



Veterans' Affairs Legislation Amendment Act (No. 2) 2002

No. 74, 2002

**An Act to amend the law with respect to veterans'
entitlements, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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An Act to amend the law with respect to veterans' entitlements, and for related purposes

[Assented to 6 September 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Veterans' Affairs Legislation
Amendment Act (No. 2) 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	6 September 2002
2. Schedule 1, items 1 and 2	The day on which this Act receives the Royal Assent	6 September 2002
3. Schedule 1, items 3 to 8	Immediately after the commencement of Schedule 1 to the <i>Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Act 2002</i>	20 September 2001
4. Schedule 1, items 9 to 26	The day on which this Act receives the Royal Assent	6 September 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Veterans' Entitlements Act 1986

Part 1—Amendments concerning double counting

1 After paragraph 5H(8)(e) (before the note)

Insert:

- (ea) any payment of compensation (other than a payment referred to in paragraph (e)) to the extent that the payment is taken into account:
 - (i) under Division 5A of Part II; or
 - (ii) under section 74;to reduce a disability pension payable to the person under Part 2 or Part 4, as the case requires;

2 Subsection 5H(8) (note before paragraph (f))

Omit “paragraph (b), (c) or (e)”, substitute “paragraph (b), (c), (e) or (ea)”.

Part 2—Amendments concerning lump sum compensation payments

3 Subsection 59ZA(3)

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

4 Paragraph 59ZA(5)(b)

Repeal the paragraph, substitute:

- (b) the person's partner receives or is eligible for a compensation affected pension, or a compensation affected payment (under the Social Security Act), for a day or days in:
 - (i) unless subparagraph (ii) applies—the periodic payments period in respect of the compensation; or
 - (ii) if the compensation is lump sum compensation for which payment is received by the person or the person's partner before 20 March 1997—the lump sum preclusion period;

5 After subsection 59ZA(5)

Insert:

(5AA) If:

- (a) the person claiming compensation is a member of a couple; and
- (b) the person's partner receives or is eligible for a compensation affected pension, or a compensation affected payment (under the Social Security Act), for a day or days in the lump sum preclusion period in respect of lump sum compensation received by the person on or after 20 March 1997;

the *recoverable amount* is equal to the smallest of the following amounts:

- (c) the sum of all the payments of compensation affected pension made to the person for the lump sum preclusion period;
- (d) the compensation part of the lump sum payment;

- (e) the maximum amount that the compensation payer is liable to pay to the person in relation to the matter at any time after receiving:
 - (i) a preliminary notice under section 59Y in relation to the matter; or
 - (ii) if the compensation payer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

6 Subsection 59ZG(3)

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

7 Paragraph 59ZG(5)(b)

Repeal the paragraph, substitute:

- (b) the person's partner receives or is eligible for a compensation affected pension, or a compensation affected payment (under the Social Security Act), for a day or days in:
 - (i) unless subparagraph (ii) applies—the periodic payments period in respect of the compensation; or
 - (ii) if the compensation is lump sum compensation for which payment is received by the person or the person's partner before 20 March 1997—the lump sum preclusion period;

8 After subsection 59ZG(5)

Insert:

(5AA) If:

- (a) the person claiming compensation is a member of a couple; and
- (b) the person's partner receives or is eligible for a compensation affected pension, or a compensation affected payment (under the Social Security Act), for a day or days in the lump sum preclusion period in respect of lump sum compensation received by the person on or after 20 March 1997;

the *recoverable amount* is equal to the smallest of the following amounts:

Schedule 1 Amendment of the Veterans' Entitlements Act 1986

Part 2 Amendments concerning lump sum compensation payments

- (c) the sum of all the payments of compensation affected pension made to the person for the lump sum preclusion period;
- (d) the compensation part of the lump sum payment;
- (e) the maximum amount for which the insurer is liable to indemnify the compensation payer in relation to the matter at any time after receiving:
 - (i) a preliminary notice under section 59ZE in relation to the matter; or
 - (ii) if the insurer has not received a preliminary notice—the recovery notice under this section in relation to the matter.

Part 3—Amendments concerning entry contributions to retirement villages

9 Section 5 (index entry relating to rent)

Omit “5N(2), (3), (4)”, substitute “5N”.

10 Subsection 5N(1) (definition of *rent*)

Omit “subsections (2) and (3)”, substitute “this section”.

11 After subsection 5N(3)

Insert:

- (3AA) To avoid doubt, an amount that is paid or becomes payable by a person is not rent in relation to the person (either at the time when it is paid or becomes payable or at any later time) if the amount is, or forms part of, a special resident's entry contribution in relation to the person in respect of a retirement village under section 52M, whether the amount is paid or payable (whether wholly or partly) in a lump sum, by instalments or otherwise.
- (3AB) If the whole or any part of an amount that is not rent in relation to a person as mentioned in subsection (3AA) is, or will or may become, repayable to the person, any amount by which the amount so repayable is reduced is not rent in relation to the person (either at the time when the reduction occurs or at any later time).

Part 4—Amendments concerning telephone allowance

12 Subsection 118Q(4) (paragraph (b) of the definition of *telephone subscriber*)

Repeal the paragraph, substitute:

(b) who has a telephone service connected in Australia; and

13 Subsection 118Q(4) (paragraph (c) of the definition of *telephone subscriber*)

Omit “whose telephone service”, substitute “the telephone service”.

Part 5—Amendments concerning rent assistance for persons receiving family tax benefit

14 Paragraph SCH6-C3(f)

Repeal the paragraph, substitute:

- (f) either of the following subparagraphs applies:
 - (i) if the person is not a member of a couple, or is a member of an illness separated couple or a respite care couple and is entitled to be paid a family tax benefit—the person's maximum Part A rate of family tax benefit does not include rent assistance;
 - (ii) if the person is a member of a couple other than an illness separated couple or a respite care couple and the person, or the person's partner, is entitled to be paid family tax benefit—the maximum Part A rate of family tax benefit of the person, or the person's partner, does not include rent assistance.

15 After paragraph SCH6-E10(c)

Insert:

- (ca) under the *A New Tax System (Family Assistance) Act 1999*;
or

Part 6—Amendments concerning eligibility for Pension Loans Scheme

16 Paragraph 52ZA(1)(b)

Repeal the paragraph.

17 Paragraph 52ZA(1)(d)

Repeal the paragraph, substitute:

- (d) the person has reached:
 - (i) if the person is receiving or is eligible for service pension—pension age; or
 - (ii) if the person is receiving or is eligible for income support supplement—qualifying age; and

18 Paragraph 52ZA(2)(b)

Repeal the paragraph.

19 Paragraph 52ZA(2)(d)

Repeal the paragraph, substitute:

- (d) the person:
 - (i) is a veteran and has reached pension age; or
 - (ii) is the partner of a veteran referred to in subparagraph (i); or
 - (iii) is receiving or is eligible for an income support supplement and has reached qualifying age; and

20 At the end of section 52ZA

Add:

- (4) In this section:

qualifying age has the meaning given by subsection 45A(2).

Part 7—Amendments concerning seniors health cards

21 After subsection 118V(1)

Insert:

- (1A) 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
 - (d) is in Australia; 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.

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

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

22 Paragraph 118V(2)(i)

Omit “under subsection (1)”, substitute “under subsection (1) or (1A)”.

23 Paragraphs 118V(3)(b) and (f)

Omit “or income support supplement” (wherever occurring).

24 Paragraph 118V(3)(i)

Omit “under subsection (1)”, substitute “under subsection (1) or (1A)”.

25 After subsection 118V(4)

Insert:

- (4A) In subsection (1A), *qualifying age* has the meaning given by subsection 45A(2)).

Part 8—Amendment relating to non-illness separated spouses

26 Subsection 5E(1) (definition of *non-illness separated spouse*)

Repeal the definition, substitute:

non-illness separated spouse means a person:

- (a) who is legally married to another person but living separately and apart from that other person on a permanent basis; and
- (b) whose separation has not resulted in a direction under subsection 5R(5).

[Minister's second reading speech made in—
House of Representatives on 27 June 2002
Senate on 26 August 2002]

(141/02)