



# **Veterans' Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010**

**No. 120, 2010**

**An Act to amend the law relating to veterans'  
affairs and military rehabilitation and  
compensation, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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**An Act to amend the law relating to veterans'  
affairs and military rehabilitation and  
compensation, and for other purposes**

*[Assented to 17 November 2010]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Veterans' Affairs and Other  
Legislation Amendment (Miscellaneous Measures) Act 2010*.

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*Veterans' Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010* No.  
120, 2010 1

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	17 November 2010
2. Schedule 1, items 1 to 41	The day this Act receives the Royal Assent.	17 November 2010
3. Schedule 1, items 42 to 44	The day after this Act receives the Royal Assent.	18 November 2010
4. Schedule 1, items 45 to 48	The day this Act receives the Royal Assent.	17 November 2010

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in Column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Australian participants in British nuclear tests**

#### ***Australian Participants in British Nuclear Tests (Treatment) Act 2006***

##### **1 Paragraph 5(3A)(b)**

Omit “was, at that time, either”, substitute “was at that time”.

##### **2 Subparagraph 5(3A)(b)(ii)**

Omit “and”, substitute “or”.

##### **3 At the end of paragraph 5(3A)(b)**

Add:

- (iii) a protective service officer, or a special protective service officer, within the meaning of the *Australian Protective Service Act 1987*; or
- (iv) a protective service officer, or a special protective service officer, in a Department of the Commonwealth; and

##### **4 Treatment before commencement but on or after 19 June 2006**

- (1) The Repatriation Commission may approve, under subsection 13(1) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*, treatment for a person that was provided before the commencement of this item but on or after 19 June 2006 if:
  - (a) the person makes a claim under that Act within 6 months after that commencement for a determination that the person is an eligible person; and
  - (b) the Commission determines under that Act that the person is an eligible person because of subparagraph 5(3A)(b)(iii) or (iv) of that Act (as inserted by this Part).
- (2) This item has effect despite subsection 13(2) of that Act.

## 5 Expenses of travel before commencement but on or after 19 June 2006

- (1) This item applies to travel undertaken before the commencement of this item but on or after 19 June 2006 for the purpose of:
- (a) obtaining treatment for a person who:
    - (i) makes a claim under the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* within 6 months after that commencement for a determination that the person is an eligible person; and
    - (ii) is determined by the Commission under that Act to be an eligible person because of subparagraph 5(3A)(b)(iii) or (iv) of that Act (as inserted by this Part); or
  - (b) accompanying a person described in paragraph (a) travelling for the purpose described in that paragraph as his or her attendant.
- (2) If a claim for a determination of entitlement to be paid travelling expenses in connection with the travel is made under that Act (disregarding subsection 21(2) of that Act) within 6 months after the commencement of this item, the Repatriation Commission may:
- (a) approve or authorise the travel, for the purposes of section 19 of that Act; and
  - (b) determine the claim under that Act.



## **Part 2—Payments for State Emergency Services**

### *Defence Service Homes Act 1918*

#### **6 After section 38G**

Insert:

#### **38GA Payments for State Emergency Services**

- (1) Where under a law of a State a person carrying on in that State the business of insuring against the risk of loss of, or damage to, property is liable to make payments to the State, or to an authority of the State, to assist in meeting the cost of the State Emergency Service of the State, the Commonwealth may make payments to the State, or authority, for that purpose.
- (2) The amount of a payment under this section must not be more than the amount that the Commonwealth would be liable to pay under the law of the State if the law applied to the Commonwealth.

#### **7 Subparagraph 40(4)(a)(ii)**

After “section 38G”, insert “or 38GA”.

## Part 3—Claims for travel expenses

### *Veterans' Entitlements Act 1986*

#### 8 Paragraph 132(11)(e)

Repeal the paragraph, substitute:

- (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.

#### 9 Paragraph 170B(5)(b)

Repeal the paragraph, substitute:

- (b) be made within:
  - (i) 12 months after the completion of the travel; or
  - (ii) if the Commission thinks that there are exceptional circumstances that justify extending that period—such further period as the Commission allows; and

#### 10 Paragraph 196ZO(5)(b)

Repeal the paragraph, substitute:

- (b) made within:
  - (i) 12 months after the completion of the travel; or
  - (ii) if the Commission thinks that there are exceptional circumstances that justify extending that period—such further period as the Commission allows; and

#### 11 Application

The amendments made by this Part apply in relation to travel completed on or after the commencement of this item (regardless of whether the travel commenced before, on or after that commencement).

## **Part 4—Giving of notices or other documents**

### ***Military Rehabilitation and Compensation Act 2004***

#### **12 After section 408**

Insert:

#### **408A Manner of giving notice or other document**

(1) If a provision of this Act requires or permits a notice or other document to be given to a person by:

- (a) the Commission; or
- (b) the Board; or
- (c) the person's service chief;

then the notice or other document must be given:

- (d) in accordance with section 28A of the *Acts Interpretation Act 1901*; or
- (e) in a manner approved in writing by:
  - (i) in relation to paragraph (a)—the Commission; or
  - (ii) in relation to paragraph (b)—the Principal Member of the Board; or
  - (iii) in relation to paragraph (c)—the person's service chief.

(2) This section does not limit the *Electronic Transactions Act 1999*.

### ***Veterans' Entitlements Act 1986***

#### **13 After section 129**

Insert:

#### **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

**Schedule 1** Amendments

**Part 4** Giving of notices or other documents

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- (ii) the Board; 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:

(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
- (ii) in relation to subparagraph (a)(ii)—the Principal Member of the Board; 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*.

## **14 Application**

The amendments made by this Part apply in relation to notices or other documents given on or after the commencement of this item.

## **Part 5—Aggravation etc. of war-caused or defence-caused injury or disease**

### ***Veterans' Entitlements Act 1986***

#### **15 Subsection 9A(2)**

Omit “An injury or disease of a veteran that has been aggravated, or materially contributed to, by service is taken not to be war-caused if”, substitute “If an injury or disease of a veteran has been aggravated, or materially contributed to, by service, the aggravation or material contribution is taken not to be war-caused if”.

#### **16 Paragraph 9A(2)(a)**

After “after the”, insert “MRCA”.

#### **17 Subsection 9A(2) (note)**

Omit “Note”, substitute “Note 1”.

#### **18 At the end of subsection 9A(2)**

Add:

Note 2: Compensation remains payable under this Act for the original injury or original disease.

#### **19 Subsection 70A(2)**

Omit “An injury or disease of a member of the Forces, or any other member or former member of the Defence Force, that has been aggravated, or materially contributed to, by service is taken not to be defence-caused if”, substitute “If an injury or disease of a member of the Forces, or any other member or former member of the Defence Force, has been aggravated, or materially contributed to, by service, the aggravation or material contribution is taken not to be defence-caused if”.

#### **20 Subsection 70A(2) (after note 1)**

Insert:

Note 1A: Compensation remains payable under this Act for the original injury or original disease.

## **Part 6—Dependants of veterans who were prisoners of war**

### ***Veterans' Entitlements Act 1986***

#### **21 Paragraph 13(2A)(c)**

After “time”, insert “before 1 July 2004”.

#### **22 Subsection 13(2AA)**

Repeal the subsection.

## **Part 7—Statements of Principles**

### ***Veterans' Entitlements Act 1986***

#### **23 Subsection 196J(1)**

After “review”, insert “or not to amend”.

#### **24 After paragraph 196K(b)**

Insert:

(ba) its decision not to amend a Statement of Principles in respect of a particular kind of injury, disease or death; or

#### **25 Paragraph 196K(e)**

After “determine”, insert “, or not to amend,”.

#### **26 After paragraph 196W(2)(b)**

Insert:

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;

#### **27 Paragraph 196W(2)(d)**

After “determine”, insert “, or not to amend,”.

#### **28 After subsection 196W(3)**

Insert:

(3A) If:

- (a) the 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
- (b) there is another Statement of Principles in force in respect of that kind of injury, disease or death, but the Council has not been asked to review some or all of the contents of that other Statement of Principles;

then the 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.

**29 Paragraphs 196W(4)(a) and (c)**

Omit “the Statement of Principles”, substitute “either or both of the Statements of Principles”.

**30 Paragraphs 196W(5)(a) and (b)**

Omit “the Statement of Principles”, substitute “either or both of the Statements of Principles”.

**31 Paragraph 196Y(1)(e)**

After “make”, insert “, or not to amend,”.

**32 Paragraph 196ZB(1)(a)**

Omit “to make or”.

**33 Paragraph 196ZB(1)(a)**

After “not to make”, insert “, or not to amend,”.

**34 Paragraph 196ZB(1)(a)**

After “Principles”, insert “in respect of a particular kind of injury, disease or death”.

**35 Paragraph 196ZB(1)(b)**

Omit “a review of”.

**36 Application**

- (1) The amendments made by items 23, 24, 25, 26, 27, 31 and 33 apply in relation to decisions made on or after the commencement of those items not to amend a Statement of Principles.
- (2) The amendments made by items 28, 29 and 30 apply in relation to requests for review made on or after the commencement of those items.



## **Part 8—Other amendments**

### ***Military Rehabilitation and Compensation Act 2004***

#### **37 Subsection 234(1) (paragraph (a) of the note)**

Repeal the paragraph.

#### **38 Subsection 234(6)**

Repeal the subsection.

#### **39 Paragraph 339(3)(b)**

Repeal the paragraph, substitute:

(b) there is in force:

(i) a Statement of Principles determined under subsection 196B(3) or (12) of the *Veterans' Entitlements Act 1986*; or

(ii) a determination of the Commission under subsection 340(3) of this Act; and

(c) the material, and the Statement of Principles or the determination (as the case may be), upholds the contention that the injury, disease or death of the person is, on the balance of probabilities, connected with that service.

#### **40 Subparagraph 417(c)(i)**

Omit "Subdivision C", substitute "Subdivision D".

#### **41 Subparagraph 420(4)(b)(i)**

Omit "Subdivision C", substitute "Subdivision D".

#### **42 At the end of subsection 430(1)**

Add "This subsection is subject to subsection (3A).".

#### **43 After subsection 430(3)**

Insert:

- (3A) A person's compensation must be paid to the credit of an account with a bank, or a foreign corporation that takes money on deposit, in the circumstances specified under subsection (3C).

Note: Sections 432 and 433 deal with payments to trustees.

- (3B) The account referred to in subsection (3A) must be nominated by the person and must be an account maintained by the person (including an account maintained jointly or in common with another person).
- (3C) The Commission may, by legislative instrument, specify circumstances for the purposes of subsection (3A).

#### **44 Application**

The amendment made by item 43 applies in relation to amounts that are payable on or after the commencement of that item.

### ***Social Security Act 1991***

#### **45 After subparagraph 8(8)(y)(vi)**

Insert:

- (via) a payment, by a foreign country, of an allowance or annuity that is of a similar kind to decoration allowance payable under section 102 of that Act or to Victoria Cross allowance payable under section 103 of that Act; or

### ***Veterans' Entitlements Act 1986***

#### **46 Before paragraph 5H(8)(fa)**

Insert:

- (faa) a payment, by a foreign country, of an allowance or annuity that is of a similar kind to decoration allowance payable under section 102 or to Victoria Cross allowance payable under section 103;

Note: However, a payment referred to in paragraph (faa) is counted in working out a person's total income for the purposes of the hardship rules (see section 52Z).

#### **47 After paragraph 52Z(3A)(e)**

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Insert:

- (f) a payment, by a foreign country, of an allowance or annuity that is of a similar kind to decoration allowance payable under section 102 or to Victoria Cross allowance payable under section 103;

**48 Subsections 102(3) and 103(3)**

Repeal the subsections.

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*[Minister's second reading speech made in—  
House of Representatives on 30 September 2010  
Senate on 25 October 2010]*

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*Veterans' Affairs and Other Legislation Amendment (Miscellaneous Measures) Act 2010*      No.  
(181/10)      120, 2010      15