



Veterans' Affairs Legislation Amendment Act 1989

No. 93 of 1989

An Act to amend the law relating to veterans' affairs, and for related matters

[Assented to 27 June 1989]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment Act 1989*.

Commencement: Day of Royal Assent

Commencement

2. Each provision of this Act commences, or shall be taken to have commenced, as the case requires, on the day shown by the note in italics at the foot of that provision.

Commencement: Day of Royal Assent

Application

3. (1) The amendment made by section 9 applies to payments under the *Veterans' Entitlements Act 1986* that fall due on or after 22 December 1988.

Commencement: 22 December 1988

(2) The amendment made by paragraph 11 (c) applies to determinations made under the *Veterans' Entitlements Act 1986* on or after the day on which this Act receives the Royal Assent.

Commencement: Day of Royal Assent

**PART 2—AMENDMENTS OF THE AUSTRALIAN WAR
MEMORIAL ACT 1980**

Principal Act

4. In this Part, "Principal Act" means the *Australian War Memorial Act 1980*¹.

Commencement: Day of Royal Assent

Limit on investments

5. Section 35 of the Principal Act is amended:

(a) by omitting from paragraph (a) "\$100,000" and substituting "\$250,000";

(b) by omitting from paragraph (b) "\$50,000" and substituting "\$150,000";

(c) by adding at the end the following subsection:

"(2) Subsection (1) does not apply to the investment of money by the Memorial in accordance with section 34."

Commencement: Day of Royal Assent

**PART 3—AMENDMENT OF THE DEFENCE SERVICE HOMES
ACT 1918**

Principal Act

6. In this Part, "Principal Act" means the *Defence Service Homes Act 1918*².

Commencement: Day of Royal Assent

Interpretation

7. Section 4 of the Principal Act is amended by inserting after paragraph (g) of the definition of "Australian Soldier" in subsection (1) the following paragraph:

"(ga) a person who, as a member of the Defence Force, rendered service as a member of the United Nations Transition Assistance

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Group (UNTAG) Namibia, being a force that is designated as required to be armed, in the area described in item 9 of Schedule 2 to the *Veterans' Entitlements Act 1986* during the period specified in that item;”.

Commencement: 18 February 1989

PART 4—AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Principal Act

8. In this Part, “Principal Act” means the *Veterans' Entitlements Act 1986*³.

Commencement: Day of Royal Assent

General rate of pension and extreme disablement adjustment

9. Section 22 of the Principal Act is amended by omitting from subsection (3) “\$143.50” and substituting “\$174.50”.

Commencement: 22 December 1988

Interpretation

10. Section 35 of the Principal Act is amended:

- (a) by omitting “or” from paragraph (w) of the definition of “income” in subsection (1);
- (b) by adding at the end of the definition of “income” in subsection (1) the following word and paragraph:

“or (y) an amount paid by way of compensation by the Federal Republic of Germany, or by a State of that Republic, under the laws of that Republic, or of that State, relating to compensation of victims of National Socialist persecution;”.

Commencement: Day of Royal Assent

Meaning of qualifying service

11. Section 36 of the Principal Act is amended:

- (a) by omitting from subparagraph (a) (iii) “or” (last occurring);

Commencement: 18 February 1989

- (b) by adding at the end of paragraph (a) the following word and subparagraph:

“or (v) rendered service as a member of the United Nations Transition Assistance Group (UNTAG) Namibia, being a force that is designated as required to be armed, in the area described in item 9 of Schedule 2 (in column 1) during the period specified in column 2 of that Schedule opposite to that description;”;

Commencement: 18 February 1989

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(c) by adding at the end the following subsection:

“(2) In subparagraph (1) (b) (ii):

‘campaign medal’, in relation to service during the period of World War 2 from its commencement to and including 29 October 1945, means:

(a) any of the following medals:

(i) 1939-45 Star;

(ii) Atlantic Star;

(iii) Air Crew Europe Star;

(iv) Africa Star;

(v) Pacific Star;

(vi) Burma Star;

(vii) Italy Star;

(viii) France and Germany Star; or

(b) any other medal declared by the regulations to be a campaign medal in relation to service during that period.”.

Commencement: 1 January 1990

Provision of treatment

12. Section 84 of the Principal Act is amended by omitting from paragraph (6) (a) “based on charges payable for treatment as private patients in” and substituting “determined having regard to charges payable for treatment provided by”.

Commencement: Day of Royal Assent

13. After section 126 of the Principal Act the following section is inserted:

Death of a person who has not made a formal claim etc.

“126A. (1) If a deceased person has made a claim for a pension under Part II or IV in writing, but otherwise than in accordance with a form approved for the purposes of paragraph 14 (3) (a), an authorised representative of the deceased person may make a claim for the pension in accordance with such a form.

“(2) If a deceased person has made a claim for a pension under Part III in writing, but otherwise than in accordance with the form approved for the purposes of paragraph 43 (1) (a), an authorised representative of the deceased person may make a claim for the pension in accordance with that form.

“(3) If a deceased person has made an application of a kind referred to in subsection 15 (1) or (2) in writing, but otherwise than in accordance with a form approved for the purposes of paragraph 15 (3) (a), an authorised representative of the deceased person may make an application of that kind in accordance with such a form.

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“(4) A person who, pursuant to subsection (1), (2) or (3), makes a claim for a pension under Part II, III or IV, or an application of a kind referred to in subsection 15 (1) or (2):

- (a) take such action in relation to the claim or application as the deceased person could have taken if he or she had made the claim or application and had not died; and
- (b) the purposes of taking such action, shall be treated as if he or she were the deceased person.

“(5) The Commission may authorise a person to take action under this section in relation to a deceased person if:

- (a) there is no legal personal representative of the deceased person; or
- (b) the Commission is satisfied that:
 - (i) person has notified the legal personal representative of the deceased person that the legal personal representative has, or may have, a right under this section to make a claim or application; and
 - (ii) legal personal representative has refused, or failed within a reasonable time after having been so notified, to make the claim or application.

“(6) In this section:

‘authorised representative’, in relation to a deceased person, means:

- (a) the legal personal representative of the deceased person; or
- (b) a person authorised by the Commission in accordance with subsection (5) to take action under this section in relation to the deceased person.”.

Commencement: 22 May 1986

Review of decisions in respect of pensions and attendant allowances

14. Section 135 of the Principal Act is amended by omitting from subsection (1) “subsection 19 (3)” and substituting “subsection 19A (1)”.

Commencement: 22 December 1988

Schedule 2

15. Schedule 2 to the Principal Act is amended by adding at the end the following:

“9. The area comprising the United Nations Mandated Territory of Namibia and the area of land extending 400 kilometres outwards from the borders of Namibia into the adjoining countries of Angola, Zambia, Zimbabwe, Botswana and South Africa (including Walvis Bay). The period from and including 18 February 1989”.

Commencement: 18 February 1989

**PART 5—AMENDMENT OF THE VETERANS' ENTITLEMENTS
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) ACT 1986**

Principal Act

16. In this Part, "Principal Act" means the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*.

Commencement: Day of Royal Assent

Guide to Assessment of Rates of Veterans' Pensions

17. Section 27 of the Principal Act is amended by omitting from subsections (1) and (2B) "22 (4)" and substituting "21A (1)".

Commencement: 22 December 1988

NOTES

1. No. 104, 1980, as amended. For previous amendments, see No. 61, 1981; No. 63, 1984; and Nos. 65 and 166, 1985.
2. No. 43, 1918, as amended. For previous amendments, see No. 28, 1919; No. 35, 1920; No. 18, 1923; No. 26, 1925; No. 47, 1926; No. 17, 1927; No. 13, 1929; Nos. 6 and 68, 1932; No. 63, 1934; No. 54, 1935; No. 25, 1937; No. 1, 1941; No. 8, 1946; Nos. 1, 38 and 71, 1947; No. 67, 1948; No. 24, 1949; No. 74, 1951; No. 69, 1954; No. 69, 1955; No. 100, 1956; No. 73, 1961; Nos. 2 and 93, 1962; Nos. 65 and 93, 1966; No. 3, 1967; No. 99, 1968; No. 120, 1971; Nos. 31 and 216, 1973; No. 125, 1974; No. 25, 1975; Nos. 37 and 185, 1976; No. 79, 1977; Nos. 36 and 137, 1978; Nos. 4 and 128, 1980; No. 80, 1982; No. 70, 1983; No. 72, 1984; Nos. 28 and 29, 1986; and No. 124, 1988.
3. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130, 1986; Nos. 78, 88 and 130, 1987; and Nos. 13, 35, 75, 99, 134 and 135, 1988.
4. No. 28, 1986, as amended. For previous amendments, see Nos. 29, 106 and 130, 1986; Nos. 78 and 130, 1987; and No. 134, 1988.

[*Minister's second reading speech made in—
House of Representatives on 3 May 1989
Senate on 23 May 1989*]