Veterans’ Entitlements Amendment (Income Support Measures) Act 2010

No. 99, 2010

An Act to amend the law relating to veterans’ entitlements, 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’ Entitlements Amendment (Income Support Measures) Act 2010

No. 99, 2010

An Act to amend the law relating to veterans’ entitlements, and for related purposes

[Assented to 6 July 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Veterans’ Entitlements Amendment (Income Support Measures) Act 2010.
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.

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<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td>6 July 2010</td>
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<td>2. Schedule 1, items 1 to 28</td>
<td>The day this Act receives the Royal Assent.</td>
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<td>3. Schedule 1, items 29 to 33</td>
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<td>4. Schedule 1, items 34 and 35</td>
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<td>5. Schedule 1, item 36</td>
<td>The day after this Act receives the Royal Assent.</td>
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</table>

Note: This table relates only to the provisions of this Act as originally passed by both Houses of 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 contains additional information that is not part of this Act. Information in this column may be added to or 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Veterans’ Entitlements Act 1986

1 Section 5 (index of definitions)

Omit:

benevolent home 5Q(1)

2 Paragraph 5H(8)(v)

Omit “the Labour Force”, substitute “Labour Market”.

3 Paragraph 5H(8)(w)

Repeal the paragraph, substitute:

(w) in the case of a person who:

(i) is receiving a service pension, income support supplement, a social security pension or a social security benefit; and

(ii) is in part-time training, or engaged in part-time work experience, under a program included in the programs known as Labour Market Programs;

a payment received by the person under that program in respect of the person’s expenses associated with his or her participation in the training or work experience;

4 Subsection 5Q(1) (definition of benevolent home)

Repeal the definition.

5 After subsection 36JE(1)

Insert:

(1A) If:

(a) a person has claimed an age service pension; and

(b) the Secretary is satisfied that the claimant’s partner (if any) may be entitled to a comparable foreign pension if the partner applied for that pension;
the Secretary may give the claimant a notice that requires the partner to take reasonable action to obtain the comparable foreign pension.

Note: The heading to section 36JE is altered by inserting “or claimant’s partner” after “claimant”.

6 Subsection 36JE(2)

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

7 Paragraph 36JE(4)(a)

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

8 Paragraph 36JE(4)(b)

After “claimant”, insert “, or the claimant’s partner,“.

9 After subsection 37JE(1)

Insert:

(1A) If:

(a) a person has claimed an invalidity service pension; and
(b) the Secretary is satisfied that the claimant’s partner (if any) may be entitled to a comparable foreign pension if the partner applied for that pension;

the Secretary may give the claimant a notice that requires the partner to take reasonable action to obtain the comparable foreign pension.

Note: The heading to section 37JE is altered by inserting “or claimant’s partner” after “claimant”.

10 Subsection 37JE(2)

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

11 Paragraph 37JE(4)(a)

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

12 Paragraph 37JE(4)(b)

After “claimant”, insert “, or the claimant’s partner,”.

13 After subsection 38JE(1)
Amendments Schedule 1

Insert:

(1A) If:

(a) a person has claimed a partner service pension; and
(b) the Secretary is satisfied that the claimant’s partner (if any) may be entitled to a comparable foreign pension if the partner applied for that pension;

the Secretary may give the claimant a notice that requires the partner to take reasonable action to obtain the comparable foreign pension.

Note: The heading to section 38JE is altered by inserting “or claimant’s partner” after “claimant”.

14 Subsection 38JE(2)

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

15 Paragraph 38JE(4)(a)

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

16 Paragraph 38JE(4)(b)

After “claimant”, insert “, or the claimant’s partner,”.

17 After subsection 45NF(1)

Insert:

(1A) If:

(a) a person has claimed income support supplement; and
(b) the Secretary is satisfied that the claimant’s partner (if any) may be entitled to a comparable foreign pension if the partner applied for that pension;

the Secretary may give the claimant a notice that requires the partner to take reasonable action to obtain the comparable foreign pension.

Note: The heading to section 45NF is altered by inserting “or claimant’s partner” after “claimant”.

18 Subsection 45NF(2)

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

19 Paragraph 45NF(4)(a)
Schedule 1 Amendments

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

20 **Paragraph 45NF(4)(b)**
   After “claimant”, insert “, or the claimant’s partner.”.

21 **Subsection 52AA(1)**
   After “other than”, insert “Division 3 or”.

22 **Subsection 52AA(1)**
   After “52H,”, insert “52JA, 52JB, 52JC, 52JD,”.

23 **After subsection 54BA(1)**
   Insert:
   
   (1A) If:
   
   (a) a person is receiving a service pension or income support supplement; and
   
   (b) the Secretary is satisfied that the person’s partner (if any) may be entitled to a comparable foreign pension if the partner applied for that pension;
   
   the Secretary may give the person a notice that requires the partner to take reasonable action to obtain the comparable foreign pension.

   Note: For the consequences of a failure to comply with the notice see section 56EB.

   Note: The heading to section 54BA is altered by inserting “or the person’s partner” after “paid”.

24 **Subsection 54BA(2)**
   Omit “The notice”, substitute “A notice under subsection (1) or (1A)”.

25 **Paragraph 56EB(1)(a)**
   Omit “section 54BA”, substitute “subsection 54BA(1) or (1A)”.

26 **Paragraph 56EB(1)(b)**
   After “person”, insert “, or the person’s partner,”.

27 **Subdivision A of Division 14 of Part IIIB (heading)**
   Repeal the heading.

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28 **Subdivision B of Division 14 of Part IIB**
Repeal the Subdivision.

29 **After section 203**
Insert:

204 **Debt recovery relating to payment of comparable foreign pension**

(1) This section applies if:
(a) an amount (the *affected amount*) was paid to a person by way of a service pension or income support supplement in respect of a particular period; and
(b) another amount (the *lump sum*) was paid as a lump sum:
   (i) to the person; or
   (ii) to the person’s partner, if the person is a member of a couple;
   by way of a payment of arrears of a comparable foreign pension in respect of that period; and
(c) assuming that the lump sum had been paid by way of periodical payments of the comparable foreign pension in respect of that period, the affected amount would have been reduced.

(2) The amount by which the affected amount would have been reduced is a debt due by the person to the Commonwealth.

(3) Section 46A does not apply to the person in respect of the lump sum.

30 **After paragraph 205(1)(f)**
Insert:

   (fa) a person has incurred a debt under subsection 204(2); or

31 **Paragraph 205(2)(b)**
Omit “or (f)”, substitute “, (f) or (fa)”.

32 **Subsection 205(8) (paragraph (c) of the definition of *excluded amount*)**
Omit “or (f)”, substitute “, (f) or (fa)”.

33 **Subsection 205(8) (paragraph (d) of the definition of recoverable amount)**

Omit “or (f)”, substitute “(f) or (fa)”.  

34 **Application—obtaining comparable foreign pension**

The amendments made by items 5, 9, 13 and 17 apply in relation to claims made on or after the commencement of those items.

35 **Application—value of a person’s assets**

(1) The amendment made by item 21 applies in relation to working out the value of a person’s assets on or after the commencement of that item.

(2) The amendment made by item 22 applies in relation to working out the value of a person’s assets on or after the commencement of that item (where the relevant dispositions occur on or after that commencement).

36 **Application—debt recovery relating to payment of comparable foreign pension**

Section 204 of the *Veterans’ Entitlements Act 1986*, as inserted by this Act, applies in relation to lump sums paid on or after the commencement of this item (regardless of whether the period to which the lump sum relates begins before, on or after that commencement).

[Minister’s second reading speech made in—
*House of Representatives on 10 March 2010*
*Senate on 13 May 2010*]

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*(49/10) Veterans’ Entitlements Amendment (Income Support Measures) Act 2010 No. 99, 2010*