Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010

No.      , 2010

(Veterans’ Affairs)

A Bill for an Act to amend the law relating to veterans’ affairs, and for related purposes
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A Bill for an Act to amend the law relating to veterans’ affairs, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Veterans’ Affairs Legislation Amendment (2010 Budget 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.
## Commencement information

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<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></td>
</tr>
<tr>
<td>2. Schedules 1 to 4</td>
<td>1 July 2010.</td>
<td>1 July 2010</td>
</tr>
<tr>
<td>3. Schedule 5</td>
<td>1 October 2010.</td>
<td>1 October 2010</td>
</tr>
</tbody>
</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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Service relating to British nuclear tests

Veterans’ Entitlements Act 1986

1 Section 5 (index of definitions)
Insert the following entry in its appropriate alphabetical position, determined on a letter-by-letter basis:

British nuclear test defence service 5Q(1A), 68(1), 69B(2), (3), (4)

2 Subsection 5Q(1A)
Insert:

British nuclear test defence service has the same meaning as in Part IV.

3 Subsection 68(1)
Insert:

British nuclear test defence service has the meaning given by subsections 69B(2), (3) and (4).

4 Subsection 68(1) (definition of defence service)
Repeal the definition, substitute:

defence service means service, except peacekeeping service, of any of the following kinds:
(a) continuous full-time service rendered as a member of the Defence Force on or after 7 December 1972 and before the terminating date;
(b) continuous full-time service that was rendered by a person who:
   (i) was rendering continuous full-time service as a member of the Defence Force immediately before the commencement of this Act; and
(ii) continued to render continuous full-time service as such a member until and including the day immediately before the terminating date; and

(iii) was, immediately before the terminating date, bound to render continuous full-time service as such a member for a term expiring on or after the terminating date; and that was rendered by the person as a member of the Defence Force on and after the terminating date and before the earlier of the following:

(iv) the expiration of that term or, if that term is deemed to have been extended by subsection (4), (5) or (6), the expiration of the extension of that term;

(v) the lawful termination of the person’s service as a member of the Defence Force otherwise than by reason of the expiration of the term for which the person is bound to serve;

(c) hazardous service rendered before or after the terminating date;

(d) British nuclear test defence service.

5 Subsection 68(1) (definition of member of the Forces)

Omit “or 69A”, substitute “, 69A or 69B”.

6 At the end of Division 1 of Part IV

Add:

69B Application of Part to persons who rendered British nuclear test defence service

(1) This Part applies to a person who has rendered British nuclear test defence service.

(2) A person rendered British nuclear test defence service while the person was a member of the Defence Force and rendered service in an area described in the table at any time during a period described in the table for that area:

<table>
<thead>
<tr>
<th>Item</th>
<th>Area</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The area within 10</td>
<td>The period:</td>
</tr>
</tbody>
</table>
### British nuclear test defence service in an area within a period

<table>
<thead>
<tr>
<th>Item</th>
<th>Area</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>kilometres of Main Beach on Trimouille Island in the Monte Bello Archipelago</td>
<td>(a) starting at the start of 3 October 1952; and (b) ending at the end of 19 June 1958</td>
</tr>
<tr>
<td>2</td>
<td>The area within 25 kilometres of the Totem test sites at Emu Field</td>
<td>The period: (a) starting at the start of 15 October 1953; and (b) ending at the end of 25 October 1955</td>
</tr>
<tr>
<td>3</td>
<td>The area within 40 kilometres of any of the Buffalo or Antler test sites near Maralinga</td>
<td>The period: (a) starting at the start of 27 September 1956; and (b) ending at the end of 30 April 1965</td>
</tr>
</tbody>
</table>

(3) A person rendered **British nuclear test defence service** while the person was a member of the Defence Force and was involved at any time during a period described in the table in the transport, recovery, maintenance or cleaning of a vessel, vehicle, aircraft or equipment that was contaminated as a result of its use in an area described in the table for that period:

### British nuclear test defence service relating to work on contaminated things

<table>
<thead>
<tr>
<th>Item</th>
<th>Period in which involvement occurred</th>
<th>Area where thing was contaminated</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The period: (a) starting at the start of 3 October 1952; and (b) ending at the end of 19 July 1956</td>
<td>The area within 10 kilometres of Main Beach on Trimouille Island in the Monte Bello Archipelago</td>
</tr>
<tr>
<td>2</td>
<td>The period: (a) starting at the start of 15 October 1953; and (b) ending at the end of 25 November 1953</td>
<td>The area within 25 kilometres of the Totem test sites at Emu Field</td>
</tr>
<tr>
<td>3</td>
<td>The period: (a) starting at the start of 27 September 1956; and (b) ending at the end of 30 May 1963</td>
<td>The area within 40 kilometres of any of the Buffalo or Antler test sites near Maralinga</td>
</tr>
</tbody>
</table>
(4) A person rendered *British nuclear test defence service* while the person was a member of the Defence Force and, at a time between the start of 3 October 1952 and the end of 31 October 1957, flew in an aircraft of the Royal Australian Air Force or the Royal Air Force that was at that time:

(a) used in measuring fallout from nuclear tests conducted in an area described in the table in subsection (2); and

(b) contaminated by the fallout.

7 At the end of paragraph 120(2)(b)

Add “or”.

8 After paragraph 120(2)(b)

Insert:

(c) in respect of the incapacity from injury or disease of a member of the Forces, or of the death of such a member, relates to British nuclear test defence service rendered by the member;

9 Subsection 120(2) (note 1)

Omit “and hazardous service”, substitute “*, hazardous service and *British nuclear test defence service*”.

10 At the end of paragraph 120A(1)(b)

Add:

; or (iii) the British nuclear test defence service rendered by a member of the Forces.

11 Subsection 120A(1) (note 2)

Omit “and member of the Forces”, substitute “*, member of the Forces and *British nuclear test defence service*”.

12 Paragraph 120B(1)(b)

After “hazardous service”, insert “and British nuclear test defence service”.

13 Subsection 120B(1) (note 2)

Omit “and member of the Forces”, substitute “*, member of the Forces and *British nuclear test defence service*”.
14 Subparagraph 180A(2)(b)(iii)
Omit “and”, substitute “or”.

15 At the end of paragraph 180A(2)(b)
Add:
(iv) British nuclear test defence service rendered by a
member of the Forces; and

16 Subsection 180A(2) (note 1)
Omit “and hazardous service”, substitute “, member of a Peacekeeping
Force, hazardous service, member of the Forces and British nuclear
test defence service”.

17 Subparagraph 180A(3)(b)(ii)
After “hazardous service”, insert “and British nuclear test defence
service”.

18 Subsection 180A(3) (note 1)
Omit “and hazardous service”, substitute “, hazardous service, British
nuclear test defence service and member of the Forces”.

19 After paragraph 196B(2)(c)
Insert:
(caa) British nuclear test defence service rendered by members of
the Forces; or

20 Subsection 196B(2) (note 2)
Omit “and member of the Forces referred to in paragraphs (2)(b) and
(c)”, substitute “, member of the Forces and British nuclear test
defence service referred to in paragraphs (2)(b), (c) and (caa)”.

21 Paragraph 196B(3)(b)
After “hazardous service”, insert “and British nuclear test defence
service”.

22 Subsection 196B(3) (note 2)
Omit “and hazardous service”, substitute “, hazardous service, British
nuclear test defence service and member of the Forces”.

Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010 No. 7, 2010
23 Application

The amendments of the Veterans’ Entitlements Act 1986 made by this Schedule apply for the purposes of determining a person’s eligibility on or after the commencement of this Schedule for entitlements under that Act.

24 Transitional provision for Statements of Principles

(1) This item deals with the effect, on and after the commencement of this Schedule, of Statements of Principles that were in force under section 196B of the Veterans’ Entitlements Act 1986 immediately before that commencement.

Statements under subsection 196B(2) or (11) of that Act

(2) A statement under subsection 196B(2) or (11) of that Act has effect as if a reference in the statement to operational service, peacekeeping service or hazardous service included a reference to British nuclear test defence service.

Statements under subsection 196B(3) or (12) of that Act

(3) A statement under subsection 196B(3) or (12) of that Act has effect as if a reference in the statement to eligible war service (other than operational service) or defence service (other than hazardous service) excluded British nuclear test defence service.

Statements of Principles may be revoked or amended

(4) This item does not prevent a legislative instrument from amending or revoking a Statement of Principles that was in force under section 196B of the Veterans' Entitlements Act 1986 immediately before the commencement of this Schedule.
Schedule 2—Service on submarine special operations

Part 1—Veterans’ Entitlements Act 1986

1 Section 6 (after table item 4A)

Insert:

4B  6DB Operational service—service on submarine special operations from 1978 to 1992

2 After section 6DA

Insert:

6DB Operational service—service on submarine special operations from 1978 to 1992

A member of the Defence Force is taken to have been rendering operational service during any period of continuous full-time service for which the following conditions are met:

(a) the period started on or after 1 January 1978 and ended on or before the end of 31 December 1992;

(b) the service was on submarine special operations;

(c) the member:

(i) has been awarded the Australian Service Medal with Clasp “SPECIAL OPS” for the service; or

(ii) has become eligible for that award for the service; or

(iii) would have been eligible for that award for the service if the member had not already been awarded it for other service.

3 At the end of paragraph 7A(1)(a)

Add:

(v) rendered continuous full-time service on submarine special operations, at some time in the period starting on 1 January 1978 and ending at the end of 31 December 1992, for which the person has been awarded, or has become eligible to be awarded, the Australian Service Medal with Clasp “SPECIAL OPS”; or
Schedule 2  Service on submarine special operations

Part 1  Veterans’ Entitlements Act 1986

1. (vi) rendered continuous full-time service on submarine special operations, at some time in the period starting on 1 January 1978 and ending at the end of 31 December 1992, for which the person would have been eligible to be awarded the Australian Service Medal with Clasp “SPECIAL OPS” if the person had not already been awarded it for other service; or

4. Paragraph 85(4B)(b)

Omit “or (iv)”, substitute “, (iv), (v) or (vi)”.

5. Application

The amendments of the Veterans’ Entitlements Act 1986 made by this Part apply for the purposes of determining a person’s eligibility on or after the commencement of this Part for entitlements under that Act.
Part 2—Safety, Rehabilitation and Compensation Act 1988

6 Subsection 5(10)
Omit “and (10C)”, substitute “, (10C) and (10D)”.

7 After subsection 5(10C)
Insert:

(10D) Despite subsection (10), this Act applies to a claim lodged before the commencement of this subsection for compensation in respect of an injury of a member of the Defence Force that arose out of, or in the course of, service that:
(a) was rendered by the member; and
(b) is taken under section 6DB of the Veterans’ Entitlements Act 1986 to have been rendered as operational service.

Note: Part II of that Act provides for payment of pension in respect of that service.

8 Application
The amendments of the Safety, Rehabilitation and Compensation Act 1988 made by this Part apply for the purposes of determining a person’s eligibility on or after the commencement of this Part for compensation under that Act.
Part 3—Defence Service Homes Act 1918

9 Subsection 4(1) (subparagraph (gd)(ii) of the definition of 
*Australian Soldier*)

After “section”, insert “6DB or”.

10 Application

The amendment of the *Defence Service Homes Act 1918* made by this Part applies for the purposes of determining a person’s status as an eligible person for the purposes of that Act on or after the commencement of this Part.
Schedule 3—Service in Thailand

Defence Service Homes Act 1918

1 Subsection 4(1) (paragraph (g) of the definition of Australian Soldier)
   Omit “items”, substitute “item 3A, 3B,”.

Veterans’ Entitlements Act 1986

2 Paragraph 5B(2)(b)
   After “item”, insert “3A, 3B,”.

3 Subparagraph 6D(1)(a)(iii)

4 At the end of paragraph 6D(1)(a)
   Add:
   (iv) in North East Thailand (not including Ubon) at any time during the period from and including 31 May 1962 to and including 27 July 1962; or

5 At the end of subsection 6D(1)
   Add:
   Note: Service in Ubon in Thailand between 31 May 1962 and 27 July 1962 is taken to be operational service because of section 6C and item 3A in Schedule 2.

6 Schedule 2 (after table item 3)
   Insert:

<table>
<thead>
<tr>
<th>3A. Ubon in Thailand.</th>
<th>The period from and including 31 May 1962 to and including 27 July 1962</th>
</tr>
</thead>
<tbody>
<tr>
<td>3B. North East Thailand (including Ubon).</td>
<td>The period from and including 25 June 1965 to and including 31 August</td>
</tr>
</tbody>
</table>

Veterans’ Affairs Legislation Amendment (2010 Budget Measures) Bill 2010 No. 1, 2010
7 Application

The amendments made by items 2 to 6 apply for the purposes of determining a person’s eligibility on or after the commencement of those items for entitlements under the Veterans’ Entitlements Act 1986.
Schedule 4—Domicile

Veterans’ Entitlements Act 1986

1 Section 5 (index of definitions)
   Insert the following entry in its appropriate alphabetical position, determined on a letter-by-letter basis:
   domiciled

2 Subsection 5Q(1)
   Insert:
   
   domiciled has a meaning affected by section 11B.

3 At the end of subsection 6A(1)
   Add:
   Note: Section 11B may affect a person’s domicile immediately before appointment or enlistment.

4 At the end of subsection 6C(2)
   Add:
   Note: Section 11B may affect a person’s domicile immediately before appointment or enlistment.

5 At the end of Part I
   Add:

11B Domicile

   (1) A person is taken for the purposes of this Act to have been capable of having an independent domicile at a time before 1 July 1982 if the person had turned 18 at or before that time.
   Note: Subsection 8(1) of the Domicile Act 1982 has a similar effect for a time occurring on or after 1 July 1982.

   (2) Subsection (1) has effect despite any rule of law to the contrary.

6 At the end of subsection 53D(2)
Add:

Note: Section 11B may affect a person’s domicile immediately before appointment or enlistment.

7 At the end of subsection 80(2)

Add:

Note: Section 11B may affect a person’s domicile immediately before appointment or enlistment.

8 Application

Section 11B of the Veterans’ Entitlements Act 1986 applies for the purposes of determining a person’s eligibility on or after the commencement of that section for entitlements under that Act.
Schedule 5—Effect of widows and widowers entering into de facto relationships

Veterans’ Entitlements Act 1986

1 Section 5 (index of definitions)

Omit:

marriage-like relationships

2 Subsection 11(1) (paragraph (c) of the definition of dependant)

Omit “or re-marries”, substitute “, re-marries or enters into a de facto relationship”.

3 Subsection 11(1) (at the end of the definition of dependant)

Add:

Note 4: Section 11A affects formation of an opinion as to whether 2 people are living together in a de facto relationship.

4 Subsection 13(8)

Omit “or marries”, substitute “, marries or enters into a de facto relationship”.

5 Subparagraph 13(8)(a)(ii)

Omit “or marriage”, substitute “, marriage or entry into the de facto relationship”.

6 Paragraph 13(8)(b)

Omit “or marriage” (wherever occurring), substitute “, marriage or entry into the de facto relationship”.

7 Subsection 70(11)

Omit “or marries”, substitute “, marries or enters into a de facto relationship”.

8 Subparagraph 70(11)(a)(ii)
Schedule 5  Effect of widows and widowers entering into de facto relationships

1 Omit “or marriage”, substitute “, marriage or entry into the de facto relationship”.

9  Paragraph 70(11)(b)
Omit “or marriage” (wherever occurring), substitute “, marriage or entry into the de facto relationship”.

10  Application
The amendments made by this Schedule apply in relation to:
   (a) claims for pension under Part II or IV of the Veterans’ Entitlements Act 1986 made on or after the commencement of this Schedule; and
   (b) the payment of pension under section 13A of that Act in relation to veterans who die on or after the commencement of this Schedule.

    , 2010