



# **Compensation (Japanese Internment) Act 2001**

**No. 41, 2001**

## **Compilation No. 1**

**Compilation date:** 20 September 2017

**Includes amendments up to:** Act No. 93, 2017

**Registered:** 20 September 2017

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Compensation (Japanese Internment) Act 2001* that shows the text of the law as amended and in force on 20 September 2017 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to provide for compensation payments in respect of certain persons interned by Japanese military forces, and for other purposes**

## **1 Short title**

This Act may be cited as the *Compensation (Japanese Internment) Act 2001*.

## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **3 Definitions**

In this Act, unless the contrary intention appears:

*civilian* means a person who is not a veteran.

*Commission* means the Repatriation Commission referred to in the Veterans' Entitlements Act.

*compensation payment* means a payment under this Act.

*designated war period* means the period beginning on 7 December 1941 and ending at the end of 29 October 1945.

*eligible person* means a person who is eligible for a compensation payment.

*interned* means:

- (a) confined in a camp, building, prison or other place (including a vehicle); or
- (b) restricted to residing within specified limits.

*Japanese military forces* means air forces, naval forces, land forces or other military forces of Japan (however described).

**partner**, in relation to a veteran or civilian, means:

- (a) a person who is legally married to the veteran or civilian; or
- (b) a person who is a partner (within the meaning of the Veterans' Entitlements Act) of the veteran or civilian.

**Regulations payment** means a payment under the Veterans' Entitlements (Compensation—Japanese Internment) Regulations 2001, including a payment made before the commencement of this Act.

Note: These regulations are made for the purposes of section 106 of the Veterans' Entitlements Act.

**Review Tribunal** means the Administrative Appeals Tribunal.

**Secretary** means the Secretary of the Department.

**social security law** means:

- (a) the *Social Security Act 1991*; and
- (b) the *Social Security (Administration) Act 1999*; and
- (c) any other Act that is expressed to form part of the social security law.

**veteran** means a person covered by subsection 6A(1) of the Veterans' Entitlements Act.

**Veterans' Entitlements Act** means the *Veterans' Entitlements Act 1986*.

#### 4 Eligibility for compensation payment

*Partner of deceased veteran*

- (1) A person is eligible for a compensation payment in respect of a deceased veteran if the following conditions are satisfied:
  - (a) the person was alive at the beginning of 1 January 2001;
  - (b) the veteran died before 1 January 2001;
  - (c) the person was a partner of the veteran immediately before the veteran's death;

- (d) the veteran was interned by Japanese military forces at any time during the designated war period.

*Civilian (in own right)*

- (2) A person is eligible for a compensation payment in the person's own right as a civilian if the following conditions are satisfied:
  - (a) the person was alive at the beginning of 1 January 2001;
  - (b) the person was interned by Japanese military forces at any time during the designated war period;
  - (c) the person was domiciled in Australia immediately before the commencement of that internment.

*Partner of deceased civilian*

- (3) A person is eligible for a compensation payment in respect of a deceased civilian if the following conditions are satisfied:
  - (a) the person was alive at the beginning of 1 January 2001;
  - (b) the civilian died before 1 January 2001;
  - (c) the person was a partner of the civilian immediately before the civilian's death;
  - (d) the civilian was interned by Japanese military forces at any time during the designated war period;
  - (e) the civilian was domiciled in Australia immediately before the commencement of that internment.

*One payment only*

- (4) A person is not eligible for a compensation payment if the person is eligible for a Regulations payment.
- (5) A person is not entitled to more than one compensation payment.

## **5 Amount of compensation payment**

A compensation payment is a one-off payment of \$25,000.

## **6 Claims**

- (1) Claims for compensation payments must be made in accordance with procedures determined by the Secretary under subsection (2).
- (2) The Secretary may, in writing, determine the procedures for making claims.

## **7 Determination of claims**

- (1) Claims are to be decided by the Commission.
- (2) A person who is dissatisfied with the Commission's decision on a claim may apply to the Review Tribunal for review of the decision.

## **8 Death of eligible person**

If an eligible person dies or died before receiving a compensation payment, then the payment is to be made to the person's estate.

Note: A claim will still be required under section 6.

## **9 Application of certain provisions of the Veterans' Entitlements Act**

The following provisions of the Veterans' Entitlements Act apply as if this Act were part of the Veterans' Entitlements Act:

- (a) subsection 119(1) and sections 128, 208, 213 and 214;
- (b) any other provisions of that Act that are incidental to the provisions mentioned in paragraph (a).

## **10 Recovery of overpayments**

Any overpayment under this Act may be recovered by the Commonwealth as a debt in a court of competent jurisdiction.

## **11 Exemption from income tax**

Compensation payments are exempt from income tax.



## **12 Assets test**

### *Veterans' Entitlements Act*

- (1) The value of a person's assets for the purposes of the Veterans' Entitlements Act is reduced by any compensation payment or Regulations payment received by the person.

### *Social security law*

- (2) The value of a person's assets for the purposes of the social security law is reduced by any compensation payment or Regulations payment received by the person.

## **13 Appropriation of Consolidated Revenue Fund**

The Consolidated Revenue Fund is appropriated for the purposes of compensation payments, to the extent of \$133,975,000.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Compensation (Japanese Internment) Act 2001	41, 2001	25 May 2001	25 May 2001 (s 2)	
Statute Update (Winter 2017) Act 2017	93, 2017	23 Aug 2017	Sch 1 (item 7): 20 Sept 2017 (s 2(1) item 2)	—

## Endnotes

Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 3 .....	am No 93, 2017

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