

**1996 - 97- 98**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**VETERANS' ENTITLEMENTS  
AMENDMENT (MALE TOTAL AVERAGE WEEKLY  
EARNINGS BENCHMARK) BILL 1998**

**EXPLANATORY MEMORANDUM**

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

**TABLE OF CONTENTS**

**Outline and Financial Impact ..... 1**

**Short Title ..... 2**

**Commencement ..... 2**

**Schedule ..... 2**

  

**SCHEDULE 1**

**Amendment of the *Veterans' Entitlements Act 1986* ..... 3**



# OUTLINE

## ***Outline and Financial Impact***

This Bill will maintain the rate of pension payable to war widows and war widowers at no less than 25 per cent of Male Total Average Weekly Earnings.

***Date of effect***                      19 March 1998

## ***Financial impact***

| Year    | Net Outlays      |
|---------|------------------|
| 1997-98 | \$ 4.74m (costs) |
| 1998-99 | \$22.59m (costs) |
| 1999-00 | \$35.29m (costs) |
| 2000-01 | \$46.72m (costs) |

# CLAUSES



## **Short Title**

**Clause 1** sets out how the Act is to be cited.

## **Commencement**

**Clause 2** sets out the commencement date of the Act.

## **Schedule**

**Clause 3** provides that the *Veterans' Entitlements Act 1986* is amended as set out in Schedule 1.

# SCHEDULE 1

## **Amendment of the Veterans' Entitlements Act 1986**

### **Background**

The *Veterans' Entitlements Act 1986* provides for the payment of a pension to the widow or widower of a veteran:

- whose death was war-caused or defence-caused, or
- who had been a prisoner of war, or
- who had been in receipt of a special rate of pension or an extreme disablement adjustment immediately before death.

These widows and widowers are generally referred to as war widows and war widowers.

The amount of pension payable to a war widow and war widower comprises two parts. One part of the pension is an indexed component, the other part is not indexed. In this explanatory memorandum, a reference to a pension payable to a war widow or war widower refers only to that part of the pension that is subject to indexation adjustment.

For nearly 35 years, the amount of pension payable to a war widow or war widower has been the same as the maximum basic rate of service or age pension payable to a single person. This parity has been maintained by application of the same indexation adjustments.

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 income support pension (after 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).

That legislation resulted in income support pensions (such as the service pension), which would not otherwise have been CPI increased (because of a negative CPI during the relevant period), being topped-up to 25% of the MTAWE on 20 March 1998.

This Act expands the Government's commitment to the pension benchmark of at least 25% of MTAWWE by extending to the pension payable to a war widow or war widower the same top-up to 25% of MTAWWE that applies to income support pensions. The retrospective application of the amendment will ensure the long-standing parity between the amounts of these pensions is maintained.

## Explanation of the Changes

Where the part of the pension payable to a war widow or war widower that is subject to indexation is CPI adjusted to an amount that is less than 25% of MTAWWE, this amendment will provide that the rate is to be topped up to 25% of MTAWWE. If the rate of pension (after indexation) equals or exceeds the 25% MTAWWE figure, then no top-up needs to be made.

The MTAWWE:

- at the March and September relevant periods, will be obtained from the latest final Average Weekly Earnings, States and Australia, which is released quarterly by the Australian Bureau of Statistics; and
- is the original, all males, total earnings figure.

## Explanation of items

**Item 1** inserts a new definition of **December quarter** into the definitions in subsection 198(1). This definition is used for determining the fortnightly MTAWWE figure in new paragraph 198(6)(b) that is being inserted by **item 5**.

**Item 2** inserts a new definition of **fortnightly MTAWWE figure** into the definitions in subsection 198(1). This new definition explains that the figure is 1/26 of the annualised MTAWWE figure for that quarter as described in section 59EA, which relates to the adjustment of income support payments. The reason for the different phraseology for the MTAWWE figure is that the pension payable to a war widow or war widower under paragraph 30(1)(a) is expressed as a fortnightly amount, whereas the maximum basic rate of an income support payment is expressed as an annual amount.

**Item 3** inserts a new definition of **June quarter** into the definitions in subsection 198(1). This definition is used for determining the fortnightly MTAWWE figure in new paragraph 198(6)(b) that is being inserted by **item 5**.

**Item 4** adds a note at the end of subsection 198(4) to alert the reader to the provisions to be added by **item 5** to substitute the new rate calculated under subsection (4) in certain cases.

**Item 5** adds two new subsections to section 198 to provide, if 25% of the fortnightly MTAWWE figure for a relevant period exceeds the rate of war widow or war widower pension, then that rate of pension is to be increased to the higher rate. Item 5 also adds a new subsection 198(8) to account for certain arrears of the increase in the rate of pension that become payable under this Act.

New subsection 198(6) applies when the rate of pension payable to a war widow or war widower under paragraph 30(1)(a) is increased by an indexation adjustment under subsection 198(4).

Paragraphs 198(6)(a), (b) and (c) respectively provide that, if:

the rate of pension payable to a war widow or war widower under paragraph 30(1)(a) has been increased (to a substituted rate) by an indexation adjustment under subsection 198(4); and

25% of the fortnightly MTAWWE figure that is:

- for a relevant period that starts on 20 March – the figure published for the most recent December quarter;
- for a relevant period that starts on 20 September – the figure published for the most recent June quarter.

exceeds that substituted rate,

then:

the substituted rate of pension (that is, the indexed rate of pension payable to a war widow or war widower calculated under subsection 198(4)) is increased by the amount of that excess.

New paragraph 198(6)(d) provides that the fortnightly pension amount obtained under new paragraph 198(6)(c) is to be a multiple of 10 cents. If the amount is not a multiple of 10 cents, then the amount is to be increased to a multiple of 10 cents.

New subsection 198(7) applies when the rate of pension payable to a war widow or war widower under paragraph 30(1)(a) was not increased by an indexation adjustment under subsection 198(4). This would arise where the factor associated with the CPI was not greater than 1. (If the factor is greater than 1, then new subsection 198(6) will apply.)

Paragraphs 198(7)(a), (b) and (c) respectively provide that, if:

the rate of pension payable to a war widow or war widower under paragraph 30(1)(a) has been unchanged by an indexation adjustment under subsection 198(4); and

25% of the fortnightly MTAWWE figure that is:

- for a relevant period that starts on 20 March – the figure published for the most recent December quarter;
- for a relevant period that starts on 20 September – the figure published for the most recent June quarter.

exceeds the unchanged rate,

then:

the unchanged rate of pension (that is, the rate of pension payable to a war widow or war widower that was not increased by indexation) is increased by the amount of that excess.

New paragraph 198(7)(d) provides that the fortnightly pension amount obtained under new paragraph 198(7)(c) is to be a multiple of 10 cents. If the amount is not a multiple of 10 cents, then the amount is to be increased to a multiple of 10 cents.

New subsection 198(8) provides legal authority for the accounting of certain ex-gratia payments advanced to war widows and war widowers in anticipation of the amendments in this Act. Ex-gratia payments, equal to the amount of the MTAWWE top-up that will flow to instalments of war widow or war widower pension payable after 19 March 1998, are being advanced to war widows and war widowers pending the Royal Assent of this Act. This arrangement is to obviate a financial detriment to war widows and war widowers, but it is not intended to provide them with a windfall gain through a duplicated payment of the increase after the Royal Assent of this Act. This new subsection provides for the amount of pension arrears that will accrue from the retrospective increase in pension under this Act to be reduced by the sum of the amounts advanced as ex-gratia payments before the Royal Assent.

## **COMMENCEMENT**

The changes will commence on 19 March 1998 (**clause 2**).