Veterans’ Affairs Legislation Amendment (Weekly Payments) Act 2010

No. 135, 2010

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

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)
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An Act to amend the law relating to veterans’ entitlements and military rehabilitation and compensation, and for related purposes

[Assented to 24 November 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Veterans’ Affairs Legislation Amendment (Weekly Payments) Act 2010.
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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Weekly payments

Military Rehabilitation and Compensation Act 2004

1 Section 224

Repeal the section, substitute:

224 Payment of MRCA supplement

MRCA supplement generally payable fortnightly

(1) Unless a determination under subsection (2) is in force in relation to the person, a person’s MRCA supplement under section 221 is payable on each pension payday (within the meaning of subsection 5Q(1) of the Veterans’ Entitlements Act 1986) on which:
   (a) the person is eligible for the MRCA supplement; and
   (b) the MRCA supplement is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

MRCA supplement may be payable weekly

(2) The Commission may determine, in writing, that a person’s MRCA supplement under section 221 is payable in 2 payments (the part payments) if the person is a member of a class specified under subsection (4).

(3) A determination made under subsection (2) is not a legislative instrument.

(4) The Commission may, by legislative instrument, specify a class of persons for the purposes of subsection (2).

(5) The first of the part payments:
   (a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118D of the Veterans’ Entitlements Act 1986; and
   (b) is payable on each Thursday that is not a pension payday (within the meaning of subsection 5Q(1) of that Act) on which:
(i) the person is eligible for the MRCA supplement; and
(ii) the MRCA supplement is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(6) The other of the part payments:
(a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118D of the Veterans’ Entitlements Act 1986; and
(b) is payable 7 days after the first of the part payments is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(7) If a person’s MRCA supplement under section 221 is payable in part payments, it is taken for the purposes of this Act that:
(a) a single supplement is payable on each pension payday (within the meaning of subsection 5Q(1) of the Veterans’ Entitlements Act 1986); and
(b) that supplement is payable when the last of the part payments is, or is to be, made; and
(c) the amount of that supplement is equal to the total of the part payments.

(8) However, sections 426 and 431 (about deductions of amounts) apply as if each of the part payments were a separate supplement.

2 Section 248

Repeal the section, substitute:

248 Payment of MRCA supplement

MRCA supplement generally payable fortnightly

(1) Unless a determination under subsection (2) is in force in relation to the partner, a wholly dependent partner’s MRCA supplement under section 245 is payable on each pension payday (within the meaning of subsection 5Q(1) of the Veterans’ Entitlements Act 1986) on which:
(a) the partner is eligible for the MRCA supplement; and
(b) the MRCA supplement is payable to the partner.
Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

**MRCA supplement may be payable weekly**

(2) The Commission may determine, in writing, that a partner’s MRCA supplement under section 245 is payable in 2 payments (the part payments) if the partner is a member of a class specified under subsection (4).

(3) A determination made under subsection (2) is not a legislative instrument.

(4) The Commission may, by legislative instrument, specify a class of wholly dependent partner for the purposes of subsection (2).

(5) The first of the part payments:
   (a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118D of the *Veterans’ Entitlements Act 1986*; and
   (b) is payable on each Thursday that is not a pension payday (within the meaning of subsection 5Q(1) of that Act) on which:
      (i) the partner is eligible for the MRCA supplement; and
      (ii) the MRCA supplement is payable to the partner.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(6) The other of the part payments:
   (a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118D of the *Veterans’ Entitlements Act 1986*; and
   (b) is payable 7 days after the first of the part payments is payable to the partner.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(7) If a partner’s MRCA supplement under section 245 is payable in part payments, it is taken for the purposes of this Act that:
   (a) a single supplement is payable on each pension payday (within the meaning of subsection 5Q(1) of the *Veterans’ Entitlements Act 1986*); and
(b) that supplement is payable when the last of the part payments is, or is to be, made; and
(c) the amount of that supplement is equal to the total of the part payments.

(8) However, sections 426 and 431 (about deductions of amounts) apply as if each of the part payments were a separate supplement.

3 Section 303
Repeal the section, substitute:

303 Payment of MRCA supplement

MRCA supplement generally payable fortnightly

(1) Unless a determination under subsection (2) is in force in relation to the person, a person’s MRCA supplement under section 300 is payable on each pension payday (within the meaning of subsection 5Q(1) of the Veterans’ Entitlements Act 1986) on which:
   (a) the person is eligible for the MRCA supplement; and
   (b) the MRCA supplement is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

MRCA supplement may be payable weekly

(2) The Commission may determine, in writing, that a person’s MRCA supplement under section 300 is payable in 2 payments (the part payments) if the person is a member of a class specified under subsection (4).

(3) A determination made under subsection (2) is not a legislative instrument.

(4) The Commission may, by legislative instrument, specify a class of persons for the purposes of subsection (2).

(5) The first of the part payments:
   (a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118C of the Veterans’ Entitlements Act 1986; and
(b) is payable on each Thursday that is not a pension payday (within the meaning of subsection 5Q(1) of that Act) on which:
   (i) the person is eligible for the MRCA supplement; and
   (ii) the MRCA supplement is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(6) The other of the part payments:
   (a) is an amount equal to one half of the rate of veterans supplement that is payable from time to time under section 118C of the *Veterans’ Entitlements Act 1986*; and
   (b) is payable 7 days after the first of the part payments is payable to the person.

Note: If a trustee is appointed under section 432, then the MRCA supplement would be payable to the trustee.

(7) If a person’s MRCA supplement under section 300 is payable in part payments, it is taken for the purposes of this Act that:
   (a) a single supplement is payable on each pension payday (within the meaning of subsection 5Q(1) of the *Veterans’ Entitlements Act 1986*); and
   (b) that supplement is payable when the last of the part payments is, or is to be, made; and
   (c) the amount of that supplement is equal to the total of the part payments.

(8) However, sections 426 and 431 (about deductions of amounts) apply as if each of the part payments were a separate supplement.

*Veterans’ Entitlements Act 1986*

4 Subsection 5Q(1) (at the end of the definition of *pension payday*)

Add:

Note: Part of an instalment of a pension may be paid on a different day if a determination is in force under subsection 58(3A) or 121(5A) (about weekly payments of pension instalments).

5 Subsection 58A(3)
Omit “An instalment of pension is payable”, substitute “Unless subsection (3A) applies to the person, an instalment of pension is payable to a person”.

Note 1: The following heading to subsection 58A(1) is inserted “Payment in arrears in relation to pension periods”.

Note 2: The following heading to subsection 58A(2) is inserted “Total instalment relating to a pension period”.

Note 3: The following heading to subsection 58A(3) is inserted “Pensions generally payable fortnightly”.

6 After subsection 58A(3)

Insert:

Pensions may be payable weekly

(3A) The Commission may determine, in writing, that the total amount of an instalment of pension payable to a person in relation to a pension period is payable to the person in 2 payments (the part payments) if the person is a member of a class specified under subsection (3C).

(3B) A determination made under subsection (3A) is not a legislative instrument.

(3C) The Commission may, by legislative instrument, specify a class of persons for the purposes of subsection (3A).

(3D) The first of the part payments:

(a) is not to exceed the total of the amount of pension (calculated in accordance with this section) payable to the person for days that:

(i) are days on which the pension was payable to the person; and

(ii) are included in the first 7 days of the pension period; and

(b) is payable at a time determined by the Commission that is after the first 7 days of the pension period.

(3E) The other of the part payments:

(a) is the excess of the amount that is payable to the person as the instalment of pension in relation to the pension period over the first of the part payments; and
(b) is payable at a time determined by the Commission that is after the end of the pension period.

(3F) If the total amount of pension payable to a person in relation to a pension period is payable to the person in part payments, then it is taken for the purposes of this Act that:
(a) a single instalment of the pension is payable in relation to the period; and
(b) that instalment is payable when the last of the part payments is, or is to be, made; and
(c) that instalment is equal to the total of the part payments.

Note: The total of the part payments equals the amount worked out under subsection (2) (as affected by subsections (7) and (9), if relevant) as the amount payable to the person as the instalment of the pension in relation to the pension period.

(3G) However, sections 58J (about payments to Commissioner of Taxation or Child Support Registrar) and 122B (about deductions from instalments) apply as if each of the part payments were a separate instalment.

Note: The following heading to subsection 58A(4) is inserted “Calculation of rate of pension payable”.

7 Subsection 121(5)

Omit “An instalment of pension is payable”, substitute “Unless subsection (5A) applies to the person, an instalment of pension is payable to a person”.

Note 1: The following heading to subsection 121(1) is inserted “Payment in arrears in relation to pension periods”.

Note 2: The following heading to subsection 121(2) is inserted “Total instalment relating to a pension period”.

Note 3: The following heading to subsection 121(3) is inserted “Circumstances in which no instalment is payable in relation to a pension period”.

Note 4: The following heading to subsection 121(5) is inserted “Pensions generally payable fortnightly”.

8 After subsection 121(5)

Insert:
Pensions may be payable weekly

(5A) The Commission may determine, in writing, that the total amount of an instalment of pension payable to a person in relation to a pension period is payable to the person in 2 payments (the part payments) if the person is a member of a class specified under subsection (5C).

(5B) A determination made under subsection (5A) is not a legislative instrument.

(5C) The Commission may, by legislative instrument, specify a class of persons for the purposes of subsection (5A).

(5D) The first of the part payments:
   (a) for a pension that is not DFISA—is not to exceed the total of the amount of pension (calculated in accordance with this section) payable to the person for days that:
      (i) are days on which the pension was payable to the person; and
      (ii) are included in the first 7 days of the pension period; and
   (b) for a pension that is DFISA—is not to exceed the total of the amount of pension (calculated in accordance with subsection (2)) payable to the person for days that:
      (i) are days on which the pension was payable to the person; and
      (ii) are included in the first 7 days of the pension period; and
   (c) is payable at a time determined by the Commission that is after the first 7 days of the pension period.

(5E) The other of the part payments:
   (a) is the excess of the amount that is payable to the person as the instalment of pension in relation to the pension period over the first of the part payments; and
   (b) is payable at a time determined by the Commission that is after the end of the pension period.

(5F) If the total amount of pension payable to a person in relation to a pension period is payable to the person in part payments, then it is taken for the purposes of this Act that:
(a) a single instalment of the pension is payable in relation to the period; and
(b) that instalment is payable when the last of the part payments is, or is to be, made; and
(c) that instalment is equal to the total of the part payments.

Note: The total of the part payments equals the amount worked out under subsection (2) as the amount payable to the person as the instalment of the pension in relation to the pension period.

(5G) However, sections 122B, 122D and 122E (about deductions from instalments) applies as if each of the part payments were a separate instalment.

Note 1: The following heading to subsection 121(6) is inserted “Calculation of rate of pension payable”.

Note 2: The following heading to subsection 121(6A) is inserted “Special rules for DFISA”.

Note 3: The following heading to subsection 121(7) is inserted “Definitions”.

[Minister’s second reading speech made in—
House of Representatives on 21 October 2010
Senate on 28 October 2010]