



**Veterans' Affairs Legislation
Amendment (Participants in British
Nuclear Tests) Act 2011**

No. 169, 2011

**An Act to amend the *Veterans' Entitlements Act
1986* and other legislation, and for related purposes**

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

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Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Act 2011

No. 169, 2011

An Act to amend the *Veterans' Entitlements Act 1986* and other legislation, and for related purposes

[Assented to 4 December 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Act 2011*.

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2 Commencement

This Act commences on the day this Act receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Australian Participants in British Nuclear Tests (Treatment) Act 2006

1 Subsection 4(1) (definition of *nuclear test participant*)

Omit “and (3A)”, substitute “, (3A) and (3C)”.

2 After subsection 5(3B)

Insert:

(3C) A person is a *nuclear test participant* if the person satisfies the requirements specified in an instrument under subsection (3D).

(3D) The Commission may, by legislative instrument, specify requirements for the purposes of subsection (3C).

3 Section 32

Before “The”, insert “(1)”.

4 At the end of section 32

Add:

(2) However, subsection (1) does not apply to the Commission’s power under subsection 5(3D).

5 Treatment before instrument takes effect but on or after 19 June 2006

(1) If the Commission makes an instrument under subsection 5(3D) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006*, the Commission may approve, under subsection 13(1) of that Act, treatment for a person that was provided before that instrument took effect but on or after 19 June 2006 if:

- (a) the person makes a claim under that Act before that instrument took effect, or within 6 months after that instrument took effect, 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 subsection 5(3C) of that Act.

(2) This item has effect despite subsection 13(2) of that Act.

6 Expenses of travel before instrument takes effect but on or after 19 June 2006

(1) This item applies if the Commission makes an instrument under subsection 5(3D) of the *Australian Participants in British Nuclear Tests (Treatment) Act 2006* and travel is undertaken before that instrument took effect but on or after 19 June 2006 for the purpose of:

(a) obtaining treatment for a person who:

(i) makes a claim under that Act before that instrument took effect, or within 6 months after that instrument took effect, 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 subsection 5(3C) of that Act; 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 that instrument took effect, the 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.

Veterans' Entitlements Act 1986

7 Section 5 (index of definitions, at the end of the entry dealing with British nuclear test defence service)

Add "and (5)".

8 Subsection 68(1) (definition of *British nuclear test defence service*)

Omit “and (4)”, substitute “, (4) and (5)”.

9 At the end of section 69B

Add:

- (5) A person rendered *British nuclear test defence service* while the person was a member of the Defence Force if the person satisfies the requirements specified in an instrument under subsection (6).
- (6) The Commission may, by legislative instrument, specify requirements for the purposes of subsection (5).

10 After subsection 213(1)

Insert:

- (1A) However, subsection (1) does not apply to the Commission’s power under subsection 69B(6).

11 Backdating determinations of entitlement to pension

- (1) If, on or after the commencement of this item, the Commission grants a claim for a pension under the *Veterans’ Entitlements Act 1986* on the basis of a person’s British nuclear test defence service (within the meaning of subsection 69B(5) of that Act), then subsection 20(3) of that Act does not apply in relation to the grant of that claim.

Note: Subsection 20(3) of that Act prevents backdating of the grant of pension claims before the date of eligibility for the pension.

- (2) For the purposes of subitem (1), it does not matter whether the claim is made before, on or after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 22 September 2011
Senate on 13 October 2011]*

(194/11)

6 *Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Act*
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