelling expenses

196ZN Medical expenses

(1) The Commonwealth may, subject to this section, pay to an applicant who asks the Review Council to conduct a review as provided for by this Part an amount to cover the medical expenses incurred by him or her in respect of medical evidence relevant to, and obtained by the applicant for the purposes of, the review and submitted to the Review Council.

(2) The applicant is not to be paid more than the amount prescribed by, or worked out in accordance with, the regulations.

(3) An amount is not payable in respect of medical expenses unless:

(a) the person who has incurred the expenses; or

(b) any person approved by that person or by the Review Council;

applies in writing to the Review Council for payment.

(4) The application for payment must be:

(b) made within 3 months after the medical evidence was submitted to the Review Council; and

(c) be accompanied by any document that the applicant considers relevant; and

(d) be lodged with the Review Council in accordance with the directions of the Convener under section 196ZR.

196ZO Travelling expenses for obtaining medical evidence

(1) If an applicant has had to travel to obtain any medical evidence submitted to the Review Council as mentioned in subsection 196ZN(1), the applicant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

(2) If:

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(a) the applicant is accompanied by an attendant when travelling to obtain the evidence; and

(b) the Review Council is of the view that it is reasonable for the applicant to be so accompanied by an attendant;

the attendant is, subject to this section, entitled to be paid in relation to that travel the travelling expenses that are prescribed.

(3) Travelling expenses are not payable in respect of travel outside Australia.

(4) Travelling expenses are not payable unless:

(a) the person who has incurred the expenses; or

(b) any person approved by that person or by the Review Council;

applies in writing to the Review Council for payment under subsection (5).

(5) The application for payment must be:

(b) made within:

(i) 3 months after the completion of the travel; or

(ii) if the Review Council thinks that there are exceptional circumstances that justify extending that period—such further period as the Review Council allows; and

(c) be accompanied by any document that the applicant considers relevant; and

(d) be lodged with the Review Council in accordance with the directions of the Convener under section 196ZR.

(6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

196ZP Advance of travelling expenses for obtaining medical evidence

(1) If the Review Council is satisfied that:

(a) it is reasonable to expect that a person may become entitled to travelling expenses under section 196ZO; and

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(b) it is appropriate, in all the circumstances, that the person should be paid an advance on account of those expenses;

the Review Council may authorise the payment of that advance to the person.

(2) If:

(a) a person has received an advance on account of any travelling expenses that the person is likely to incur; and

(b) the person:

(i) does not incur those travelling expenses; or

(ii) incurs travelling expenses that are less than the amount of the advance;

the person is liable to repay to the Commonwealth:

(c) the amount of the advance; or

(d) the difference between the amount of the advance and the amount of the travelling expenses;

as the case requires.

196ZQ Travelling expenses for making oral submissions

(1) If:

(a) either:

(i) the Review Council is carrying out a review under subsection 196W(2) and an individual, or an organisation referred to in paragraph 196Y(1)(c), has made a written submission in relation to the review; or

(ii) the Review Council is carrying out a review under subsection 196W(6) at the request of an individual or an organisation; and

(b) a person who is one of the following appears before the Review Council to make an oral submission in relation to the review:

(i) the individual or his or her representative;

(ii) a representative of the organisation;

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the person is, subject to this section, entitled to be paid, for travel that the person undertook to appear, the travelling expenses that are prescribed.

(2) If:

(a) the person is accompanied by an attendant when travelling to appear before the Review Council; and

(b) the Review Council is of the view that it is reasonable for the person to be so accompanied by an attendant;

the attendant is, subject to this section, entitled to be paid for that travel the travelling expenses that are prescribed.

(3) Travelling expenses are not payable in respect of travel outside Australia.

(4) Travelling expenses are not payable unless:

(a) the person who has incurred the expenses; or

(b) any person approved by that person or by the Review Council;

applies in writing to the Review Council for payment and the Review Council approves the application.

(5) The application for payment must be:

(a) made within 3 months after the completion of the travel; and

(b) accompanied by any document that the applicant considers relevant; and

(c) lodged with the Review Council in accordance with the directions of the Convener under section 196ZR.

(6) The Commonwealth is to pay the travelling expenses to which a person is entitled under this section.

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Division 5—Lodgement of requests and applications

196ZR Lodgement of requests and applications

(1) The Convener may give written directions:

(a) as to the manner of lodging requests or applications, including in electronic form, with the Review Council for the purposes of paragraphs 196Y(3)(c), 196Z(2)(d), 196ZN(4)(d), 196ZO(5)(d) and 196ZQ(5)(c); and

(b) as to the time at which such requests or applications are taken to have been lodged.

(2) A direction under subsection (1) is not a legislative instrument.

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Part XII—Miscellaneous

197A Saving and transitional provisions

The saving and transitional provisions in Schedule 5 have effect according to their terms.

197 Pensions etc. not for certain members of the Defence Force

(1) A male indigenous inhabitant of the Territory of Papua or the Territory of New Guinea who served in the Defence Force during World War 2 at a rate of pay less than the minimum rate of pay that was prescribed as payable to a male member of the Australian Military Forces and whose services have been terminated by discharge or death, is not eligible:

(a) to be paid pension under Part II, or service pension under Part III;

(b) to be provided with treatment under Part V; or

(c) to receive any allowances or other benefits under Part VI;

in respect of that service as a member of the Defence Force during World War 2.

(2) A dependant of a person to whom subsection (1) applies, being a person who has died, is not eligible:

(a) to be paid pension under Part II or a service pension under Part III;

(b) to be provided with treatment under Part V; or

(c) to receive any allowances or benefits under Part VI or Part VII;

by reason only that the person served as a member of the Defence Force during World War 2.

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198 Variation of rates of certain pensions

Definitions

(1) In this section, unless the contrary intention appears:

above general rate means the following rates:

(a) the rate under subsection 22(4);

(b) the rate under subsection 23(4);

(c) the rate under subsection 24(4).

adjustment day means 20 September or 20 March.

brought-forward CPI indexation amount for a relevant period means 0.007 less any reduction made under paragraph (5)(c) in relation to an earlier relevant period.

December quarter means a quarter ending on 31 December.

fortnightly MTAWE figure for a quarter means 1/26 of the annualised MTAWE figure for that quarter within the meaning of section 59EA.

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Statistician in respect of that quarter.

June quarter means a quarter ending on 30 June.

pension MBR factor means the pension MBR factor worked out under section 59LA.

relevant period means:

(a) the period that started on 15 November 1989 and ended on 17 April 1990; and

(b) the period that started on 18 April 1990 and ended on 19 September 1990; and

(c) the period of 6 months that started on 20 September 1990; and

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(d) each later period of 6 months (other than the period of 6 months that started on 20 September 1992).

relevant rate means:

(d) the rate specified in item 1, 2, 3, 4, 5 or 6 in the table in subsection 27(1) (in column 2);

(e) the amount specified in paragraph 30(1)(c).

Statistician means the Australian Statistician.

Changes in index numbers

(2) Subject to subsection (3), if at any time, whether before or after the commencement of this Act, the Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

(3) If at any time, whether before or after the commencement of this Act, the Statistician has changed or changes the index reference period for the consumer price index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new index reference period.

Indexation of each relevant rate

(4) Where the factor ascertained, in relation to a relevant period, in accordance with subsection (5) is greater than 1, this Act has effect as if for each relevant rate there were substituted, on the first day of that period:

(a) subject to the other paragraphs of this subsection—a rate calculated by multiplying by that factor:

(i) in the case to which subparagraph (ii) does not apply—the relevant rate; or

(ii) if, by virtue of another application or several other applications of this section, this Act has had effect as if another rate were substituted, or other rates were

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successively substituted, for the relevant rate—the substituted rate or the last substituted rate, as the case may be;

(b) where a relevant rate calculated in accordance with paragraph (a) (in this paragraph referred to as the ***calculated rate***) is a rate per fortnight and is not a multiple of $0.10 per fortnight—a rate equal to:

(i) if the calculated rate exceeds the next lower rate that is such a multiple by $0.05 per fortnight or more—the next higher rate that is such a multiple; or

(ii) if the calculated rate exceeds the next lower rate that is such a multiple by less than $0.05 per fortnight—the next lower rate.

Note: For indexation of each above general rate, see subsection (5E).

(5) The factor to be ascertained for the purposes of subsection (4) in relation to a relevant period:

(a) is the number, calculated to 3 decimal places, ascertained by dividing:

(i) if the relevant period starts between 1 January and 30 June (inclusive)—the index number for the last preceding December quarter; or

(ii) if the relevant period starts between 1 July and 31 December (inclusive)—the index number for the last preceding June quarter;

by the highest index number in respect of a December or June quarter that preceded that quarter, not being a December or June quarter that occurred before the June quarter in the year 1979; or

(b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—is the number so ascertained increased by 0.001; or

(c) if the relevant period starts on or after 20 March 2013 and the brought-forward CPI indexation amount for the period is more than 0—is the number worked out under paragraph (a) or (b) of this subsection reduced by that amount, but not below 1.

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Indexation of general rate

(5DA) This Act has effect as if, on each adjustment day, there were substituted, for the general rate, the rate worked out using the following formula and rounded up to the nearest $0.10:

$$\text{General rate on the day before the adjustment day} \times \text{Pension MBR factor for the adjustment day}$$

Indexation of each above general rate

(5E) This Act has effect as if, on each adjustment day, there were substituted, for each above general rate, the rate worked out using the following formula and rounded up to the nearest $0.10:

$$\text{Above general rate on the day before the adjustment day} \times \text{Pension MBR factor for the adjustment day}$$

Indexation of rate in paragraph 30(1)(b)

(8A) This Act has effect as if, on each adjustment day, there were substituted, for the rate in paragraph 30(1)(b), the rate worked out using the following formula and rounded up to the nearest $0.10:

$$\text{Rate in paragraph 30(1)(b) on the day before the adjustment day} \times \text{Pension MBR factor for the adjustment day}$$

Effect of indexation

(10) Where, by virtue of the application of this section, this Act has effect as if another rate were substituted for a relevant rate or an above general rate on the first day of a relevant period, the substitution, in so far as it affects instalments of a pension under this Act, has effect in relation to every instalment of the pension that falls due on or after the first day of that period, as the case may be, but, if a pension is granted, or the rate of a pension is increased, after the first day of that period as from a date before the first day of that period, the substitution, in so far as it affects instalments of that pension, does not have effect in relation to an instalment of that pension in respect of a period that commenced before the first day of that period.

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198A Variation of rates of orphan's pension

(1) In this section, unless the contrary intention appears:

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

relevant rate means the rate specified in paragraph 30(2)(a), (b) or (c).

year to which this section applies means 1990 and each subsequent year.

(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the consumer price index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new index reference period.

(4) Where the factor worked out under subsection (5) in relation to a relevant rate in relation to a year to which this section applies is greater than 1, this Act, and any Act that refers to this Act, have effect as if for that relevant rate there were substituted, on the first day of that year:

(a) subject to paragraph (b)—the rate worked out by multiplying by that factor:

(i) where subparagraph (ii) does not apply—the relevant rate; or

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(ii) if, because of another application or other applications of this section, this Act has had effect as if another rate was substituted, or other rates were successively substituted, for the relevant rate—the substituted rate or the last substituted rate, as the case may be;

(b) where the rate worked out under paragraph (a) is not a multiple of 10 cents per fortnight—a rate equal to:

(i) if the rate so worked out exceeds the next lower rate that is such a multiple by 5 cents per fortnight or more—the next highest rate that is such a multiple; or

(ii) if the rate so worked out exceeds the next lower rate that is such a multiple by less than 5 cents per fortnight—that next lower rate.

(5) The factor to be worked out for the purposes of subsection (4) in relation to a year to which this section applies is:

(a) in relation to 1990—the number, calculated to 3 decimal places, worked out by dividing the index number for the June quarter 1989 by the index number for the June quarter 1988;

(b) in relation to each subsequent year—the number, calculated to 3 decimal places, worked out by dividing the index number for the last preceding June quarter by the highest index number in respect of an earlier June quarter, not being a June quarter that occurred before 1989; or

(c) if the number worked out under paragraph (a) or (b) would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so worked out increased by 0.001.

(6) Where, because of the application of this section, this Act has effect as if another rate were substituted for a relevant rate on the first day of a year, the substitution, in so far as it affects instalments of pensions, benefits and allowances under this Act, has effect in relation to every instalment of such a pension, benefit or allowance that falls due on or after the first day of that year.

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198D Variation of rates of certain allowances etc.

(1) In this section, unless the contrary intention appears:

brought-forward CPI indexation amount for a year commencing on or after 20 September 2013 means 0.007 less any reduction made under paragraph (5)(d) for an earlier year.

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician for that quarter.

relevant rate means the rate specified in:

(a) item 7, 8, 9, 10, 11, 12, 13, 14 or 15 in the table in subsection 27(1) (in column 2); or

(b) item 1, 2, 3, 4 or 5 in the table in subsection 97(1) (in column 2); or

(c) item 1, 2, 3, 4 or 5 in the table in subsection 98(1) (in column 2); or

(d) item 1, 2, 3, 4, 5, 6, 7, 8, 9 or 10 in the table in subsection 104(1) (in column 2); or

(e) section 115P.

year to which this section applies means:

(a) the year commencing on 20 September 1991; or

(b) any later year commencing on 20 September.

(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the consumer price index, then, for the

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purposes of the application of this section after the change took place or takes place, regard is to be had only to index numbers published in terms of the new index reference period.

(4) Where the factor worked out under subsection (5) in relation to a relevant rate in relation to a year to which this section applies is greater than 1, this Act, and any Act that refers to this Act, have effect as if for that relevant rate there were substituted, on the first day of that year:

(a) subject to paragraph (b)—the rate worked out by multiplying by that factor:

(i) where subparagraph (ii) does not apply—the relevant rate; or

(ii) if, because of another application or other applications of this section, this Act has had effect as if another rate was substituted, or other rates were successively substituted, for the relevant rate—the substituted rate or the last substituted rate, as the case may be; or

(b) where the rate worked out under paragraph (a) is not a multiple of 10 cents per fortnight—a rate equal to:

(i) if the rate so worked out exceeds the next lower rate that is such a multiple of 5 cents per fortnight or more—the next highest rate that is such a multiple; or

(ii) if the rate so worked out exceeds the next lower rate that is such a multiple by less than 5 cents per fortnight—that next lower rate.

(5) The factor to be worked out for the purposes of subsection (4) in relation to a year to which this section applies is:

(a) in relation to the year commencing on 20 September 1991—the number, calculated to 3 decimal places, worked out by dividing the index number for the June quarter 1991 by the index number for the June quarter 1990; or

(b) in relation to each subsequent year—the number calculated to 3 decimal places, worked out by dividing the index number for the last preceding June quarter by the highest index

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number in respect of an earlier June quarter, not being a June quarter that occurred before 1991; or

(c) if the number worked out under paragraph (a) or (b) would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so worked out increased by 0.001; or

(d) if:

(i) the year commences on or after 20 September 2013; and

(ii) the factor is for multiplying a rate specified in item 7, 8, 9, 10, 11, 12, 13, 14 or 15 in the table in subsection 27(1); and

(iii) the brought-forward CPI indexation amount for the year is more than 0;

the number worked out under paragraph (b) or (c) of this subsection reduced by that amount, but not below 1.

(6) Where, because of the application of this section, this Act has effect as if another rate were substituted for a relevant rate on the first day of a year to which this section applies, the substitution, in so far as it effects instalments of pensions and allowances under this Act, has effect in relation to every instalment of such a pension or an allowance that falls due on or after the first day of that year.

198E Variation of amount of essential medical equipment payment

(1) This section applies to the dollar amount mentioned in section 63G (essential medical equipment payment).

(2) That dollar amount, for an indexation day on which the indexation factor is greater than 1, is replaced by the amount that is worked out using the following formula:

$$\text{Dollar amount on the day before the indexation day} \times \text{Indexation factor for the indexation day}$$

(3) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

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$$\frac{\text{Indexation number for the most recent December quarter before the indexation day}}{\text{Highest index number for an earlier December quarter (but not before December 2011)}}$$

(4) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.

(5) If an amount worked out under subsection (2) is not a multiple of a dollar, the amount is to be rounded to the nearest multiple of a dollar (rounding up in the case of 50 cents).

(6) In this section:

indexation day means 1 July 2013 and each later 1 July.

198F Indexation of veterans supplement

(1) This section applies to the dollar amount mentioned in the following provisions:

(a) section 118C;

(b) section 118D.

(2) The dollar amount mentioned in that provision, for an indexation day on which the indexation factor is greater than one, is replaced by the amount that is worked out using the following formula:

$$\text{Dollar amount for that provision on the day before the indexation day} \times \text{Indexation factor for the indexation day}$$

(3) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Index number for the most recent June quarter before the indexation day}}{\text{Highest index number for an earlier June quarter (but not earlier than June quarter 2008)}}$$

(4) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the 4th decimal place is more than 4.

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(5) If an amount worked out under subsection (2) is not a multiple of 20 cents, the amount is to be rounded down to the nearest multiple of 20 cents.

(6) In this section:

indexation day means 1 January 2010 and each later 1 January.

198FA Indexation of Victoria Cross allowance

(1) In this section, unless the contrary intention appears:

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician for that quarter.

relevant rate means the rate specified in subsection 103(4).

year to which this section applies means:

(a) the year commencing on 20 September 2005; or

(b) any later year commencing on 20 September.

(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.

(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the consumer price index, then, for the purposes of the application of this section after the change took place, or takes place, regard is to be had only to index numbers published in terms of the new index reference period.

(4) Where the factor worked out under subsection (5) in relation to a relevant rate in relation to a year to which this section applies is

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greater than 1, this Act, and any Act that refers to this Act, have effect as if for that relevant rate there were substituted, on the first day of that year:

(a) subject to paragraph (b)—the rate worked out by multiplying by that factor:

(i) where subparagraph (ii) does not apply—the relevant rate; or

(ii) if, because of another application or other applications of this section, this Act has had effect as if another rate was substituted, or other rates were successively substituted, for the relevant rate—the substituted rate or the last substituted rate, as the case may be; or

(b) where the amount of the rate worked out under paragraph (a) is not a multiple of one dollar—a rate equal to that amount rounded up to the nearest multiple of one dollar.

(5) The factor to be worked out for the purposes of subsection (4) in relation to a year to which this section applies is:

(a) in relation to the year commencing on 20 September 2005—the number, calculated to 3 decimal places, worked out by dividing the index number for the June quarter 2005 by the index number for the June quarter 2004; or

(b) in relation to each subsequent year—the number calculated to 3 decimal places, worked out by dividing the index number for the last preceding June quarter by the highest index number in respect of an earlier June quarter, not being a June quarter that occurred before 2005; or

(c) if the number worked out under paragraph (a) or (b) would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so worked out increased by 0.001.

(6) Where, because of the application of this section, this Act has effect as if another rate were substituted for a relevant rate on the first day of a year to which this section applies, the substitution, in so far as it affects instalments of Victoria Cross allowance under this Act, has effect in relation to every instalment of the allowance that falls due on or after the first day of that year.

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198FAA Indexation of seniors health card income limit

(1) This section applies to the dollar amount mentioned in column 3 of item 1, 2, 3 or 4 of the table in point 118ZZA-11.

(2) That dollar amount, for an indexation day on which the indexation factor is greater than 1, is replaced by the amount that is worked out using the following formula:

$$\text{Dollar amount on the day before the indexation day} \times \text{Indexation factor for the indexation day}$$

(3) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Index number for the most recent June quarter before the indexation day}}{\text{Highest index number for an earlier June quarter (but not earlier than June quarter 2013)}}$$

(4) The indexation factor is to be calculated to 3 decimal places, but increased by 0.001 if the fourth decimal place is more than 4.

(5) If an amount worked out under subsection (2) is not a multiple of a dollar, the amount is to be rounded to the nearest multiple of a dollar (rounding up in the case of 50 cents).

(6) In this section:

indexation day means 20 September 2014 and each later 20 September.

198FB Rates for service pension and income support supplement increased on 20 September 2009

Maximum basic rate for single person

(1) This Act has effect as if, on 20 September 2009, the indexed amount substituted under section 59C for the amount specified in column 3 of item 1 of the table in point SCH6-B1 of Schedule 6 on

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that day were in turn replaced with an amount equal to the indexed amount plus $1,560.00.

Ceiling rate

(2) This Act has effect as if, on 20 September 2009, the amount substituted under section 59LA for the amount specified in point SCH6-A4 of Schedule 6 on that day were in turn replaced with an amount worked out as follows:

Method statement

Step 1. Work out the amount substituted under section 59LA for the amount specified in point SCH6-A4 of Schedule 6 on 20 September 2009 (apart from this subsection).

Step 2. Work out what would have been the indexed rate substituted under section 198E for the rate of utilities allowance under column 3 of item 1 of the table in section 118OC on 20 September 2009 had those sections not been repealed.

Step 3. Work out, on the assumption that section 198F and subsection 118SA(1) had not been repealed:

(a) what would have been the rate substituted under that section for the rate payable under that subsection on 20 September 2009; or

(b) if there would not have been such a substitution, the rate that would have been payable under that subsection on that day.

Note: Subsection 118SA(1) dealt with telephone allowance for certain persons with internet connections at home.

Step 4. Add up:

(a) the results of steps 1, 2 and 3; and

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(b) $130.

Step 5. If the result of step 4 is not a multiple of $2.60, round that result up to the nearest multiple of $2.60.

198G 1 July 2000 increase in certain amounts

(1) This section applies to an amount (the ***base amount***) that is provided for in a provision listed in column 2 of Table A.

Note: Amounts provided for in provisions listed in Table A are amounts as altered from time to time under Division 18 of Part IIIB and sections 198, 198A, 198D and 198F (CPI indexation).

(2) This Act has effect as if, on 1 July 2000, the base amount were replaced by an amount (the ***replacement amount***) worked out by:

(a) calculating the amount (the ***provisional replacement amount***) that is 4% greater than the base amount; and

(b) rounding off the provisional replacement amount in accordance with section 198M, using the rounding base for the base amount (see column 4 of Table A).

(3) For the purposes of subsection (1), the base amount is to include any indexation that occurs on 1 July 2000 under Division 18 of Part IIIB or section 198, 198A, 198D or 198F.

Table A: Rates

Column 1 Item	Column 2 Provision providing for base amount	Column 3 Description of amount	Column 4 Rounding base for base amount
1	subsection 22(3)	disability pension (general)	0.10
2	subsection 23(4)	disability pension (intermediate)	0.10
3	subsection 24(4)	disability pension (special)	0.10

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Table A: Rates			
Column 1 **Item**	**Column 2** **Provision providing for base amount**	**Column 3** **Description of amount**	**Column 4** **Rounding base for base amount**
4	subsection 27(1)—table—items 1 to 6	disability pension (war-caused injury or disease)	0.10
5	subsection 27(1)—table—items 7 to 15	disability pension (war-caused injury or disease)	0.10
6	subsection 30(2)—all amounts	orphan pension	0.10
7	subsection 97(1)—table—column 2—all amounts	clothing allowance	0.10
8	subsection 98(1)—table—column 2—all amounts	attendant allowance	0.10
9	subsection 104(1)—table—column 2—all amounts	recreation transport allowance	0.10
10	subsection 118S(1)	telephone allowance	0.80

198GA 1 July 2000 increase in rent assistance amounts

(1) This section applies to an amount (the ***base amount***) of rent assistance that is provided for in column 4 of the table in subpoint SCH6-C8(1).

Note: Amounts provided for in column 4 of the table in subpoint SCH6-C8(1) are amounts as altered from time to time under Division 18 of Part IIIB (CPI indexation).

(2) This Act has effect as if, on 1 July 2000, the base amount were replaced by an amount (the ***replacement amount***) worked out by:

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(a) calculating the amount (the ***provisional replacement amount***) that is 10% greater than the base amount; and

(b) rounding off the provisional replacement amount in accordance with section 198M, using the rounding base of $5.20.

198H Adjustment of amounts following 1 July 2000 increase

(1) If an amount (the ***affected amount***) is:

(a) an amount described in the table in section 198G that is indexed under Division 18 of Part IIIB or under section 198, 198A, 198D or 198F; or

(b) the amount described in section 198GA; or

(c) a maximum basic rate provided for in point SCH6-B1; or

(d) a pension supplement provided for in point SCH6-BA2; or

(e) an amount provided for in paragraph 30(1)(a); or

(f) a pension supplement provided for in subsection 30(1A);

this section applies to modify the way the amount is indexed under that Division or section (as the case may be) for a limited period after 19 March 2001.

Method statement

Step 1. Work out the current figure for the affected amount on 19 March 2001.

Step 2. Multiply the current figure by 0.02. The result is the ***provisional overall adjustment amount***.

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Step 3. Round off the provisional overall adjustment amount in accordance with subsections (6) to (8), using:

(a) for an affected amount described in the table in section 198G—the rounding base set out in that table for that amount; and

(b) for the amount described in section 198GA—the rounding base of $5.20; and

(c) for a maximum basic rate provided for in point SCH6-B1—the rounding base of $2.60; and

(d) for a pension supplement provided for in point SCH6-BA2—the rounding base of $0.10; and

(e) for an amount provided for in paragraph 30(1)(a)—the rounding base of $0.10; and

(f) for a pension supplement provided for in subsection 30(1A)—the rounding base of $0.10.

The result is the ***overall adjustment amount***.

Step 4. For the first indexation day for an affected amount that occurs after 19 March 2001, subtract the current figure from the indexed amount (arrived at using the method statement in subsection 59C(2)). The result (which could be zero) is the ***first indexation increase amount***.

Step 5. Compare the overall adjustment amount with the first indexation increase amount. If the overall adjustment amount is equal to or less than the first indexation increase amount, go to step 6. If the overall adjustment amount is greater than the first indexation increase amount, go to step 9.

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Step 6. Subtract the overall adjustment amount from the indexed amount referred to in step 4.

Step 7. If the indexed amount is a pension supplement, round off the result in accordance with subsections (6) to (8) (as if the amount were a provisional overall adjustment amount), using the rounding base of $2.60.

Step 8. The result obtained under step 6 or step 7 (as the case requires) is taken to be the indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) and this section has no further application in relation to the affected amount.

Note: The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) may be increased under section 59EA in certain cases. Similarly, if the indexed amount is a rate worked out under section 198, that amount may be increased under subsection 198(6) or (7) in certain cases.

Step 9. The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) is taken to be equal to the current figure worked out under step 2 of the method statement in subsection 59C(2). Go to step 10.

Note: The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) may be increased under section 59EA in certain cases. Similarly, if the indexed amount is a rate worked out under section 198, that amount may be increased under subsection 198(6) or (7) in certain cases.

Step 10. For the second indexation day for the affected amount that occurs after 19 March 2001, subtract the first indexation increase amount from the overall adjustment amount. The result is the ***remaining adjustment amount***.

Step 11. Subtract the current figure from the indexed amount (arrived at using the method statement in subsection 59C(2)). The result (which could be zero) is the ***second indexation increase amount***.

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Step 12. Compare the remaining adjustment amount with the second indexation increase amount. If the remaining adjustment amount is equal to or less than the second indexation increase amount, go to step 13. If the remaining adjustment amount is greater than the second indexation increase amount, go to step 16.

Step 13. Subtract the remaining adjustment amount from the indexed amount.

Step 14. If the indexed amount is a pension supplement, round off the result in accordance with subsections (6) to (8) (as if the amount were a provisional overall adjustment amount), using the rounding base of $2.60.

Step 15. The result obtained under step 13 or step 14 (as the case requires) is taken to be the indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) and this section has no further application in relation to the affected amount.

Note: The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) may be increased under section 59EA in certain cases. Similarly, if the indexed amount is a rate worked out under section 198, that amount may be increased under subsection 198(6) or (7) in certain cases.

Step 16. The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) is taken to be equal to the current figure worked out under step 2 of the method statement in subsection 59C(2). Go to step 17.

Note: The indexed amount for the purposes of step 5 of the method statement in subsection 59C(2) may be increased under section 59EA in certain cases. Similarly, if the indexed amount is a rate worked out under section 198, that amount may be increased under subsection 198(6) or (7) in certain cases.

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Step 17.	Repeat the method set out in steps 10 to 16 in relation to the third indexation day and to subsequent indexation days until the remaining adjustment amount is zero.

Meaning of terms in method statement if amount is indexed under section 198, 198A, 198D or 198F

(2) For the purposes of applying the Method statement in this section to an affected amount indexed under section 198, 198A, 198D or 198F, the following expressions used in the Method statement have the meanings set out below:

current figure, as at a particular time, means the rate most recently substituted for a relevant rate under section 198, 198A, 198D or 198F (as the case may be) before that time.

indexed amount means the rate worked out under subsection (4) of section 198, 198A, 198D or 198F (as the case may be).

Modifications to method statement if amount is indexed under section 198, 198A, 198D or 198F

(3) If the affected amount is indexed under section 198, 198A, 198D or 198F, the following Steps in the Method statement in this section are to be read with the following modifications:

(a) Step 4—as if the words "(arrived at using the Method statement in subsection 59C(2))" were omitted;

(b) Step 8—as if the words "Step 5 of the Method statement in subsection 59C(2)" were omitted and the words "section 198, 198A, 198D or 198F (as the case may be)" were substituted;

(c) Step 9—as if the words "Step 5 of the Method statement in subsection 59C(2) is taken to be equal to the current figure worked out under Step 2 of the Method statement in subsection 59C(2)" were omitted and the words "section 198, 198A, 198D or 198F (as the case may be) is taken to be equal to the current figure" were substituted;

(d) Step 11—as if the words "arrived at using the Method statement in subsection 59C(2))" were omitted;

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(e) Step 15—as if the words "Step 5 of the Method statement in subsection 59C(2)" were omitted and the words "section 198, 198A, 198D or 198F (as the case may be)" were substituted;

(f) Step 16—as if the words "Step 5 of the Method statement in subsection 59C(2) is taken to be equal to the current figure worked out under Step 2 of the Method statement in subsection 59C(2)" were omitted and the words "section 198, 198A, 198D or 198F (as the case may be) is taken to be equal to the current figure" were substituted.

Application of section 59EA

(4) Section 59EA does not apply at Step 4 or Step 11 of the Method statement in this section.

Application of subsections 198(6) and (7)

(5) Subsections 198(6) and (7) do not apply at Step 4 or Step 11 of the Method statement in this section.

Rounding of provisional overall adjustment amounts

(6) If a provisional overall adjustment amount is a multiple of the rounding base, the provisional overall adjustment amount is the overall adjustment amount.

(7) If a provisional overall adjustment amount is not a multiple of the rounding base, the overall adjustment amount is the provisional overall adjustment amount rounded up or down to the nearest multiple of the rounding base.

(8) If a provisional overall adjustment amount is not a multiple of the rounding base, but is a multiple of half the rounding base, the overall adjustment amount is the provisional overall adjustment amount rounded up to the nearest multiple of the rounding base.

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198J 1 July 2000 increase in income test free area

(1) This section applies to an amount (the ***base amount***) that is provided for in item 1, 2 or 3 of column 3 of the table in point SCH6-E6.

(2) This Act has effect as if, on 1 July 2000, the base amount were replaced by an amount (the ***replacement amount***) worked out by:

(a) calculating the amount (the ***provisional replacement amount***) that is 2.5% greater than the base amount; and

(b) rounding off the provisional replacement amount in accordance with section 198M using a rounding base of $52.00.

(3) For the purposes of subsection (1), the base amount is to include any indexation that occurs on 1 July 2000 under Division 18 of Part IIIB.

198K 1 July 2000 increase in assets test free area

(1) This section applies to an amount (the ***base amount***) that is provided for in:

(a) item 1 or 2 of column 3A of the table in point SCH6-F3; or

(b) item 2 of column 3B of the table in point SCH6-F3.

(2) This Act has effect as if, on 1 July 2000, the base amount were replaced by an amount (the ***replacement amount***) worked out by:

(a) calculating the amount (the ***provisional replacement amount***) that is 2.5% greater than the base amount; and

(b) rounding off the provisional replacement amount in accordance with section 198M, using a rounding base of $250.00.

(3) For the purposes of subsection (1), the base amount is to include any indexation that occurs on 1 July 2000 under Division 18 of Part IIIB.

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198L 1 July 2000 increase in income/assets reduction limit

(1) This section applies to an amount (the ***base amount***) that is provided for in column 3 or 5 of the table in subsection 53E(2).

(2) This Act has effect as if, on 1 July 2000, the base amount were replaced by an amount (the ***replacement amount***) worked out by:

(a) calculating the amount (the ***provisional replacement amount***) that is 2.5% greater than the base amount; and

(b) rounding off the provisional replacement amount in accordance with section 198M, using a rounding base of $2.60.

198M Rounding off provisional replacement amounts

(1) If a provisional replacement amount is a multiple of the rounding base, the provisional replacement amount is the replacement amount.

(2) If a provisional replacement amount is not a multiple of the rounding base, the replacement amount is the provisional replacement amount rounded up or down to the nearest multiple of the rounding base.

(3) If a provisional replacement amount is not a multiple of the rounding base, but is a multiple of half the rounding base, the replacement amount is the provisional replacement amount rounded up to the nearest multiple of the rounding base.

198MA Adjustment of indexation factor under section 59D for limited time on and after 20 March 2013 for certain purposes

Application

(1) This section applies for purposes connected with the following payments on or after 20 March 2013:

(a) a service pension;

(b) seniors supplement;

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(c) a pension under Part II or IV at a rate determined under or by reference to Division 4 of Part II or subsection 30(1);

(d) Special Rate Disability Pension under the MRCA;

(e) compensation under Division 2 (Compensation for member's death for wholly dependent partners) of Part 2 of Chapter 5 of the MRCA.

Note 1: Section 198 of the MRCA sets Special Rate Disability Pension by reference to the rate of pension under section 24 of this Act (so indexation of amounts affecting that rate also affects that pension).

Note 2: Division 2 of Part 2 of Chapter 5 of the MRCA sets compensation under that Division by reference to the rate of pension under subsection 30(1) of this Act (so indexation of amounts affecting that rate also affects the compensation).

Adjustment of indexation factor

(2) An indexation factor that:

(a) is worked out under section 59D on a day that is on or after 20 March 2013; and

(b) is directly or indirectly relevant to the indexation of an amount provided for by:

(i) subsection 5GA(1) (which provides for the PS rate mentioned in table item 2 of section 59A); or

(ii) subsection 5GA(2) (which provides for the PS minimum rate mentioned in table item 2A of section 59A); or

(iii) subsection 5GA(4) (which provides for the PS basic rate mentioned in table item 2B of section 59A); or

(iv) subsection 22(3) or (4), 23(4) or 24(4); or

(v) paragraph 30(1)(a) or (b); or

(vi) table item 2 of point SCH6-B1 of the Rate Calculator (which provides for the pension MBR mentioned in table item 1 of section 59A);

is, for the purposes of the indexation of such an amount on that day, to be reduced by the brought-forward CPI indexation amount, but not below 1.

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Note 1: An indexation factor worked out under section 59D is indirectly relevant to the indexation of an amount provided for by subsection 22(3) or (4), 23(4) or 24(4) or paragraph 30(1)(b). This is because:

(a) section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA; and

(b) the pension MBR factor depends on the increase in the single pension rate MBR amount, which in turn depends (under section 59G) on indexation of the pension MBR amount under section 59C, which involves the indexation factor worked out under section 59D.

Note 2: An indexation factor worked out under section 59D is indirectly relevant to the indexation of an amount provided for by paragraph 30(1)(a). This is because that amount is affected by indexation under section 59G, which in turn depends on indexation under section 59C.

Note 3: Once the brought-forward CPI indexation amount becomes 0, there will be no further reduction of the indexation factor.

Example: Assume that the indexation factor worked out under section 59D on 20 March 2013 is 1.005. The brought-forward CPI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the indexation factor is 1.010. The brought-forward CPI indexation amount in relation to 20 September 2013 is 0.002. That indexation factor is reduced to 1.008 on 20 September 2013.

The brought-forward CPI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

Definition of ***brought-forward CPI indexation amount***

(3) In this section:

brought-forward CPI indexation amount for a day means:

(a) 0.007 less any reduction made under subsection (2) for an earlier day; or

(b) 0 if the brought-forward PBLCI indexation amount for the day under section 198MB is 0.

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198MB Adjustment of living cost indexation factor for limited time on and after 20 March 2013 for certain purposes

Application

(1) This section applies for purposes connected with the following payments on or after 20 March 2013:

(a) a service pension;

(b) a pension under Part II or IV at a rate determined under or by reference to section 22, 23 or 24 or subsection 30(1);

(c) Special Rate Disability Pension under the MRCA;

(d) compensation under Division 2 (Compensation for member's death for wholly dependent partners) of Part 2 of Chapter 5 of the MRCA.

Note 1: Section 198 of the MRCA sets Special Rate Disability Pension by reference to the rate of pension under section 24 of this Act (so indexation of amounts affecting that rate also affects that pension).

Note 2: Division 2 of Part 2 of Chapter 5 of the MRCA sets compensation under that Division by reference to the rate of pension under subsection 30(1) of this Act (so indexation of amounts affecting that rate also affects the compensation).

Adjustment of living cost indexation factor

(2) A living cost indexation factor that:

(a) is worked out under section 59EAB on a day that is on or after 20 March 2013; and

(b) is directly or indirectly relevant to the indexation of an amount provided for by:

(i) subsection 22(3) or (4), 23(4) or 24(4); or

(ii) paragraph 30(1)(a) or (b); or

(iii) table item 2 of point SCH6-B1 of the Rate Calculator (which provides for the pension MBR mentioned in table item 1 of section 59A);

is, for the purposes of the indexation of such an amount on that day, to be reduced by the brought-forward PBLCI indexation amount, but not below 1.

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Note 1: A living cost indexation factor worked out under section 59EAB is indirectly relevant to the indexation of an amount provided for by subsection 22(3) or (4), 23(4) or 24(4) or paragraph 30(1)(b). This is because:

(a) section 198 provides for indexation of such an amount by reference to the pension MBR factor worked out under section 59LA; and

(b) the pension MBR factor depends on the increase in the single pension rate MBR amount, which in turn depends (under section 59G) on indexation of the pension MBR amount under section 59C, which may involve the living cost indexation factor worked out under section 59EAB.

Note 2: A living cost indexation factor worked out under section 59EAB is indirectly relevant to the indexation of an amount provided for by paragraph 30(1)(a). This is because that amount is affected by indexation under section 59G, which in turn depends on indexation under section 59C.

Note 3: Once the brought-forward PBLCI indexation amount becomes 0, there will be no further reduction of the living cost indexation factor.

Example: Assume that the living cost indexation factor worked out under section 59EAB on 20 March 2013 is 1.005. The brought-forward PBLCI indexation amount in relation to 20 March 2013 is 0.007 (as there has been no previous reduction). That living cost indexation factor is reduced to 1 on 20 March 2013.

Further assume that on 20 September 2013 the living cost indexation factor is 1.010. The brought-forward PBLCI indexation amount in relation to 20 September 2013 is 0.002. That living cost indexation factor is reduced to 1.008 on 20 September 2013.

The brought-forward PBLCI indexation amount in relation to later indexation days is now 0 so there is no further reduction of the indexation factor.

Definition of ***brought-forward PBLCI indexation amount***

(3) In this section:

brought-forward PBLCI indexation amount for a day means:

(a) 0.007 less any reduction made under subsection (2) for an earlier day; or

(b) 0 if the brought-forward CPI indexation amount for the day under section 198MA is 0.

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198N Cancellation of entitlement to pension

(1) This section applies if, because of subsection 4(6) or (8B) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*, a pension is payable to a person, including a pension whose rate has been reduced to nil.

(2) Despite section 4 of that Act, the pension is not payable to the person on or after 22 September 2009.

(3) However, the person is entitled to receive a lump sum payment, to be paid on or after 24 September 2009, equal to 3 years' worth of the pension, calculated according to the rate at which the person's last pension payment was paid.

(4) Subsections (2) and (3) do not apply to a person who is paid a pension on the basis that the person was, at the time section 66 of the *Repatriation Legislation Amendment Act 1985* came into force, without adequate means of support.

199 Appropriation

The Consolidated Revenue Fund is appropriated to the extent necessary for the payment of:

(a) pensions granted under Part II, III, IIIA or IV; and

(aa) veteran payments; and

(b) medical and other treatment services provided under Part V; and

(ba) costs the Commission has accepted financial responsibility for as mentioned in subsection 84(3A); and

(c) allowances and other pecuniary benefits granted under this Act, being allowances and benefits the rates or amounts of which, or the maximum rates or amounts of which, are fixed by, or calculated under:

(i) this Act; or

(ii) the regulations; or

(iii) any other legislative instrument made under this Act; and

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(d) assistance or benefits granted under section 106 that are of a similar nature to pensions referred to in paragraph (a), to services referred to in paragraph (b) or to allowances or benefits referred to in paragraph (c); and

(da) payments under the Veterans' Vocational Rehabilitation Scheme; and

(e) assistance or benefits granted under an instrument made under section 115S; and

(f) amounts for the purpose of giving effect to arrangements entered into under section 203 (International arrangements).

200 Commission may accept contributions

(1) The Commission may accept from a person contributions of money and other property made to it:

(a) for a purpose specified by the person, if application of the money or other property for that purpose is necessary or convenient to be done for, or in connection with, the performance of its functions or duties; or

(b) for application by the Commission, as it deems fit, for, or in connection with, the performance of its functions or duties.

(2) Contributions accepted by the Commission in accordance with subsection (1) may be applied:

(a) if the person making the contribution specified that he or she desired the contribution to be applied for a particular purpose, for the benefit of a particular class of persons or for the benefit of a particular institution maintained by the Commission—for the purpose so specified; or

(b) in any other case—by the Commission as it deems fit, for, or in connection with, the performance of its functions or duties.

(3) Subject to subsection (2), contributions accepted by the Commission in accordance with subsection (1) shall be dealt with as prescribed and, subject to the regulations (if any) prescribing the manner in which those contributions are to be dealt with, as determined by the Commission.

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201 Commission may administer trusts

(1) Subject to this section, the Commission may be appointed, and may in its corporate name, act as, trustee:

(a) under a will, settlement or other instrument creating a trust for the benefit of veterans, dependants of veterans, or other persons who were dependent on veterans; or

(b) under the will of a veteran creating a trust for beneficiaries under that will.

(2) The Commission may decline to accept, or accept subject to such conditions as it deems fit, a trust or appointment to act as trustee.

(3) Where the Commission accepts appointment as trustee of a trust, the Commission:

(a) has the same powers, duties and liabilities;

(b) is entitled to the same rights and immunities; and

(c) is subject to the same control by a court;

as a natural person would have, be entitled to and be subject to if appointed to be, and acting as, trustee of that trust.

(3A) Where the Commission is a trustee of 2 or more trusts under this section, the Commission may, subject to subsection (3B), for the purpose of investing the trust funds, pool the trust funds in respect of those trusts.

(3B) The Commission shall not pool trust funds under subsection (3A), or invest trust funds pooled under that subsection, in a way that prevents the trust funds held in respect of each trust being identified sufficiently to enable the Commission properly to perform its functions as trustee.

(3C) The Commission may:

(a) make an arrangement with another person for the other person to manage the trust funds; and

(b) for the purposes of such an arrangement, transfer the trust funds to the other person;

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but the making of such an arrangement, or the transferring of the trust funds, does not relieve the Commission of any duties or liabilities as trustee.

(4) The regulations may make provision for and in relation to the investment of moneys vested in the Commission as trustee pending application in accordance with the trust or for the purpose of deriving income for application in accordance with the trust.

(5) In this section:

trust funds, in relation to a trust of which the Commission is the trustee, means moneys vested in the Commission as trustee.

veteran includes:

(a) a Commonwealth veteran; and

(b) an allied veteran; and

(c) an Australian mariner; and

(d) an allied mariner; and

(e) a member of the Forces, or a member of a Peacekeeping Force, as defined by subsection 68(1).

202 Appointment of trustees

(1) Where the Commission is satisfied that, having regard to the age, infirmity, ill health or improvidence of a person (the ***primary person***), it is desirable that payment of a pension, veteran payment or allowance payable to the primary person be made to another person as trustee for the primary person, the Commission may, by instrument in writing, appoint a person to be the trustee, or itself assume the office of trustee, of instalments of the pension, veteran payment or allowance, upon trust to apply them as provided in this section.

(2) Where an instrument is in force under subsection (1) in respect of a pension, veteran payment or allowance payable to the primary person:

(a) instalments of that pension, veteran payment or allowance shall be paid to that trustee;

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(b) the trust funds held by the trustee consisting of the instalments of that pension, veteran payment or allowance received by the trustee, investments representing those instalments and interest received on those investments shall be dealt with by the trustee, as follows:

(i) subject to subparagraph (ii) and to subsections 202A(2) and 202B(2), during the life of the primary person—those trust funds may be applied for the benefit of the primary person, or any member of the family, or person dependent on, the primary person, as the trustee sees fit;

(ii) upon the termination of the trust during the life of the primary person—the trust funds held upon the termination of the trust shall be paid or transferred, as the case requires, to the primary person; and

(iii) upon the death of the primary person before the termination of the trust—those trust funds shall be paid or transferred to the legal personal representative of the deceased primary person as part of the estate of the deceased primary person or, if there is no legal personal representative of the deceased primary person and the Commission is satisfied that application will not be made for probate of the will or letters of administration of the estate of the deceased primary person, to the person whom the Commission determines to be best entitled to them.

(4) The Commission may, at any time, by instrument in writing, revoke:

(a) an appointment of a person to be the trustee under subsection (1); or

(b) the assumption by it of the office of trustee under subsection (1);

and, where it does so, it may, in the same instrument, exercise, in relation to that pension, veteran payment or allowance, any of its powers under subsection (1).

(5) Where a person appointed to be a trustee under this section:

(a) dies; or

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(b) resigns his or her office by instrument in writing delivered to the Commission;

the Commission may, within 3 months after the death or receipt of the instrument, as the case may be, exercise any of its powers under subsection (1) in relation to the pension, veteran payment or allowance concerned.

(6) Where the Commission exercises its powers under subsection (1) by appointing a person to be the trustee, or itself assuming the office of trustee, of instalments of a pension, veteran payment or allowance in the circumstances referred to in subsection (4) or (5), the trust funds related to instalments of that pension, veteran payment or allowance held by the previous trustee shall, by force of this subsection, become vested in the new trustee.

(7) Where the Commission does not, in the circumstances referred to in subsection (4) or (5), exercise its powers under subsection (1) in relation to a pension, veteran payment or allowance, the trust related to the instalments of that pension, veteran payment or allowance shall be deemed to have been terminated.

202A Commission or public servant acting as trustee

(1) This section applies where, by virtue of an instrument in force under subsection 202(1), the trustee of instalments of the pension, veteran payment or allowance payable to a person is:

(a) the Commission; or

(b) an officer of the Australian Public Service appointed as trustee in his or her capacity as such an officer.

(2) The trustee may:

(a) accumulate so much of the instalments of the pension, veteran payment or allowance received by the trustee as is not required for application in accordance with subparagraph 202(2)(b)(i); and

(b) invest any trust funds so accumulated in any manner prescribed by the regulations.

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(3) Where the trustee is a trustee of instalments of pensions, veteran payments or allowances payable to 2 or more persons, the trustee may, subject to subsection (4), for the purposes of investing the trust funds as mentioned in paragraph (2)(b), pool the trust funds in respect of those persons.

(4) The trustee shall not pool trust funds under subsection (3), or invest trust funds pooled under that subsection, in a way that prevents the trust funds held in respect of each individual person being identified sufficiently to enable paragraph 202(2)(b) to be complied with.

(5) The trustee may:

(a) make an arrangement with another person for the other person to manage the trust funds; and

(b) for the purposes of such an arrangement, transfer the trust funds to the other person;

but the making of such an arrangement, or the transferring of the trust funds, does not relieve the trustee of any duties or liabilities as trustee.

(6) The Commission:

(a) may charge such fees, whether by way of commission or otherwise, as are determined in accordance with the regulations in respect of services rendered by the trustee; and

(b) is entitled to reasonable expenses incurred by the trustee in rendering services as trustee.

(7) The fees and expenses payable under subsection (6) in respect of services rendered by the trustee as trustee of a pension, veteran payment or allowance may be paid from the trust funds.

(8) In this section:

trust funds, in relation to the trustee of instalments of the pension, veteran payment or allowance payable to a person, means the instalments of the pension, veteran payment or allowance received by the trustee, investments representing those instalments and returns received on those investments.

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202B Other person acting as trustee

(1) This section applies where, by virtue of an instrument in force under subsection 202(1), the trustee of instalments of the pension, veteran payment or allowance payable to a person is a person other than:

(a) the Commission; or

(b) an officer of the Australian Public Service appointed as trustee in his or her capacity as such an officer.

(2) The trustee may:

(a) accumulate so much of the instalments of the pension, veteran payment or allowance received by the trustee as is not required for application in accordance with subparagraph 202(2)(b)(i); and

(b) invest any trust funds so accumulated in any investments authorised for the investment of trust funds by the law of the State or Territory where the person resides.

203 International arrangements

(1) The Minister may, on behalf of the Commonwealth, enter into an arrangement with a foreign country, being an arrangement:

(a) that relates to reciprocity in veterans' affairs matters; and

(b) that makes provision for and in relation to the making of payments, or the provision of treatment or rehabilitation, to or in relation to classes of persons specified in the arrangement.

(2) Without limiting subsection (1), the arrangement may make provision for and in relation to the making of payments that are, or the provision of treatment or rehabilitation that is, comparable to payments or treatment or rehabilitation under any of the following:

(a) this Act;

(b) the *Military Rehabilitation and Compensation Act 2004*;

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(c) the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*;

(d) the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;

(e) the *Treatment Benefits (Special Access) Act 2019*.

Provisions of arrangement have full effect

(3) The provisions of an arrangement that is in force under this section have effect despite anything in any of the Acts referred to in subsection (2).

Administration of arrangement

(4) The Commission, or the Military Rehabilitation and Compensation Commission, may give effect to and administer an arrangement that is in force under this section.

Variation or revocation of arrangement

(5) An arrangement that is in force under this section may be varied or revoked by the Minister on behalf of the Commonwealth.

Publication of arrangement

(6) The Minister must arrange for a copy of an arrangement entered into under subsection (1), or of any variations to such an arrangement, to be published on the Department's website.

Arrangement is not a legislative instrument

(7) An arrangement entered into under subsection (1) is not a legislative instrument.

204 Debt recovery relating to payment of comparable foreign pension

(1) This section applies if:

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(a) an amount (the ***affected amount***) was paid to a person by way of a service pension, income support supplement or a veteran payment in respect of a particular period; and

(b) another amount (the ***lump sum***) was paid as a lump sum:

(i) to the person; or

(ii) to the person's partner, if the person is a member of a couple;

by way of a payment of arrears of a comparable foreign pension in respect of that period; and

(c) assuming that the lump sum had been paid by way of periodical payments of the comparable foreign pension in respect of that period, the affected amount would have been reduced.

(2) The amount by which the affected amount would have been reduced is a debt due by the person to the Commonwealth.

(3) Section 46A does not apply to the person in respect of the lump sum.

205 Recovery of overpayments

(1) This section applies where:

(a) in consequence of a false statement or representation, or of a failure or omission to comply with this Act, the regulations or any other legislative instrument made under this Act, an amount has been paid by way of pension, allowance or other pecuniary benefit under this Act that would not have been paid but for the false statement or representation or but for the failure or omission; or

(b) an amount has been paid to a person under a prescribed educational scheme that was not lawfully so payable; or

(c) an amount has purported to have been paid by way of pension, allowance or other pecuniary benefit under this Act, the Social Security Act, the *Social Security Act 1947* or the *Seamen's War Pensions and Allowances Act 1940* that was not lawfully so payable; or

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(ca) an amount has been paid by way of family assistance under the family assistance law that was not lawfully so payable; or

(cb) an amount has purported to have been paid by way of parental leave pay that was not lawfully so payable; or

(cd) an amount of compensation (within the meaning of the MRCA) has been paid under the MRCA that should not have been paid; or

(d) an amount has been paid, whether before or after the commencement of section 32 of the *Veterans' Affairs Legislation Amendment Act 1988*, by way of pension, allowance or other pecuniary benefit under this Act, the Social Security Act, the *Social Security Act 1947* or the *Seamen's War Pensions and Allowances Act 1940*, and the payment of that amount has since become an unauthorised payment; or

(e) a person has incurred a debt under another Act (whether before or after the commencement of this paragraph) for failing to repay part or all of an amount that has been paid as described in paragraph (b); or

(f) a person has incurred a debt under the *Social Security Act 1991* (whether before or after the commencement of this paragraph) for failing to repay part or all of an amount that has been paid as described in paragraph (c) or (d); or

(fa) a person has incurred a debt under subsection 204(2); or

(g) a person has received an advance payment of pension under Part II, III or IV or of income support supplement.

(1AB) If:

(a) a person has received an advance payment of a pension under Part II, III or IV or of an income support supplement; and

(b) the pension or income support supplement ceases to be payable to the person; and

(c) at the time when the pension or income support supplement ceases to be payable the person has not repaid the whole of the advance payment;

the amount that has not been repaid is a debt due to the Commonwealth.

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(1A) Where this section applies, the recoverable amount shall, subject to section 205AA and unless the Commission takes action under paragraph 206(1)(a) or (b) in respect of that amount, be recovered in any one or more of the ways provided by subsections (1B), (1C) and (1D) and section 205A.

(1B) A recoverable amount may be recovered by deductions under subsection (2).

(1C) A recoverable amount, other than an excluded amount, may be recovered:

(a) by proceedings in a court of competent jurisdiction from the person to whom, or on whose account, the amount was paid, or from the estate of that person, as a debt due to the Commonwealth; or

(b) partly by proceedings referred to in paragraph (a) and partly by deductions under subsection (2).

(1D) A recoverable amount may be recovered by instalments in accordance with a determination made under paragraph 206(1)(c).

(2) If:

(a) an amount (***overpayment***) has been paid as described in paragraph (1)(a), (b), (c), (ca), (cb), (cd) or (d) to a person; or

(b) a person has incurred a debt as described in paragraph (1)(e), (f) or (fa) or subsection (1AB);

an amount not exceeding the amount of the overpayment or debt may (whether or not proceedings have been instituted in a court to recover the overpayment or debt) be recovered by deductions:

(c) from a pension, allowance or pecuniary benefit payable to that person under this Act; or

(d) from any amount that, because of the person's death is to be dealt with in accordance with sections 123A to 123E (inclusive); or

(e) with the consent of another person, from any pension, allowance or other pecuniary benefit payable to that other person under this Act;

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but the total amount recovered, whether by deduction or by proceedings in a court or both, is not to exceed the amount of the overpayment or debt.

(3) Where deductions have commenced to be made under subsection (2) to recover an amount (in this subsection referred to as the ***overpayment***) but the whole of the overpayment has not been recovered at the end of the period applicable under subsection 206(2), to the institution of proceedings to recover the overpayment, deductions may continue to be made under subsection (2) of this section until the balance of the overpayment has been recovered, notwithstanding that the period during which proceedings may be instituted to recover the balance of the overpayment has expired.

(7) The payment of an amount paid by way of pension, allowance or other pecuniary benefit becomes an unauthorised payment if:

(a) the decision pursuant to which the payment was made is:

(i) set aside; or

(ii) varied, so that a lesser amount, or no amount, is payable by way of pension, allowance or other pecuniary benefit;

by any person, body, tribunal or court; and

(b) the setting aside or variation has effect from the date, or from a date earlier than the date, of the payment.

(8) In this section:

excluded amount means:

(a) a recoverable amount arising by virtue of the payment of an amount as mentioned in paragraph (1)(b); or

(b) a recoverable amount arising by virtue of the payment of an amount as mentioned in paragraph (1)(c) or (d) under the Social Security Act or the *Social Security Act 1947*; or

(ba) a recoverable amount arising by virtue of the payment of an amount as mentioned in paragraph (1)(ca), (cb) or (cd); or

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(c) a recoverable amount arising because of a debt incurred as mentioned in paragraph (1)(e), (f) or (fa) or subsection (1AB).

family assistance has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

family assistance law has the same meaning as in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

prescribed educational scheme means:

(a) the Aboriginal Overseas Study Assistance Scheme; or

(b) the ABSTUDY Scheme; or

(c) the Assistance for Isolated Children Scheme; or

(e) the English as a Second Language Allowance Scheme; or

(f) the Post-graduate Awards Scheme; or

(g) the scheme to provide an allowance known as the Adult Migrant Education Program Living Allowance; or

(h) the scheme to provide an allowance known as the Maintenance Allowance for Refugees; or

(j) a scheme prescribed for the purposes of this definition.

recoverable amount means:

(a) where an amount has been paid as mentioned in paragraph (1)(a), (b), (c), (ca), (cb) or (cd)—an amount equal to that amount; or

(b) where an amount has been paid as mentioned in paragraph (1)(d) pursuant to a decision that is set aside as mentioned in subsection (7)—an amount equal to that amount; or

(c) where an amount has been paid as mentioned in paragraph (1)(d) pursuant to a decision that is varied as mentioned in subsection (7)—an amount equal to the amount by which the amount paid exceeded the amount payable under the decision as varied; or

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(d) if a debt of a kind referred to in paragraph (1)(e), (f) or (fa) or subsection (1AB) has been incurred by a person—an amount equal to the amount of the debt.

205AAA Notices in respect of debt

(1) If:

(a) a recoverable amount has not been wholly paid to the Commonwealth; and

(b) the right of the Commonwealth to recover the outstanding amount has not been waived under paragraph 206(1)(b);

the Commission must give the person to whom, or on whose account, the recoverable amount was paid a notice specifying:

(c) the date on which it was issued (the ***date of the notice***); and

(d) the reason the outstanding amount was incurred, including a brief explanation of the circumstances that led to the outstanding amount being incurred; and

(e) the period to which the outstanding amount relates; and

(f) the outstanding amount at the date of the notice; and

(g) the day on which the outstanding amount is due and payable; and

(h) that a range of options is available for repayment of the outstanding amount; and

(i) the contact details for inquiries concerning the outstanding amount.

(2) The outstanding amount is due and payable on the 28th day after the date of the notice.

(3) If the recoverable amount has not been wholly paid and:

(a) the person has failed to enter into an arrangement with the Commission to pay the outstanding amount; or

(b) the person has entered into such an arrangement with the Commission but has failed to make a payment in accordance with the arrangement or, if the arrangement has been amended, in accordance with the arrangement as amended;

the Commission may give to the person a further notice specifying:

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(c) the date on which it was issued (the ***date of the further notice***); and

(d) the matters mentioned in paragraphs (1)(d) to (i); and

(e) the effect of section 205AAB and 205AAD; and

(f) how the interest under section 205AAB is to be calculated.

(4) A notice given under subsection (1) may also specify the matters mentioned in paragraphs (3)(e) and (f) and, if it does so, it is taken also to be a further notice given under subsection (3).

205AAB Interest on debt

(1) This section applies to a person who:

(a) receives a further notice given under subsection 205AAA(3); and

(b) is not in receipt of a pension, allowance or other pecuniary benefit under this Act or the social security law.

(2) If:

(a) the person has not entered into an arrangement with the Commission, on or before the final payment day, to pay the outstanding amount of the recoverable amount; and

(b) the Commission has notified the person in writing that he or she will be required to pay interest under this subsection;

the person is liable to pay interest:

(c) from and including the first day after the final payment day until the recoverable amount is wholly paid; and

(d) at the penalty interest rate;

on the outstanding amount from time to time.

(2A) Under this section, a person is not liable to pay interest on an outstanding amount, or the proportion of an outstanding amount, that was incurred because of an administrative error made by the Commonwealth or an agent of the Commonwealth.

(3) If:

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(a) the person has entered into an arrangement with the Commission to pay the outstanding amount of the recoverable amount; and

(b) the person has failed to make a particular payment in accordance with the arrangement; and

(c) the Commission has notified the person in writing that he or she will be required to pay interest under this subsection;

the person is liable to pay interest:

(d) if the failure occurs on or before the final payment day—from and including the first day after the final payment day until the recoverable amount is wholly paid; or

(e) if the failure occurs after the final payment day—from and including the day after the day in respect of which the last payment in respect of the recoverable amount was made until the recoverable amount is wholly paid;

at the penalty interest rate, on the outstanding amount from time to time.

(4) For the purposes of subsections (2) and (3), the ***final payment day*** is the later of the following days:

(a) the 90th day after the day on which the outstanding amount of the recoverable amount was due and payable;

(b) the 28th day after the date of the further notice given under subsection 205AAA(3).

(5) The interest payable on the outstanding amount of a recoverable amount is a debt due to the Commonwealth and may be recovered as if it were a recoverable amount for the purposes of section 205.

(6) If:

(a) interest is payable on the outstanding amount of a recoverable amount; and

(b) an amount is paid for the purpose of paying the recoverable amount and the interest;

the amount so paid is to be applied as follows:

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(c) until the recoverable amount (excluding interest) is fully paid—in satisfaction of the outstanding amount of the recoverable amount that is due when the payment is made;

(d) after the recoverable amount (excluding interest) is fully paid—in satisfaction of the interest that had become payable on the outstanding amount of the recoverable amount before the recoverable amount was fully paid.

205AAC Determination that interest not to be payable

(1) The Commission may determine that interest is not payable, or is not payable in respect of a particular period, by a person on the outstanding amount of a recoverable amount.

(1A) The Commission may make a determination under this section in circumstances that include (but are not limited to) the Commission being satisfied that the person has a reasonable excuse for:

(a) failing to enter into an arrangement to pay the outstanding amount; or

(b) having entered an arrangement, failing to make a payment in accordance with that arrangement.

(2) The determination may relate to a period before, or to a period that includes a period before, the making of a determination.

(3) The determination may be expressed to be subject to the person complying with one or more specified conditions.

(4) If the person has been notified under subsection 205AAB(2) or (3) that he or she will be required to pay interest under that subsection, the Commission must give written notice of the determination to the person as soon as practicable after the determination is made.

(5) Contravention of subsection (4) does not invalidate a determination.

(6) If:

(a) the determination is expressed to be subject to the person complying with one or more specified conditions; and

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(b) the person contravenes a condition or conditions without reasonable excuse;

the determination ceases to have effect from and including the day on which the contravention or the earliest of the contraventions occurred.

(7) The Commission may cancel or vary the determination by written notice given to the person.

205AAD Administrative charge

(1) When a person first becomes liable to pay interest under section 205AAB in respect of the outstanding amount of a particular recoverable amount, the person is liable to pay an administrative charge of $50 in respect of the outstanding amount.

(2) An administrative charge payable by a person is a debt due to the Commonwealth and may be recovered as if it were a recoverable amount for the purposes of section 205.

205AAE Penalty interest rate

(1) The penalty interest rate is:

(a) 3% per year; or

(b) if another percentage is determined in an instrument under subsection (2)—that percentage per year.

(2) The Minister may, by legislative instrument, determine a percentage for the purposes of paragraph (1)(b).

205AA Recovery of overpayment by deduction from other pension, benefit or allowance

Where:

(a) a pension, veteran payment or allowance (the ***new payment***) becomes payable, or becomes payable at an increased rate, to a person under this Act from a date (in this section called the ***operative date***), being the date on which the decision to grant

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the new payment, or to increase the rate of the new payment, is made (in this section called the ***date of the decision***), or a date before or after the date of the decision;

(b) the person has been paid before, or is paid on or after, the date of the decision:

(i) a pension, veteran payment or allowance under this Act or under the provisions of any other Act administered by the Minister; or

(ii) a pension, benefit or allowance under the Social Security Act or the *Social Security Act 1947*;

(the ***existing payment***) in respect of a period commencing on or after the operative date; and

(c) an amount, or amounts, of the existing payment has or have been paid, in respect of a period commencing on or after the operative date, that would not have been paid if the new payment had then been payable, or payable at the higher rate, as the case may be;

an amount equal to the amount, or sum of the amounts, of the existing payment paid to the person that would not have been paid to the person shall, unless the Commission takes action under paragraph 206(1)(a) or (b) in respect of that amount, be deducted, either in a lump sum or by instalments, as the Commission determines, from amounts of the new payment payable to the person.

205AB Recovery of certain amounts from financial institutions

(1) If:

(a) a payment or payments of a pension, benefit or other pecuniary amount are made to a financial institution for the credit of an account kept with the institution; and

(b) the Commission is satisfied that the payment or payments were intended to be made for the benefit of someone who was not the person or one of the persons in whose name or names the account was kept;

the Commission may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring

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the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

(c) an amount specified in the notice, being the amount, or the sum of the amounts, of the payment or payments;

(d) the amount standing to the credit of the account when the notice is given to the institution.

(2) If:

(a) a payment or payments of a pension, benefit or other pecuniary amount that are intended for the benefit of a person are made to a financial institution for the credit of an account that was kept with the institution by the person or by the person and one or more other persons; and

(b) the person died before the payment or payments were made;

the Commission may give a written notice to the institution setting out the matters mentioned in paragraphs (a) and (b) and requiring the institution to pay to the Commonwealth, within a period (being a reasonable period) stated in the notice, the lesser of the following amounts:

(c) an amount specified in the notice, being the amount, or the sum of the amounts, of the payment or payments;

(d) the amount standing to the credit of the account when the notice is received by the institution.

(2A) As soon as possible after issuing a notice under subsection (2), the Commission must inform the deceased estate in writing of:

(a) the amount sought to be recovered from the deceased person's account; and

(b) the reasons for the recovery action.

(3) A financial institution must comply with a notice given to it under subsection (1) or (2).

Penalty: 300 penalty units.

(4) It is a defence to a prosecution of a financial institution for failing to comply with a notice given to it under subsection (1) or (2) if the

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financial institution proves that it was incapable of complying with the notice.

(5) If a notice is given to a financial institution under subsection (1) (payment made to wrong account) or under subsection (2) (death of person in whose name the account was kept) in respect of a payment or payments of a pension, benefit or other pecuniary amount, any amount recovered by the Commonwealth from the institution in respect of the debt reduces any debt owed to the Commonwealth by any other person in respect of the payment or payments.

205A Commission may take action in relation to money owing to pensioners

(1) Where a person (in this subsection called the ***pensioner***) is indebted to the Commonwealth under or as a result of this Act, the Commission may, by notice in writing given to a person:

(a) by whom any money is due or accruing or may become due to the pensioner;

(b) who holds or may subsequently hold money for or on account of the pensioner;

(c) who holds or may subsequently hold money on account of some other person for payment to the pensioner; or

(d) who has authority from some other person to pay money to the pensioner;

require the person to whom the notice is given to pay to the Commonwealth:

(e) an amount specified in the notice, not exceeding the amount of the debt due by the pensioner under or as a result of this Act or the amount of the money referred to in the preceding paragraph that is applicable; or

(f) such amount as is specified in the notice out of each payment that the person becomes liable from time to time to make to the pensioner until that debt is satisfied.

(2) The time for making a payment in compliance with a notice under subsection (1) is such time as is specified in the notice, not being a

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time before the money concerned becomes due or is held or before the end of the period of 14 days after the notice is given.

(3) A person who fails to comply with a notice under subsection (1) commits an offence.

Penalty:

(a) in the case of a natural person—imprisonment for 12 months or 20 penalty units, or both; or

(b) in the case of a body corporate—100 penalty units.

(3A) Subsection (3) does not apply to the extent that the person is not capable of complying with the notice.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3A). See subsection 13.3(3) of the *Criminal Code*.

(4) Where the Commission gives a notice to a person under subsection (1), the Commission shall give a copy of the notice to the pensioner concerned.

(5) A person who makes a payment to the Commonwealth in compliance with a notice under subsection (1) shall be deemed to have made the payment under the authority of the pensioner concerned and of any other person concerned.

(6) Where:

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and

(b) an amount is paid by a person other than the first-mentioned person in reduction or in satisfaction of the debt;

the Commission shall notify the first-mentioned person accordingly, and the amount specified in the notice shall be deemed to be reduced by the amount so paid.

(7) Where, apart from this subsection, money is not due or repayable on demand to a person unless a condition is fulfilled, the money shall be taken, for the purposes of this section, to be due or repayable on demand, as the case may be, notwithstanding that the condition has not been fulfilled.

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(8) Where:

(a) a notice is given to a person under subsection (1) in respect of a debt due by a pensioner; and

(b) the person fails to comply with the notice to the extent that the person is capable of doing so;

an amount equal to:

(c) so much of the amount required by the notice to be paid by the person as the person was able to pay; or

(d) so much of the debt due by the pensioner at the time when the notice was given as remains due from time to time;

whichever is the lesser, is a debt due by the person to the Commonwealth.

(9) Where:

(a) a person is indebted to the Commonwealth under subsection (8) in respect of a debt due by a pensioner; and

(b) the Commonwealth recovers:

(i) the whole or a part of the debt due by the person under subsection (8); or

(ii) the whole or a part of the debt due by the pensioner;

the debt due by the pensioner, and the debt due by the person, are reduced by the amount so recovered and the amount specified in the notice under subsection (1) shall be deemed to be reduced by the amount so recovered.

(10) A reference in this section to a person includes a reference to the Commonwealth, a State, a Territory and any authority of the Commonwealth or of a State or Territory.

205B Certain decisions of Commission reviewable under Social Security Act etc.

(1) This section applies to the following decisions of the Commission made in relation to an amount paid, or purported to have been paid, by way of pension, allowance or other pecuniary benefit under the Social Security Act or the *Social Security Act 1947* (in this section called the ***social security amount***):

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(a) a decision to recover a recoverable amount in relation to the social security amount by deductions under subsection 205(2);

(b) a decision to give a notice to a person under section 205A in respect of a debt due to the Commonwealth in relation to the payment of the social security amount.

(2) A decision to which this section applies shall be taken for the purposes of the Social Security Act to be a decision made under that Act by an officer (other than the Secretary) of the Department administered by the Minister administering that Act.

206 Waiver etc. of debts

(1) The Commission may, on behalf of the Commonwealth, by determination in writing:

(a) write off debts arising under or as a result of this Act, or debts arising under or as a result of this Act that are included in a class of debts specified by the Minister by notice in writing published in the *Gazette*;

(b) waive or defer the right of the Commonwealth:

(i) to recover from a person the whole or a part of a debt that is payable by the person under or as a result of this Act; or

(ii) to recover debts under or as a result of this Act included in a class of debts specified by the Minister by notice in writing published in the *Gazette*; or

(c) allow an amount that is payable by a person to the Commonwealth under or as a result of this Act to be paid in instalments.

(2) Proceedings for the recovery from a person of any amount that is payable by the person to the Commonwealth under or as a result of this Act are not to be commenced after the end of the period of 6 years starting on the first day on which an officer becomes aware, or could reasonably be expected to have become aware, of the circumstances that gave rise to the debt.

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208 Offences

(1) A person shall not:

(a) intentionally make, whether orally or in writing, a false or misleading statement:

(i) in connection with, or in support of, a claim or application made under this Act by that person or by another person for a pension, allowance or other benefit or for an increased pension, allowance or other benefit; or

(ia) in connection with the consideration of the eligibility of the person or another person for a veteran payment; or

(ii) with the intention of deceiving an officer doing duty in relation to this Act; or

(iii) with the intention of affecting the rate of a pension, allowance or other pecuniary benefit payable under this Act; or

(b) intentionally obtain:

(i) payment of a pension, allowance or other pecuniary benefit under this Act; or

(ii) payment of an instalment of such a pension, allowance or benefit;

knowing that the payment is:

(iii) not payable at all; or

(iv) payable only in part; or

(c) intentionally obtain payment of a pension, allowance or other pecuniary benefit under this Act, or of an instalment of such a pension, allowance or benefit, by means of a false or misleading statement or of impersonation or a fraudulent device; or

(d) intentionally obtain a benefit (not being a pension, allowance or pecuniary benefit) under this Act by means of a false or misleading statement or of impersonation or a fraudulent device; or

(e) intentionally make or present to the Commission or an officer a statement or document that is false in a material particular.

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(2) A person shall not forge the signature of another person on a claim or application made under this Act for a pension, allowance or other benefit or for an increased pension, allowance or other pecuniary benefit, or on any other document connected with, or in support of, such a claim or application, or connected with payment of a pension, allowance or other pecuniary benefit under this Act or the provision of any other benefit under this Act.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(3) A person shall not sign his or her name on a document intended to be presented to an officer for the purposes of this Act as his or her signature to the document unless the document has been completely filled in so as to be ready to be presented to an officer without further addition.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(4) A person to whom assistance by way of a gift or loan of goods has been granted under this Act for any purpose shall not, without having first obtained the consent of the Commission:

(a) use the goods for any other purpose; or

(b) sell or otherwise dispose of, or pledge, mortgage or deposit by way of security any of those goods.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(4A) An offence under subsection (3) or (4) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(5) An offence against subsection (1) is an indictable offence and, subject to subsection (6), is punishable, on conviction, by imprisonment for a period not exceeding 12 months or a fine not exceeding 20 penalty units, or both.

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(6) Notwithstanding that an offence against subsection (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(7) Where, in accordance with subsection (6), a court of summary jurisdiction convicts a person of an offence against subsection (1), the penalty that the court may impose is imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

209 Multiple offences

(1) Charges against the same person for any number of offences against section 208 may be joined in one complaint or information if those charges are founded on the same facts, or form, or are part of, a series of offences of the same or a similar character.

(2) Where 2 or more charges are included in the same complaint or information, particulars of each offence charged shall be set out in a separate paragraph.

(3) All charges so joined shall be tried together unless the court deems it just that any charge should be tried separately and makes an order to that effect.

(4) If a person is convicted of more than one offence against section 208, the court may, if it thinks fit, impose one penalty in respect of all the offences of which the person is convicted, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if penalties were imposed for each offence separately.

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210 Judicial notice to be taken of certain matters

Judicial notice of signature

(1) All courts must take judicial notice of a signature that purports to be attached or appended to any official document if it is the signature of a person who:

(a) holds or has held the office of Secretary; or

(b) is or was an officer of the Department.

Judicial notice that person holds office

(2) If the signature of a person referred to in subsection (1) purports to be attached or appended to any official document, all courts must take judicial notice of the fact that the person:

(a) holds or has held the office of Secretary; or

(b) is or was an officer of the Department.

210A Evidence

(1) If the signature of any person who:

(a) holds or has held the office of Secretary; or

(b) is or was an officer of the Department;

purports to be attached or appended to any official document, the document must be received in all courts as prima facie evidence of the facts and statements contained in it.

(2) A statement in writing, signed by a person referred to in subsection (1), that a person is or was receiving a pension, allowance or other benefit under this Act on a certain date or at a certain rate must be received in all courts as prima facie evidence that the person is or was receiving the pension, allowance or benefit on the date or at the rate stated.

(3) If a written statement signed by a person referred to in subsection (1) is to the effect that, on a specified day, a specified person received a specified amount by way of pension bonus under

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this Act, the statement is prima facie evidence of the matters in the statement.

211 Order for repayment of pension etc.

(1) Where:

(a) a person is convicted of an offence against subsection 208(1) or (2); or

(b) a person is charged before a court with an offence against subsection 208(1) or (2) but the Court, being satisfied that the charge has been proved, dismisses the charge or discharges the person without proceeding to a conviction;

the court may (in the case of a person convicted of the offence, in addition to imposing a penalty in respect of that offence) order the person to repay to the Commonwealth an amount equal to the amount paid by way of pension, allowance or other pecuniary benefit under this Act in consequence of the act, failure or omission in respect of which the person was charged with the offence.

(2) For the purposes of subsection (1), a certificate, under the hand of the Secretary, that an amount specified in the certificate is the amount that has been paid to a person by way of pension, allowance or other pecuniary benefit in consequence of an act, failure or omission specified in the certificate is prima facie evidence of the matters specified in the certificate.

(3) Where:

(a) the Court makes an order under subsection (1) for the payment to the Commonwealth of an amount of money; and

(b) the clerk, or other appropriate officer, of the Court signs a certificate specifying:

(i) the amount ordered to be paid to the Commonwealth; and

(ii) the person by whom the amount is to be paid; and

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(c) the certificate is filed in a court (which may be the Court) having civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which the certificate is filed.

(4) In spite of anything in this Act or any other law, a person is not to be imprisoned in respect of a failure to pay an amount payable to the Commonwealth under this section.

(5) Where:

(a) a person is convicted of an offence against subsection 208(1) or (2); and

(b) the court orders him or her to pay an amount of more than $30,000 to the Commonwealth under subsection (1); and

(c) the offence involved a scheme to defraud the Commonwealth;

the court may, on application by the Commonwealth, order the person to pay to the Commonwealth interest on the amount mentioned in paragraph (b), at the rate of 20% per annum, in respect of the period or periods in respect of which the person was paid pension, allowance or other benefit as mentioned in subsection (1).

(6) In this section:

scheme to defraud the Commonwealth includes either of the following:

(a) a scheme involving the making of a series of false or misleading statements;

(b) a scheme involving obtaining a series of payments of pension, allowance or other benefit or instalments of pension, allowance or other benefit under this Act (being payments that were not payable) by means of impersonation or a fraudulent device.

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212 Delegation by Minister

(1) The Minister may, by writing, delegate all or any of the Minister's powers under this Act to:

(a) a commissioner; or

(b) an APS employee.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

(4) In this section, ***commissioner*** includes an acting commissioner.

213 Delegation by Commission

(1) The Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to a person referred to in subsection (4) all or any of its powers under this Act, under the regulations or under any other legislative instrument made under this Act, under the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* or under any of the provisions of an Act repealed by subsection 3(1) of this Act in their application, notwithstanding their repeal, by virtue of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*, other than this power of delegation.

(1A) However, subsection (1) does not apply to the Commission's power under subsection 69B(6).

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the regulations or the other legislative instrument made under this Act, be deemed to have been exercised by the Commission.

(3) A delegation of a power under this section does not prevent the exercise of a power by the Commission.

(4) The persons to whom a power may be delegated under subsection (1) are any of the following:

(a) a commissioner or an acting commissioner;

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(b) an APS employee;
(c) a public authority established by a law of the Commonwealth;
(d) an officer or employee of a public authority referred to in paragraph (c);
(e) a person who performs services on behalf of the Commission under a contract made between the person and:
(i) the Commission; or
(ii) the Commonwealth;
(f) an employee of a person referred to in paragraph (e).

214 Delegation by Secretary

(1) The Secretary may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Secretary, delegate to a person referred to in subsection (4), all or any of the Secretary's powers under this Act or under the regulations or under any other legislative instrument made under this Act, other than this power of delegation and the power under subsection 4B(1).

(2) A power delegated under this section, when exercised by a delegate, shall, for the purposes of this Act or the regulations or the other legislative instrument made under this Act, be deemed to have been exercised by the Secretary.

(3) A delegation under this section does not prevent the exercise of a power by the Secretary.

(4) The persons to whom a power may be delegated under subsection (1) are any of the following:
(a) an APS employee;
(b) a public authority established by a law of the Commonwealth;
(c) an officer or employee of a public authority referred to in paragraph (b);

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(d) a person who performs services on behalf of the Department under a contract made between the person and the Commonwealth;

(e) an employee of a person referred to in paragraph (d).

214A Telephone access to offices at cheap rate

The Minister shall direct the Secretary to make provision for the development of a service which will enable a person to make a telephone call to an office that is under the general control of the Secretary, at no greater cost than the cost of a local telephone call.

215 Annual report

(1) The Commission shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operation of this Act during the year that ended on that 30 June.

(2) The Minister shall cause a copy of a report furnished to the Minister under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

(3) The first report to be prepared and furnished under subsection (1) shall be a report:

(a) on the administration and operation of the *Repatriation Act 1920* in respect of the period that commenced on 1 July 1985 and ended on the day immediately preceding the date fixed under section 2; and

(b) on the operation of this Act in respect of the period that commenced on the date fixed under section 2 and ends on 30 June 1986.

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216 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, for prescribing penalties not exceeding a fine of 5 penalty units for a contravention of the regulations.

(2) The regulations may modify the operation of section 18 of the *Administrative Review Tribunal Act 2024* (when to apply—general rule) as it applies in relation to a decision made under the regulations.

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