



Veterans' Affairs Legislation Amendment Act (No. 2) 1994

No. 148 of 1994

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Veterans' Affairs Legislation Amendment Act (No. 2) 1994

No. 148 of 1994

An Act to amend the *Veterans' Entitlements Act 1986*

[Assented to 8 December 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title etc.

1.(1) This Act may be cited as the *Veterans' Affairs Legislation Amendment Act (No. 2) 1994*.

(2) In this Act, “**Principal Act**” means the *Veterans' Entitlements Act 1986*¹.

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Commencement

2.(1) This Part and Part 2 (other than section 9) commence on the day on which this Act receives the Royal Assent.

(2) Parts 3 and 4 commence on 1 January 1995.

(3) Section 9 commences on 20 March 1995, immediately after the commencement of Division 7 of Part 2 of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act 1994*.

PART 2—PENSION AGE

Index of definitions

3. Section 5 of the Principal Act is amended by omitting from the Index the entry relating to pension age and substituting the following:

“pension age 5QA, 5QB”.

Income test definitions

4. Section 5H of the Principal Act is amended by omitting from Note 1 at the end of paragraph (8)(i) “subsection 5Q(1)” and substituting “sections 5QA and 5QB”.

Investment income definitions

5. Section 5J of the Principal Act is amended by omitting from Note 1 at the end of subsection (1C) “subsection 5Q(1)” and substituting “sections 5QA and 5QB”.

General definitions

6. Section 5Q of the Principal Act is amended by omitting from subsection (1) the definition of “pension age” and substituting the following definition:

“‘**pension age**’:

- (a) in relation to a veteran—has the meaning given by section 5QA; or
- (b) in relation to a person other than a veteran—has the meaning given by section 5QB;”.

Insertion of sections

7. After section 5Q of the Principal Act the following sections are inserted:

Pension age for veterans

“5QA.(1) This section deals with the pension age for veterans.

Men

“(2) A man reaches **pension age** when he turns 60 years.

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Women

“(3) A woman born before 1 July 1940 reaches **pension age** when she turns 55.

“(4) A woman born within the period specified in column 2 of an item in the following Table reaches **pension age** when she turns the age specified in column 3 of that item.

TABLE		
column 1	column 2	column 3
item no.	period within which woman was born (both dates inclusive)	pension age
1.	From 1 July 1940 to 31 December 1941	55 years and 6 months
2.	From 1 January 1942 to 30 June 1943	56 years
3.	From 1 July 1943 to 31 December 1944	56 years and 6 months
4.	From 1 January 1945 to 30 June 1946	57 years
5.	From 1 July 1946 to 31 December 1947	57 years and 6 months
6.	From 1 January 1948 to 30 June 1949	58 years
7.	From 1 July 1949 to 31 December 1950	58 years and 6 months
8.	From 1 January 1951 to 30 June 1952	59 years
9.	From 1 July 1952 to 31 December 1953	59 years and 6 months

“(5) A woman born on or after 1 January 1954 reaches **pension age** when she turns 60.

Pension age for persons other than veterans

“5QB.(1) This section deals with the pension age for persons other than veterans.

Men

“(2) A man reaches **pension age** when he turns 65 years.

Women

“(3) A woman born before 1 July 1935 reaches **pension age** when she turns 60 years.

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“(4) A woman born within the period specified in column 2 of an item in the following Table reaches **pension age** when she turns the age specified in column 3 of that item.

TABLE		
column 1	column 2	column 3
item no.	period within which woman was born (both dates inclusive)	pension age
1.	From 1 July 1935 to 31 December 1936	60 years and 6 months
2.	From 1 January 1937 to 30 June 1938	61 years
3.	From 1 July 1938 to 31 December 1939	61 years and 6 months
4.	From 1 January 1940 to 30 June 1941	62 years
5.	From 1 July 1941 to 31 December 1942	62 years and 6 months
6.	From 1 January 1943 to 30 June 1944	63 years
7.	From 1 July 1944 to 31 December 1945	63 years and 6 months
8.	From 1 January 1946 to 30 June 1947	64 years
9.	From 1 July 1947 to 31 December 1948	64 years and 6 months

“(5) A woman born on or after 1 January 1949 reaches **pension age** when she turns 65 years.”.

Eligibility for age service pension

8. Section 36 of the Principal Act is amended:

(a) by omitting paragraph (1)(c) and substituting the following paragraph:

“(c) has reached pension age.”;

(b) by adding at the end of subsection (1) the following Note:

“Note 2: For ‘pension age’ see section 5QA.”.

Eligibility for income support supplement (age, dependent child, incapacity for work)

9. Section 45A of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) For the purposes of paragraph (1)(b), the **qualifying age** for a person is:

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

Note: For 'pension age' see section 5QA."

Eligibility for participation in pension loan scheme

10. Section 52ZA of the Principal Act is amended:

- (a) by omitting paragraph (1)(d) and substituting the following paragraph:

“(d) the person has reached pension age; and”;

- (b) by adding at the end of subsection (1) the following Note:

“Note 4: For 'pension age' see section 5QA.”;

- (c) by omitting subparagraph (2)(d)(i) and substituting the following subparagraph:

“(i) is a veteran and has reached pension age; or”;

- (d) by adding at the end of subsection (1) the following Note:

“Note 4: For 'pension age' see section 5QA.”.

Debt not to be recovered until after death

11. Section 52ZG of the Principal Act is amended:

- (a) by omitting subparagraph (2)(b)(iv) and substituting the following subparagraph:

“(iv) the partner has reached:

(A) if the partner is a veteran—pension age; or

(B) if the partner is not a veteran—the age that would be his or her pension age if he or she were a veteran;”;

- (b) by adding at the end of subsection (2) the following Note:

“Note: For 'pension age' see section 5QA.”.

Eligibility for seniors health card

12. Section 118V of the Principal Act is amended:

- (a) by omitting paragraph (1)(c) and substituting the following paragraph:

“(c) has reached pension age; and”;

- (b) by adding at the end of subsection (1) the following Note:

“Note 4: For 'pension age' see section 5QA.”;

- (c) by omitting subparagraphs (2)(c)(i) and (ii) and substituting the following subparagraphs:

“(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.”;

(d) by adding at the end of subsection (2) the following Note:

“Note: For ‘pension age’ see section 5QB.”.

PART 3—ADVANCE PHARMACEUTICAL ALLOWANCE

Insertion of Division

13. After section 118E of the Principal Act the following Division is inserted in Part VIIA:

“Division 2—Advance pharmaceutical allowance

“Subdivision A—Eligibility for and payability of advance pharmaceutical allowance

Eligibility for advance pharmaceutical allowance

“118F.(1) Subject to subsection (2), a person to whom section 118A applies is eligible for an advance pharmaceutical allowance.

“(2) A person is not eligible for an advance pharmaceutical allowance if:

- (a) the person is receiving a service pension; and
- (b) the only reason why section 118A applies to the person is that the person is receiving that pension; and
- (c) the Commission is satisfied that the person’s ordinary income exceeds \$20.00 per fortnight.

Note: For ‘ordinary income’ see subsection 5H(1).

“(3) If the person is a member of a couple, the amount of the person’s ordinary income for the purposes of this section is worked out by adding the couple’s ordinary incomes (on a fortnightly basis) and dividing by 2.

Note: For ‘member of a couple’ see subsections 5E(1), (2), (3) and (4).

“Subdivision B—Claim for advance pharmaceutical allowance

Need for a claim

“118G.(1) A person who wants to be granted an advance pharmaceutical allowance must make a proper claim for that allowance.

“(2) Subject to subsections 118K(4) and (5), if:

- (a) a claim for an advance pharmaceutical allowance is made by or on behalf of a person; and
- (b) at the time when the claim is made, the claim cannot be granted because the person is not eligible for the payment;

the claim is taken not to have been made.

Who can claim?

“118H.(1) Subject to subsection (2), the claim must be made by:

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- (a) the person who wants to be granted the advance pharmaceutical allowance; or
- (b) with the approval of that person—another person on that 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.

Form of claim

“118I. To be a proper claim, a claim must be in writing and in accordance with a form approved by the Commission.

Lodgment of claim

“118J. To be a proper claim, a claim must be lodged:

- (a) at an office of the Department in Australia; or
- (b) at a place approved for this purpose by the Commission; or
- (c) with a person approved for this purpose by the Commission.

Proper claim

“118K.(1) A claim must be a proper claim under subsection (2), (3), (4), (5) or (6) to be a proper claim for the purposes of this Division.

“(2) A claim by a person for an advance pharmaceutical allowance to be paid in a calendar year (**‘current year’**) is a proper claim if:

- (a) a pension of the kind referred to in paragraph 118A(a) or (b) was payable to the person on the last pension payday in the previous calendar year; and
- (b) the claim is lodged before the first pension payday in the current year.

“(3) A claim by a person for an advance pharmaceutical allowance to be paid in a calendar year (**‘current year’**) is a proper claim if:

- (a) the person was eligible for pharmaceutical benefits of the kind referred to in paragraph 118A(c) on the last pension payday in the previous calendar year; and
- (b) the claim is lodged before the first pension payday in the current year.

“(4) A claim by a person for an advance pharmaceutical allowance to be paid in a calendar year is a proper claim if:

- (a) the person claims a pension of the kind referred to in paragraph 118A(a) or (b); and
- (b) the person's claim for the pension is determined in that year; and
- (c) the claim for the advance pharmaceutical allowance is lodged:
 - (i) at the time when the claim for the pension is lodged; or

(ii) before the claim for the pension is determined.

“(5) A claim by a person for an advance pharmaceutical allowance to be paid in a calendar year is a proper claim if:

- (a) the claim is based on the person’s eligibility for pharmaceutical benefits of the kind referred in paragraph 118A(c); and
- (b) the claim is lodged before the person’s eligibility for those benefits is determined; and
- (c) the person’s eligibility for those benefits is determined in that year.

“(6) A claim by a person for an advance pharmaceutical allowance to be paid in a calendar year is a proper claim if:

- (a) the person has been eligible for pharmaceutical allowance for a period (**‘eligibility period’**) during the calendar year; and
- (b) the amount spent by the person during the eligibility period on the purchase of pharmaceutical benefits is equal to or greater than the total amount that has been paid to the person in the calendar year by way of:
 - (i) pharmaceutical allowance; and
 - (ii) advance pharmaceutical allowance.

Note: for the amount ‘paid’ to a person by way of pharmaceutical allowance see section 5PA.

“(7) In subsection (6):

‘pharmaceutical benefit’ means:

- (a) a pharmaceutical benefit within the meaning of section 91; or
- (b) a drug or medicinal preparation in relation to which Part VII of the *National Health Act 1953* applies because of section 85 of that Act.

“Subdivision C—Amount of advance pharmaceutical allowance

Amount of advance pharmaceutical allowance

“118L. Subject to section 118M, the amount of a person’s advance pharmaceutical allowance is:

$$\frac{\text{pharmaceutical allowance rate} \times 7}{26}$$

26

where:

‘pharmaceutical allowance rate’ is the yearly amount of pharmaceutical allowance that would be added to the person’s maximum basic rate if the person were receiving service pension and a pharmaceutical allowance advance were not being paid to the person.

Note: Pharmaceutical allowance rates are to be found at:

- points 41-CA7 and 41-CA8 of Service Pension Rate Calculator Where There Are No Dependent Children;

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- points 42-DA7 and 42-DA8 of Service Pension Rate Calculator Where There Are Dependent Children;
- points 43-DA7 and 43-DA8 of Service Pension Rate Calculator for Blinded Veterans;
- points 44-CA7 and 44-CA8 of Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses;
- section 118C.

Annual limit

“118M.(1) The amount paid to a person in a calendar year by way of:

- (a) pharmaceutical allowance; and
- (b) advance pharmaceutical allowance;

is not to exceed the total amount of pharmaceutical allowance that would have been paid to the person during that year if the person had not received any advance pharmaceutical allowance.

Note: For the amount ‘paid’ to a person by way of pharmaceutical allowance see section 5PA.

“(2) In this section:

‘**advance pharmaceutical allowance**’ includes advance pharmaceutical allowance under the Social Security Act;

‘**pharmaceutical allowance**’ includes pharmaceutical allowance under the Social Security Act.”.

PART 4—PENSION CHILD ADD-ONS

Adjustment of pension child add-ons

14. Section 59F of the Principal Act is amended by adding at the end the following subsections:

“(3) On 1 January 1995, after each pension under 13 child add-on has been adjusted under subsection (1):

- (a) its rate per year is further increased by \$52.00; and
- (b) its rate per fortnight is further increased by \$2.00.

“(4) On 1 January 1995, after each pension 13-15 child add-on has been adjusted under subsection (2):

- (a) its rate per year is further increased by \$52.00; and
- (b) its rate per fortnight is further increased by \$2.00.”.

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NOTE

1. No. 27, 1986, as amended. For previous amendments, see No. 106, 1986 (as amended by Nos. 78 and 130, 1987); No. 130, 1986; No. 78, 1987 (as amended by No. 164, 1989); No. 88, 1987; No. 130, 1987 (as amended by No. 133, 1988); No. 13, 1988 (as amended by No. 83, 1989 and No. 73, 1991); Nos. 35, 75 and 99, 1988; No. 134, 1988 (as amended by No. 164, 1989); No. 135, 1988 (as amended by Nos. 84 and 164, 1989 and No. 73, 1991); Nos. 59, 83, 84, 93 and 163, 1989; No. 164, 1989 (as amended by No. 56, 1990 and No. 73, 1991); Nos. 56, 84 and 119, 1990; No. 2, 1991 (as amended by No. 73, 1991); No. 72, 1991; No. 73, 1991 (as amended by No. 74, 1991); Nos. 74, 122, 175 and 208, 1991; Nos. 12, 51, 70, 94 and 228, 1992; Nos. 27, 36 and 121, 1993; and Nos. 54, 60, 68, 78, 98 and 109, 1994.

*[Minister's second reading speech made in—
House of Representatives on 20 October 1994
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