

**2002**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (2002 BUDGET MEASURES)  
BILL 2002**

**EXPLANATORY MEMORANDUM**

(Circulated by authority of the Minister for Veterans' Affairs,  
The Honourable Danna Vale MP)

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## OUTLINE

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**Outline and  
Financial  
Impact**

These amendments to the *Veterans' Entitlements Act 1986* (VEA) will give effect to the 2002-03 Budget measures relating to income support supplement and service pension.

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**Date of Effect**

Indexing Ceiling Rate Income Support Supplement and Ceiling Rate Service Pension – 20 September 2002

Backdating Income Support Supplement – Royal Assent

Family Situation Rules – Royal Assent

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**Financial  
Impact**

<b>Year</b>	<b>Net Outlays</b>
2002 – 03	\$5.4m
2003 – 04	\$15.1m
2004 – 05	\$26.4m
2005 – 06	\$37.7m

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## **CLAUSES**

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<b>Short Title</b>	<b>Clause 1</b> sets out how the Act is to be cited.
<b>Commencement</b>	<b>Clause 2</b> sets out the commencement dates for the provisions in the Act.
<b>Schedule(s)</b>	<b>Clause 3</b> provides that the Act specified in Schedule 1 is amended as set out in the items of that Schedule.

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## SCHEDULE 1

### Veterans' Entitlements Act 1986

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**Overview** These amendments to the VEA will give effect to the 2002-03 Budget measures relating to income support supplement and service pension.

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**Background** **Index Ceiling Rate Income Support Supplement and Service Pension**

In 1986, a ceiling rate was applied to a number of social security pensions and service pensions payable to persons who were also receiving a war widow pension under the VEA. The ceiling rate was applied to limit the amount of pension payable to persons with dual pension entitlement. In 1986 the ceiling rate was set at \$3,122.60 per annum. This amount increased to \$3,247.40 per annum following the four per cent increase for the introduction of the New Tax System in July 2000.

The income support supplement was introduced into the VEA in 1995 to replace the ceiling rate pensions payable to war widow/ers under the *Social Security Act 1991* (SSA). It is a means tested pension available only to war widow/ers. The payment of income support supplement under the VEA meant that war widow/ers could receive both their compensation and income support payments from the Department of Veterans' Affairs.

Service pension is payable at the ceiling rate to war widow/ers who are also a veteran in their own right. Service pension payable at the annual ceiling rate of \$3,247.40 will also be indexed as part of this measure.

The ceiling rate has not been indexed since it was set in 1986, except for the four per cent adjustment as part of the "A New Tax System" legislation.

There are also a number of war widows who, immediately prior to 1 November 1986, were receiving a social security pension or service pension at a rate equal to or more than \$3,122.60 and have since that day continuously received that social security pension, income support supplement or service pension at that rate, plus the four per cent increase for the introduction of the New Tax System in July 2000. These higher rates of income support supplement and service pension are not included in this measure and will not be indexed.

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**Explanation of the Changes**      **Index Ceiling Rate Income Support Supplement and Service Pension**

These amendments will provide for the indexing of ceiling rate income support supplement and service pension as provided for in point SCH6-A4. The ceiling rate is currently \$3,247.40 per annum. This equates to \$124.90 per fortnight.

The ceiling rate will be indexed by the same percentage increase that is applied to maximum rate for single service pension as provided for in Item 1 of Column 3 of Table B in point SCH6-B1.

Service pension is increased in line with the Consumer Price Index (CPI) twice a year. In 1997, the Government introduced legislation, the *Social Security and Veterans' Affairs Legislation Amendment (Male Total Average Weekly Earnings Benchmark) Act 1997*, that implemented an undertaking to maintain the maximum basic rate of service pension (after CPI indexation) at a minimum rate that was equal to or greater than 25% of the annualised original all males, total average weekly earnings figure (MTAWE).

Where a CPI increase results in an indexed maximum basic rate that is less than 25% of MTAWE, the maximum basic rate is topped up to equal 25% of MTAWE.

Ceiling rate income support supplement and ceiling rate service pension will be indexed by the same proportional increase (or percentage increase) that applies to the single rate for maximum basic rate service pension.

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**Background**      **Backdating Income Support Supplement**

Under the existing legislation, a person who is receiving certain social security pensions or benefits and who subsequently starts to receive a war widow/ers pension may be disadvantaged in relation to the payment of income support. This is because a number of social security pensions and benefits are not payable to a person who is receiving a war widow/ers pension. Instead, the person may be eligible for income support supplement under the VEA.

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**Background  
(Cont.)**

**Backdating Income Support Supplement (Cont.)**

A claim for war widow/ers pension under the VEA is also a claim for income support supplement. Income support supplement is payable only from the date of lodgement of the claim, whereas war widow/ers pension may be payable for up to three months before the date of lodgement of the claim. This can result in a person being eligible for income support supplement from the date of grant of war widow/ers pension, but income support supplement being not payable for the period between the backdated grant of war widow/ers pension and the date of lodgement of the claim for income support supplement. The social security pension or benefit is cancelled from the date of grant of war widow/ers pension.

For example, a widow of a veteran is receiving social security age pension and lodges a claim for war widows pension and income support supplement under the VEA. Six months later, the war widows pension is granted effective three months prior to the date of lodgement of the claim. The claim for income support supplement is also granted but is only payable from the date of the claim. The granting of the war widow pension means that the social security age pension is cancelled from that date, but no other form of income support is payable for the three month period between the cancellation of social security age pension and the payability of income support supplement from the date of lodgement of the claim.

A gap period of more than three months may occur if a person receiving a social security pension or benefit is automatically granted war widow/ers pension but does not claim income support supplement for some time after the grant of war widow/er pension.

For example, if a person on social security age pension is automatically granted a war widow/ers pension from 1 June, but does not lodge a claim for income support supplement until 1 November, the eligible person can only be paid income support supplement from 1 November even though the person was eligible for the income support supplement from 1 June when they started to receive war widow/ers pension.

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**Background  
(Cont.)**

A number of other scenarios can apply to create a similar situation which disadvantages a person who was receiving a social security pension or benefit that is not payable to a person who is receiving a war widow/ers pension under the VEA. The social security pensions and benefits currently affected are:

- age pension;
- disability support pension;
- wife pension;
- carer payment;
- bereavement allowance;
- widow allowance;
- parenting payment;
- newstart allowance;
- mature age allowance;
- mature age partner allowance;
- sickness allowance;
- special benefit;
- partner allowance; and
- special needs pension.

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**Explanation of  
the Changes**

**Backdating Claims for Income Support Supplement for Certain War Widow/ers**

These changes will enable a claim for income support supplement to be backdated for eligible persons who were previously on a social security pension or benefit that is cancelled when the person starts to receive a war widow/ers pension under the VEA.

The claim will be able to be backdated to the date of grant of war widow/ers pension. This will enable the eligible person to receive the maximum amount of income support available to them.

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**Background**

**Change to Family Situation Assessment Rules**

A person who is a member of a couple and whose partner is not receiving a pension or benefit under either the VEA or the SSA, is classified as a 'member of a couple' for pension rate assessment purposes. This rule applies to persons under both the VEA and SSA.

Income support supplement recipients in the same circumstances, that is where their partner is not receiving a pension or benefit, are currently assessed as single.



**Explanation  
of the  
Changes**

**Change to Family Situation Assessment Rules**

A person who is a member of a couple and whose partner is not receiving a pension or benefit under either the VEA or the SSA will have their pension rate assessed as a member of a couple, rather than a single person. This change corrects the anomaly that enabled them to be assessed as a single person, in contradiction of the rules applying to other persons receiving income support payments under the SSA and the VEA.

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**Explanation of the Items**

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**Item 1**

Item 1 inserts a new subsection 45C(3) after subsection 45C(2). New subsection 45C(3) provides that subsections 45C(1) and (2) have effect subject to new subsection 45R(2).

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**Item 2**

Item 2 adds a new subsection 45R(2) at the end of section 45R. New subsection 45R(2) provides that, in certain circumstances, a determination for a claim for income support supplement may take effect on a day earlier than the date of the lodgement of the claim.

A claim for income support supplement takes effect on a day earlier than the date of the lodgement of the claim, if:

- in accordance with new paragraph 45R(2)(a), a person is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1). The day the person started to receive the pension under Part II or IV at a rate determined under or by reference to subsection 30(1) is the *pension receipt day*; and
- in accordance with new paragraph 45R(2)(b), as a result of the person receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30(1), a social security pension or a social security benefit that was payable to the person immediately before the pension receipt day is no longer payable; and
- in accordance with new paragraph 45R(2)(c), the person makes a claim for income support supplement on a day after the pension receipt day. The day the person makes the claim for income support supplement is the *ISS claim day*; and

**Item 2 (Cont.)**

- in accordance with new paragraph 45R(2)(d), had the person made a claim for income support supplement on the pension receipt day, he or she would have been eligible for income support supplement throughout the entire period beginning on the pension receipt day and ending of the ISS claim day.

If all the circumstances stipulated in new paragraphs 45R(2)(a) to (d) are met, then the determination in relation to a claim for income support supplement takes effect on, and income support supplement is payable on and from, the pension receipt day. This day is earlier than the ISS claim day.

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**Item 3**

Item 3 inserts a new item 3 after item 2 in the Table in section 59A. New item 3 provides that the ceiling rate for a war widow/war widower – pensioner as provided for in point SCH6-A4, is indexed in accordance with Division 18 of Part IIIB of the VEA. The existing ceiling rate is \$3,247.40 per annum.

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**Item 4**

Item 4 adds a new section 59LA at the end of Subdivision C of Division 18 of Part IIIB. New section 59LA provides for the indexation adjustment of the ceiling rate for income support supplement and service pension as provided for in point SCH6-A4 of the VEA.

New subsection 59LA(1) provides that, on each adjustment day, the amount worked out in accordance with the formula in new subsection 59LA(1), and rounded up to the nearest multiple of \$2.60, is substituted for the ceiling rate.

The formula to be used is:

Previous ceiling rate X Pension MBR factor.

In this formula *previous ceiling rate* is the ceiling rate applicable on the day before the adjustment day. The *pension MBR factor* is:

$$\frac{\text{Current single pension MBR amount}}{\text{Previous single pension MBR amount}}$$

worked out to 3 decimal places.

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**Item 4 (Cont.)** New subsection 59LA(2) provides definitions for the terms *current single pension MBR amount* and *previous single pension MBR amount* used in new subsection 59LA(1).

*Current single pension MBR amount* means the pension MBR amount applicable, on the adjustment day, to a person who is not a member of a couple. This amount will have been adjusted in accordance with Subdivision B of Division 18 of Part IIIB involving CPI indexation as per sections 59B to 59E and an adjustment for Male Total Average Weekly Earnings as per section 59EA, if applicable.

*Previous single pension MBR amount* means the pension MBR amount applicable, on the day before the adjustment day, to a person who is not a member of a couple.

Pension MBR amount has the same meaning as it does in Item 1 of the table in section 59A.

New subsection 59LA(3) provides that, for the purposes of new section 59LA, *adjustment day* means the following days:

- (a) 20 March; and
- (b) 20 September.

This means that ceiling rate for income support supplement and service pension will be adjusted on 20 March and 20 September each year.

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**Item 5** Item 5 inserts a note at the end of point SCH6-A4. The note states that the ceiling rate is adjusted 6 monthly in line with service pensions and refers to section 59LA.

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**Item 6** Item 6 repeals point SCH6-B2. Repealing this point results in an income support supplement recipient who is partnered (partner getting neither pension nor benefit) being a member of a couple under Table B of point SCH6-B1.

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**Commencement** Subclause 2(1) provides that items 1, 2 and 6 of Schedule 1 commence on Royal Assent and items 3 to 5 of Schedule 1 commence on 20 September 2002.

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