



Veterans' Affairs Legislation Amendment Act 1991

No. 74 of 1991

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

[Assented to 25 June 1991]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment Act 1991*.

Commencement

2. (1) This Part and Part 3 commence or are taken to have commenced on 1 July 1991.

(2) Section 3 is taken to have commenced on 22 January 1991.

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(3) Subject to subsection (4), section 4 commences or is taken to have commenced on 1 July 1991, immediately after the commencement of section 19 of the *Veterans' Entitlements (Rewrite) Transition Act 1991*.

(4) Part 1 of Schedule 2 commences or is taken to have commenced on 1 July 1991, immediately after the commencement of the *Social Security (Job Search and Newstart) Amendment Act 1991* and the *Social Security (Rewrite) Amendment Act 1991*.

(5) Subject to subsections (6), (7) and (8), section 5 commences on the day on which this Act receives the Royal Assent.

(6) Part 2 of Schedule 3 commences or is taken to have commenced on 1 July 1991, immediately after the commencement of section 19 of the *Veterans' Entitlements (Rewrite) Transition Act 1991*.

(7) Part 3 of Schedule 3 is taken to have commenced on 12 June 1991.

(8) Part 4 of Schedule 3 is taken to have commenced on 20 March 1991.

PART 2—AMENDMENTS OF ACTS

Modifications and amendments of the *Veterans' Entitlements Act 1986* (commencing on 22 January 1991)

3. (1) For the period beginning on 22 January 1991 and ending immediately before 1 July 1991, the *Veterans' Entitlements Act 1986* is to be read as if it had been modified as set out in Part 1 of Schedule 1.

(2) The *Veterans' Entitlements Act 1986* is amended as set out in Part 2 of Schedule 1.

Amendments of Acts (commencing on 1 July 1991)

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

Other amendments of Acts

5. The Acts specified in Schedule 3 are amended as set out in that Schedule.

PART 3—TRANSITIONAL AND SAVINGS ETC.

Principal Act

6. In this Part, "Principal Act" means the *Veterans' Entitlements Act 1986*¹.

Certain claims may be made after re-marriage or marriage—pensions under Part II of the Principal Act

7. In spite of subsection 13 (8) of the Principal Act, the Commonwealth is liable to pay a pension to a male dependant of a deceased veteran (other than a child of the veteran) under section 13 of the Principal Act if:

- (a) the dependant re-married or married after the death of the veteran; and
- (b) the re-marriage or marriage occurred on or after 22 January 1991; and
- (c) the dependant made a claim in writing for a pension under section 13 (whether or not in a form approved under paragraph 14 (3) (a) and whether or not before the re-marriage or marriage occurred); and
- (d) that claim was made after 21 January 1991 and before 1 October 1991; and
- (e) the Commission grants the claim.

Date of operation of grant of pensions under Parts II and IV of the Principal Act

8. In spite of section 20 of the Principal Act, if:

- (a) a male dependant of a deceased veteran (other than a child of the veteran) made a claim for a pension under section 13 or 70 (whether or not in a form approved under paragraph 14 (3) (a)); and
- (b) that claim was made after 21 January 1991 and before 1 October 1991; and
- (c) the Commission grants the claim;

the Commission may approve the payment of the pension to begin on a date that is not earlier than 22 January 1991.

Date of operation of grant of spouse's service pension etc.

9. (1) In spite of section 46 of the Principal Act as in force on 22 January 1991, if:

- (a) a man makes a claim in writing for a spouse's service pension (whether or not in a form approved under paragraph 43 (1) (a) of the Principal Act as then in force); and
- (b) that claim was made after 21 January 1991 and before 1 July 1991; and
- (c) the Commission grants the claim;

the Commission may approve the payment of the pension to begin on a date that is not earlier than 22 January 1991.

(2) In spite of section 38B of the Principal Act as in force on 1 July 1991, if:

- (a) a man makes a claim in writing for a partner service pension (whether or not the claim is a proper claim under section 38F of the Principal Act as then in force); and
 - (b) that claim was made after 30 June 1991 and before 1 October 1991; and
 - (c) the Commission grants the claim;
- the Commission may approve the payment of the pension to begin on a date that is not earlier than 22 January 1991.

Certain claims may be made after re-marriage or marriage—pensions under Part IV of the Principal Act

10. In spite of subsection 70 (1) of the Principal Act, the Commonwealth is liable to pay a pension to a male dependant of a deceased veteran (other than a child of the veteran) under section 70 of the Principal Act if:

- (a) the dependant re-married or married after the death of the veteran; and
- (b) the re-marriage or marriage occurred on or after 22 January 1991; and
- (c) the dependant made a claim in writing for a pension under section 70 (whether or not in a form approved under paragraph 14 (3) (a) and whether or not before the re-marriage or marriage occurred); and
- (d) the claim was made after 21 January 1991 and before 1 October 1991; and
- (e) the Commission grants the claim.

Certain expressions are taken to have particular meaning on and after 22 January 1991

11. (1) In this section:

“interim period” means the period beginning on 22 January 1991 and ending immediately before 1 July 1991;

“wife’s service pension” means the pension eligibility for which is specified under section 40 of the Principal Act as in force immediately before the interim period;

“WSP provision” means a provision in any Act in force on or after 22 January 1991 that refers to wife’s service pension.

(2) For the purpose of the application of a WSP provision during the interim period, the provision is taken to have effect as follows:

- (a) any reference in the provision to “wife’s service pension” is taken to be a reference to “spouse’s service pension”;
- (b) any reference in the provision to “wife of a veteran” is taken to include a reference to “husband of a veteran”;
- (c) any reference in the provision to “widow of a deceased veteran”

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is taken to include a reference to “widower of a deceased veteran”;

- (d) any gender-specific expression in the WSP provision is taken to have the corresponding meaning consequential to paragraphs (a), (b) and (c).

Application

12. The amendments of section 118JA of the Principal Act made by section 5 apply to payments under that Act that fell or fall due on or after 20 March 1991.

SCHEDULE 1

Section 3

**MODIFICATIONS AND AMENDMENTS OF VETERANS'
ENTITLEMENTS ACT 1986 (COMMENCING ON
22 JANUARY 1991)**

PART 1

Modifications of Veterans' Entitlements Act 1986

Paragraph 11 (1) (b):

Omit the paragraph, substitute:

“(b) in respect of a female veteran (including a veteran who has died):

(i) the husband or widower of the veteran; or

(ii) a man with whom the veteran is living, or was living immediately before her death, as his wife on a genuine domestic basis although not legally married to him (whether or not her husband or widower is also alive); or

(iii) a child of the veteran;

is a dependant of the veteran.”.

Subsection 35 (1) (paragraph (b) of the definition of “income support pension”):

Omit “wife’s”, substitute “spouse’s”.

Subsection 35 (1) (definition of “service pensioner”):

Omit “wife’s”, substitute “spouse’s”.

Subsection 35 (1) (definition of “wife’s service pension”):

Omit the definition.

Subsection 35 (1):

Insert:

“ ‘spouse’s service pension’ means a spouse’s service pension granted to the spouse of a veteran under section 40;”.

Subsection 35 (14):

Omit “wife’s”, substitute “spouse’s”.

Paragraph 37 (1) (a):

Omit “wife’s”, substitute “spouse’s”.

SCHEDULE 1—continued

Subsection 40 (1):

- (a) Omit “wife”, substitute “spouse”.
- (b) Omit “wife’s” (wherever occurring), substitute “spouse’s”.
- (c) After “widow” (wherever occurring), insert “or widower”.
- (d) Omit “she”, substitute “the widow or widower”.
- (e) Omit “his”, substitute “the veteran’s”.

Subsection 40 (3):

- (a) Omit “wife” (wherever occurring), substitute “spouse”.
- (b) After “widow” (first occurring), insert “or widower”.
- (c) Omit “or widow” (wherever occurring), substitute “widow or widower”.
- (d) Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 42 (1) (d):

- (a) After “widow” (wherever occurring), insert “or widower”.
- (b) Omit “wife’s”, substitute “spouse’s”.
- (c) Omit “wife”, substitute “spouse”.

Subsection 42 (2) (definition of “service pension”):

Omit “wife’s”, substitute “spouse’s”.

Subparagraph 42 (3) (b) (i):

- (a) Omit “if the person is a man—”.
- (b) Omit “wife’s”, substitute “spouse’s”.
- (c) Omit “wife of the man”, substitute “spouse of the person”.

Subparagraph 42 (5) (a) (i):

Omit “wife’s”, substitute “spouse’s”.

Subsection 42 (8):

Omit “wife’s”, substitute “spouse’s”.

Subsection 43 (1):

Omit “wife’s”, substitute “spouse’s”.

Subsection 43 (2):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) Omit “wife”, substitute “spouse”.

Paragraph 43 (3) (b):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) Omit “wife”, (wherever occurring), substitute “spouse”.

SCHEDULE 1—continued

Paragraph 43 (5) (a):

- (a) Omit “wife”, substitute “spouse”.
- (b) Omit “wife’s”, substitute “spouse’s”.
- (c) Omit “she”, substitute “the spouse”.

Subsection 44 (4):

Omit “wife’s”, substitute “spouse’s”.

Section 45:

Omit “wife’s”, substitute “spouse’s”.

Subsection 46 (4):

Omit “wife’s”, substitute “spouse’s”.

Subsection 48 (1):

Omit “wife’s”, substitute “spouse’s”.

Subsection 48 (2):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) Omit “wife”, substitute “spouse”.

Subsection 48 (3):

- (a) Omit “wife’s” (wherever occurring), substitute “spouse’s”.
- (b) Omit “wife” (wherever occurring), substitute “spouse”.

Subsection 48 (4):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) Omit “wife”, (first occurring), substitute “spouse”.
- (c) After “widow” insert “or widower”.
- (d) Omit “wife or widow” (wherever occurring), substitute “spouse, widow or widower”.

Subsection 48 (4A):

- (a) Omit “wife or widow” (first and last occurring), substitute “person”.
- (b) Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Subparagraph 48 (4A) (a) (i):

- (a) Omit “wife” (first occurring), substitute “person”.
- (b) Omit “or a widow”, substitute “, a widow or widower”.
- (c) Omit “wife’s”, substitute “spouse’s”.
- (d) Omit “wife or widow”, substitute “person”.

SCHEDULE 1—continued

Paragraph 48 (4A) (a):

- (a) Omit “in the case of a wife:”, substitute “in the case of a person:”.
- (b) Omit “whose husband” (wherever occurring), substitute “whose spouse”.
- (c) Omit “wife, the husband”, substitute “person, the person’s spouse”.
- (d) Omit “applicable to the wife”, substitute “applicable to the person”.
- (e) Omit “applicable to the husband”, substitute “applicable to the spouse”.
- (f) Omit “in relation to the wife”, substitute “in relation to the person”.
- (g) Omit “in relation to the husband”, substitute “in relation to the spouse”.
- (h) Omit “husband” (last occurring), substitute “spouse”.

Subsection 48 (4B):

Omit “wife or widow”, substitute “person eligible to receive a spouse’s service pension”.

Subsection 49A (2):

- (a) Omit “woman” (wherever occurring), substitute “person”.
- (b) Omit “her”, substitute “the person”.
- (c) Omit “she” (wherever occurring), substitute “he or she”.

Paragraph 49A (3) (a):

- (a) Omit “woman”, substitute “person”.
- (b) After “widow” (wherever occurring), insert “or widower”.

Subsection 49A (4):

- (a) Omit “woman”, substitute “person”.
- (b) Omit “she”, substitute “he or she”.

Subsection 49A (5) (paragraphs (a) and (b) of the definition of “prescribed pension”):

After “widow (wherever occurring), insert “or widower”.

Subsection 49A (5) (definition of “service pension”):

Omit “wife’s”, substitute “spouse’s”.

SCHEDULE 1—continued

Subsection 49A (5):

Insert:

“**widower**” means a man who is a widower for the purposes of Part III.”.

Subsection 49B (1) (definition of “pension”):

Omit “wife’s”, substitute “spouse’s”.

Subsection 51 (2):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 51 (5) (a):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 52 (9) (a):

Omit “wife’s”, substitute “spouse’s”.

Subparagraph 52 (10) (b) (i):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Subparagraph 52 (11) (b) (i):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 53 (1) (a):

Omit “wife’s”, substitute “spouse’s”.

Subsection 53 (2):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Subsection 53 (4):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Subsection 54 (1):

Omit “wife’s”, substitute “spouse’s”.

Subsection 55 (3):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Subsection 55 (4):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 55 (6) (a):

Omit “wife’s”, substitute “spouse’s”.

Subsection 55 (10):

Omit “wife’s”, substitute “spouse’s”.

SCHEDULE 1—continued

Subsection 57 (2):

Omit “wife’s” (wherever occurring), substitute “spouse’s”.

Paragraph 57A (13) (b):

- (a) Omit “wife’s” (wherever occurring), substitute “spouse’s”.
- (b) Omit “she”, substitute “he or she”.

Subsection 58 (5):

Omit “wife’s”, substitute “spouse’s”.

Subsection 59 (8):

Omit “wife’s”, substitute “spouse’s”.

Subsection 61 (5):

Omit “wife’s”, substitute “spouse’s”.

Subsection 63 (6):

Omit “wife’s”, substitute “spouse’s”.

Subsection 66 (1):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) Omit “wife”, substitute “spouse”.
- (c) After “widow” insert “or widower”.

Subsection 66 (2):

- (a) After “widow” (wherever occurring), insert “or widower”.
- (b) Omit “wife’s”, substitute “spouse’s”.

Subsection 66 (3):

- (a) Omit “wife’s”, substitute “spouse’s”.
- (b) After “widow”, insert “or widower”.

Subsection 66 (4):

- (a) After “widow”, insert “or widower”.
- (b) Omit “wife’s”, substitute “spouse’s”.
- (c) Omit “her”, substitute “the widow or widower”.

Subsection 67 (3):

Omit “wife’s”, substitute “spouse’s”.

Paragraph 81 (2) (b):

Omit “wife’s”, substitute “spouse’s”.

Paragraph 82 (2) (a):

Omit “wife’s”, substitute “spouse’s”.

SCHEDULE 1—continued

Section 118A (subparagraph (a) (i) of the definition of “eligible pensioner”):

Omit “wife’s”, substitute “spouse’s”.

Section 118A (definition of “special wife service pensioner”):

Omit the definition, substitute:

“ ‘special spouse’s service pensioner’ means a person who either:

(a) is:

- (i) in receipt of spouse’s service pension; and
- (ii) legally married to a veteran but living separately and apart from the veteran on a permanent basis; and
- (iii) not living with a person who is an eligible pensioner within the meaning of either section 118A of this Act or section 151A of the *Social Security Act 1947* as husband and wife on a genuine domestic basis; or

(b) is:

- (i) in receipt of spouse’s service pension because of section 66; and
- (ii) not living with a person who is an eligible pensioner within the meaning of either section 118A of this Act or section 151A of the *Social Security Act 1947* as husband and wife on a genuine domestic basis;”.

Subsection 118D (2):

Omit “wife”, substitute “spouse’s”.

Subsection 118F (2):

Omit “wife”, substitute “spouse’s”.

Subsection 118G (4):

Omit “wife”, substitute “spouse’s”.

Subsection 118H (5):

Omit “wife”, substitute “spouse’s”.

Subsection 118J (3) (subparagraph (b) (ii) of the definition of “advance payment period”):

Omit “wife”, substitute “spouse’s”.

Paragraph 118JA (a):

Omit “wife’s”, substitute “spouse’s”.

Subsection 118JB (2):

Omit “wife”, substitute “spouse’s”.

SCHEDULE 1—continued

Subsection 118K (2) (subparagraph (b) (ii) of the definition of “advance payment period”):

Omit “wife”, substitute “spouse’s”.

Subsection 118M (1) (paragraph (b) of the definition of the “X”):

Omit “wife”, substitute “spouse’s”.

Paragraph 118N (1) (d):

Omit “wife”, substitute “spouse’s”.

Paragraph 118N (2) (e):

Omit “wife”, substitute “spouse’s”.

Paragraph 119 (1) (b):

Omit “wife’s”, substitute “spouse’s”.

Paragraph 119 (1) (e):

Omit “wife’s”, substitute “spouse’s”.

Subsection 119 (2) (paragraph (a) of the definition of “application”):

Omit “wife’s”, substitute “spouse’s”.

Subsection 119 (2) (paragraph (b) of the definition of “claim”):

Omit “wife’s”, substitute “spouse’s”.

Subsection 125 (2):

Omit “wife’s”, substitute “spouse’s”.

Subsection 176 (8):

Omit “wife’s”, substitute “spouse’s”.

Subsection 189 (5) (definition of “pension”):

Omit “wife’s”, substitute “spouse’s”.

PART 2

Amendments of *Veterans' Entitlements Act 1986*

After subsection 13 (8A):

Insert:

“(8B) If:

- (a) a male dependant of a deceased veteran (not being a child of the veteran) has re-married or married after the death of the veteran; and
- (b) the re-marriage or marriage occurred before 22 January 1991;

SCHEDULE 1—continued

the Commonwealth is not liable to pay a pension to that dependant under this section.”.

Subsection 13 (9):

After “widow” (wherever occurring) insert “or widower”.

Subsection 13 (11):

After “(8A),” insert “(8B),”.

Subsection 30 (1):

After “widow” insert “or widower”.

Subsection 30 (4):

After “ ‘widow’ ” insert “, ‘widower’ ”.

After subsection 70 (11):

Insert:

“(11A) If:

- (a) a male dependant of a deceased member of the Forces or of a deceased member of a Peacekeeping Force (not being a child of the member) has re-married or married after the death of the member; and
 - (b) the re-marriage or marriage occurred before 22 January 1991;
- the Commonwealth is not liable to pay a pension to that dependant under this section.”.

Subsection 70 (12):

After “widow” (wherever occurring) insert “or widower”.

SCHEDULE 2

Section 4

AMENDMENT OF ACTS (COMMENCING ON 1 JULY 1991)

PART 1

Social Security Act 1991

Section 3 (Index of definitions):

Insert the following terms in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“armed services widower	4 (1)
widower	23 (1)”.

Subsection 4 (1):

Insert:

“ ‘armed services widower’ means a man who was the partner of:

- (a) a person who was a veteran for the purposes of any provisions of the Veterans’ Entitlements Act; or
- (b) a person who was a member of the Forces for the purposes of Part IV of that Act; or
- (c) a person who was a member of a Peacekeeping Force for the purposes of Part IV of that Act;

immediately before the death of the person;”.

Subsection 23 (1) (paragraph (c) of the definition of “service pension”):

Omit “wife”, substitute “partner”.

Subsection 23 (1):

Insert:

“ ‘widower’ means a man who was the partner of a woman immediately before she died;”.

Subparagraph 249 (2) (b) (ii):

Omit “wife”, substitute “partner”.

After subsection 258 (3):

Add:

“(4) A sole parent pension is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.

Note: for ‘armed services widower’ see subsection 4 (1).”.

SCHEDULE 2—continued

Subparagraph 262 (2) (b) (ii):

Omit “wife”, substitute “partner”.

Sub-subparagraph 315 (1) (d) (iv) (A):

Omit “wife’s”, substitute “partner”.

After subsection 321 (3):

Add:

“(4) A widowed person allowance is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.

Note: for ‘armed services widower’ see subsection 4 (1).”.

Subparagraph 362 (2) (b) (ii):

Omit “wife”, substitute “partner”.

Subparagraph 372 (2) (b) (ii):

Omit “wife”, substitute “partner”.

After paragraph 533 (1) (b):

Add:

“(ba) the person is a widower who is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act; or”.

Section 533 (Note 2):

After “(b)” insert “or a widower receiving a payment under the VEA who is not covered by paragraph (ba)”.

After subsection 614 (3):

Insert:

“(3A) A newstart allowance is not payable to a man if:

- (a) the man is an armed services widower; and
- (b) the man is receiving a pension under Part II or IV of the Veterans’ Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.”.

After subsection 675 (3):

Insert:

“(3A) Sickness benefit is not payable to a man if:

- (a) the man is an armed services widower; and

SCHEDULE 2—continued

- (b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.

Note: for 'armed services widower' see subsection 4 (1)."

After subsection 735 (3):

Add:

"(4) Special benefit is not payable to a man if:

- (a) the man is an armed services widower; and
(b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.

Note: for 'armed services widower' see subsection 4 (1)."

After subsection 787 (3):

Add:

"(4) A special needs pension is not payable to a man if:

- (a) the man is an armed services widower; and
(b) the man is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30 (1) of that Act.

Note: for 'armed services widower' see subsection 4 (1)."

Section 1067 (Benefit Rate Calculator A—point 1067-K4—subparagraph (b) (iv)):

- (a) After "Widows" insert ", Widowers".
(b) Omit "Wives", substitute "Spouses".

Section 1068 (Benefit Rate Calculator B—point 1068-J4—subparagraph (b) (iv)):

- (a) After "Widows" insert ", Widowers".
(b) Omit "Wives", substitute "Spouses".

PART 2

Veterans' Entitlements Act 1986

Section 5 (Index of definitions):

(a) Omit:

"non-illness separated wife 5E (1)",

substitute:

"non-illness separated spouse 5E (1)".

(b) After:

SCHEDULE 2—continued

“war widow 5E (1)”,
insert:
“war widower 5E (1)”.

Subsection 5E (1) (definition of “non-illness separated wife”):

Omit the definition.

Subsection 5E (1):

Insert:

“ ‘non-illness separated spouse’ means a person:

- (a) who is legally married to a veteran but is living separately and apart from the veteran on a permanent basis; and
- (b) whose separation has not resulted in a direction under subsection 5R (3); and
- (c) who is not receiving age or invalidity service pension;

‘war widower’ means a man:

- (a) who was the partner of, or was legally married to:
 - (i) a veteran; or
 - (ii) a person who was a member of the Forces for the purposes of Part II; or
 - (iii) a person who was a member of the Forces for the purposes of Part IV;
immediately before the death of the veteran or person; and
- (b) who is receiving:
 - (i) a pension payable under Part II or IV at a rate determined under or by reference to subsection 30 (1); or
 - (ii) a pension that:
 - (A) is payable under the law of a foreign country; and
 - (B) is, in the opinion of the Commission, similar in character to a pension referred to in subparagraph (i);”.

Subsection 5G (4):

- (a) Omit “non-illness separated wife”, substitute “non-illness separated spouse”.
- (b) Omit “wife”, substitute “non-illness separated spouse”.

Subparagraphs 5L (7) (c) (ii), (d) (ii) and (e) (ii):

Omit “wife”, substitute “spouse”.

SCHEDULE 2—continued

Subsection 5M (6) (paragraph (c) of the definition of “couple’s assets deeming provisions”):

Omit “Widow or Non-illness Separated Wife Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses”.

Subsection 5Q (1) (paragraph (c) of the definition of “service pension”):

Omit “wife”, substitute “partner”.

Subsection 11 (1):

Omit the subsection, substitute:

“(1) In this Act, unless the contrary intention appears:

‘dependant’, in relation to a veteran (including a veteran who has died), means:

- (a) the partner; or
- (b) a non-illness separated spouse; or
- (c) a widow or widower; or
- (d) a child;

of the veteran.

Note: a veteran may have more than one dependant of the kind referred to in paragraphs (a) to (d) at the same time.”.

Paragraph 35 (1) (b):

Omit “wife”, substitute “partner”.

Subparagraph 36H (2) (a) (ii):

Omit “wife”, substitute “partner”.

Paragraph 36N (2) (c):

Omit “‘Frozen Rate’ Widow Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers”.

After paragraph 36N (2) (c):

Add:

“; or (d) if the veteran is a war widower who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30 (1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45.”.

Subparagraph 37H (2) (a) (ii):

Omit “wife”, substitute “partner”.

SCHEDULE 2—continued

Paragraph 37N (2) (c):

Omit “‘Frozen Rate’ Widow Service Pension Rate Calculator”, substitute “Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers”.

After paragraph 37N (2) (c):

Add:

“; or (d) if the veteran is a war widower who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30 (1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45.”.

Division 5 of Part III (heading):

Omit “*Wife*”, substitute “*Partner*”.

Subdivision A of Division 5 of Part III (heading):

Omit “*wife*”, substitute “*partner*”.

Subsection 38 (1):

Omit the subsection, substitute:

“(1) Subject to subsection (4), a person is eligible for a partner service pension if the person:

(a) is a person:

- (i) who is a member of a couple; and
- (ii) whose partner is a veteran who is receiving an age service pension or invalidity service pension; or

(b) is a person:

- (i) who is the non-illness separated spouse of a veteran; and
- (ii) whose non-illness separated spouse is receiving an age service pension or invalidity service pension; or

(c) is a person:

- (i) who is the widow or widower of a veteran; and
- (ii) who was receiving a partner service pension immediately before the veteran’s death; or

(d) is a person:

- (i) who is the widow or widower of a veteran; and
- (ii) who had, before the veteran’s death, made a claim for a partner service pension which had not been determined at the date of the death; and

(iii) whose partner or spouse:

- (A) was, immediately before his or her death, receiving

SCHEDULE 2—continued

an age service pension or invalidity service pension;
or

- (B) had, before his or her death, made a claim for an age service pension or invalidity service pension which had not been determined at the date of the death but which the Commission determines would have been granted if the veteran had not died.”.

Paragraph 38 (3) (a):

Omit “woman is eligible for wife”, substitute “person is eligible for partner”.

Subsection 38 (3):

- (a) Omit “woman becomes legally married to a man”, substitute “person becomes legally married to a person”.
(b) Omit “her”, substitute “the person’s”.

Subsection 38 (4):

- (a) Omit “woman” (wherever occurring), substitute “person”.
(b) Omit “wife” (wherever occurring), substitute “partner”.
(c) Omit “she” (wherever occurring), substitute “the person”.

Paragraph 38 (4) (d):

Omit “age”, substitute “partner”.

Subsection 38A (1):

- (a) Omit “woman”, substitute “person”.
(b) Omit “wife”, substitute “partner”.
(c) Omit “her”, substitute “the person”.
(d) Omit “she” (wherever occurring), substitute “the person”.

Subsection 38A (2):

- (a) Omit “wife” (wherever occurring), substitute “partner”.
(b) Omit “woman”, substitute “person”.
(c) Omit “her”, substitute “his or her”.

Section 38A (Note):

Omit “woman”, substitute “person”.

Subsection 38B (1):

- (a) Omit “wife” (wherever occurring), substitute “partner”.
(b) Omit “woman”, substitute “person”.
(c) Omit “she” substitute “the person”.

SCHEDULE 2—continued

Subsection 38B (2):

- (a) Omit “woman” (wherever occurring), substitute “person”.
- (b) Omit “wife” (wherever occurring), substitute “partner”.
- (c) Omit “she” (wherever occurring), substitute “the person”.

Subsection 38C (1):

- (a) Omit “wife”, substitute “partner”.
- (b) Omit “woman”, substitute “person”.
- (c) Omit “she” substitute “the person”.

Subsection 38C (2):

- (a) Omit “wife”, substitute “partner”.
- (b) After “widow” insert “or a war widower”.

Section 38C (Note):

After “ ‘war widow’ ” insert “and ‘war widower’ ”.

Subdivision B of Division 5 of Part III (heading):

Omit “*wife*”, substitute “*partner*”.

Section 38D:

- (a) Omit “woman”, substitute “person”.
- (b) Omit “wife”, substitute “partner”.

Subsection 38E (1):

- (a) Omit “woman” (wherever occurring), substitute “person”.
- (b) Omit “wife”(wherever occurring), substitute “partner”.
- (c) Omit “the woman’s”, substitute “his or her”.

Subsection 38E (2):

- (a) Omit “woman”, substitute “person”.
- (b) Omit “her”, substitute “his or her”.

Subsection 38G (2):

Omit “wife”, substitute “partner”.

Subsection 38H (1):

Omit “woman”, substitute “person”.

Subsection 38H (2):

- (a) Omit “woman’s”, substitute “person’s”.
- (b) Omit “woman” (wherever occurring), substitute “person”.
- (c) Omit “wife service pension”, substitute “partner service pension”.

SCHEDULE 2—continued

Subsection 38H (2) (Note):

- (a) Omit “woman”, substitute “person”.
- (b) Omit “her”, substitute “the person’s”.
- (c) Omit “wife”, substitute “partner”.

Subsections 38J (1) and (3):

Omit “wife” substitute “partner”.

Subsection 38K (1):

- (a) Omit “woman”, substitute “person”.
- (b) Omit “wife”, substitute “partner”.

Subdivision E of Division 5 of Part III (heading):

Omit “*wife*”, substitute “*partner*”.

Subsections 38N (1), (2) and (3):

Omit “woman’s wife”, substitute “person’s partner”.

Subsection 38N (2):

Omit “woman”, substitute “person”.

Subsection 38N (3):

- (a) Omit “Widows and Non-illness Separated Wives”, substitute “Widows, Widowers and Non-illness Separated Spouses”.
- (b) Omit “woman is a widow”, substitute “person is a widow or widower”.
- (c) Omit “woman is a non-illness separated wife”, substitute “person is a non-illness separated spouse”.

Paragraph 38P (1) (a):

Omit “wife”, substitute “partner”.

Subsection 38P (1) (Note 3):

Omit the Note, substitute:

“Note 3: a person can continue receiving a partner service pension after the death of his or her veteran husband or wife (see section 38); the person can continue to receive the pension even though he or she has entered into a de facto relationship (the person’s entitlement only ceases on re-marriage); so the situation of a partner service pensioner with a social security recipient partner is possible and sub-subparagraphs (d) (ii) (A) to (G) are necessary.”.

Section 38R (Lump Sum Calculator—Method statement—Step 2):

Omit “wife”, substitute “partner”.

Section 38U:

Omit “wife” (wherever occurring), substitute “partner”.

SCHEDULE 2—continued

Section 38U (Note 1):

Omit “her”, substitute “the person’s”.

Section 38U (Note 2):

Omit “wife”, substitute “partner”.

Section 38U (Note 3):

Omit “wife”, substitute “partner”.

Section 38V:

Omit “wife”, substitute “partner”.

Section 38W (Lump Sum Calculator—Method statement—Steps 1 and 2):

Omit “wife” (wherever occurring), substitute “partner”.

Subsection 38X (1):

Omit “wife”, substitute “partner”.

Subsection 38X (1) (Note):

- (a) After “widow” insert “or widower”.
- (b) Omit “wife” (wherever occurring), substitute “partner”.
- (c) Omit “her” (wherever occurring), substitute “his or her”.
- (d) Omit “she” (wherever occurring), substitute “he or she”.

Subparagraph 39H (2) (a) (iii):

Omit “wife”, substitute “partner”.

Paragraph 39N (2) (b):

After “Widows” insert “and Widowers”.

After paragraph 39N (2) (b):

Add:

“; or (c) if the person is a war widower who is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30 (1)—the Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers at the end of section 45.”.

Subsection 40C (2) (column 1 of the Table):

Omit “Widows and Non-illness Separated Wives”, substitute “Widows, Widowers and Non-illness Separated Spouses”.

SCHEDULE 2—continued

Subsection 40C (2) (Note):

After “widow” insert “or widower”.

Paragraph 41 (1) (c):

Omit “wife”, substitute “partner”.

Subsection 41 (2):

Omit “wife”, substitute “partner”.

Subsection 41 (4):

- (a) After “widow” insert “or war widower”.
- (b) After “Widows” insert “and Widowers”.

Subsection 41 (4) (Note):

After “widow” insert “or war widower”.

Paragraph 42 (1) (c):

Omit “wife”, substitute “partner”.

Subsection 42 (3):

- (a) After “widow” insert “or war widower”.
- (b) After “Widows” insert “and Widowers”.

Subsection 42 (3) (Note):

After “widow” insert “or war widower”.

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C2—Table C-1):

Omit the Table (but not the Key to the Table), substitute:

SCHEDULE 2—continued

**TABLE C-1
ALLOCATION OF DEPENDENT CHILDREN**

	column 1	column 2	column 3	column 4	column 5	column 6	column 7	column 8
item	man woman	Service age	Service invalidity	Service partner	Service illness separated	Service carer	Social Security	Nothing
1.	Service age	man	man	woman	woman	woman	man	woman
2.	Service invalidity	man	man	woman	woman	woman	man	woman
3.	Service partner	man	man		woman	man	man	
4.	Service illness separated	man	man	man		man	man	woman
5.	Service carer	man	man	woman	woman	woman	man	woman
6.	Social Security	man	man	woman	woman	woman		
7.	Nothing	man	man		man	man		

Section 42 (Service Pension Rate Calculator Where There Are Dependent Children—point 42-C2—Key to Table C-1):

Omit “wife” (wherever occurring), substitute “partner”.

Subsection 43 (2):

- (a) After “widow” insert “or war widower”.
- (b) After “Widows” insert “and Widowers”.

Subsection 43 (2) (Note):

After “widow” insert “or war widower”.

Section 43 (Service Pension Rate Calculator for Blinded Veterans—point 43-C2—item 3 of column 1 of Table C-1):

Omit the Table (but not the Key to the Table), substitute:

SCHEDULE 2—continued

“

TABLE C-1 ALLOCATION OF DEPENDENT CHILDREN								
	column 1	column 2	column 3	column 4	column 5	column 6	column 7	column 8
item	man woman	Service age	Service invalidity	Service partner	Service illness separated	Service carer	Social Security	Nothing
1.	Service age	man	man	woman	woman	woman	man	woman
2.	Service invalidity	man	man	woman	woman	woman	man	woman
3.	Service partner	man	man		woman	man	man	
4.	Service illness separated	man	man	man		man	man	woman
5.	Service carer	man	man	woman	woman	woman	man	woman
6.	Social Security	man	man	woman	woman	woman		
7.	Nothing	man	man		man	man		

”

**Section 43 (Service Pension Rate Calculator for Blinded Veterans—
point 43-C2—Key to Table C-1):**

Omit “wife” (wherever occurring), substitute “partner”.

Subdivision E of Division 7 of Part III (heading):

Omit “*Widows and Non-illness Separated Wives*”, substitute “*Widows, Widowers and Non-illness Separated Spouses*”.

Section 44:

- (a) Omit “wife” (first occurring), substitute “partner”.
- (b) Omit “woman” (wherever occurring), substitute “person”.
- (c) After “widow” insert “or widower”.
- (d) Omit “non-illness separated wife”, substitute “non-illness separated spouse”.

Section 44 (Note 3):

Omit “wife”, substitute “spouse”.

Section 44 (Note 4):

- (a) Omit “woman” (wherever occurring), substitute “person”.
- (b) Omit “she” (wherever occurring), substitute “the person”.

Section 44 (Note 5):

- (a) Omit “woman”, substitute “person”.
- (b) Omit “wife” (first occurring), substitute “partner”.
- (c) After “widow” insert “, widower”.

SCHEDULE 2—continued

- (d) Omit “wife” (second occurring), substitute “spouse”.
- (e) Omit “her”, substitute “the person’s”.

Section 44 (heading of the Rate Calculator):

Omit the heading, substitute:

***“SERVICE PENSION RATE CALCULATOR FOR WIDOWS,
WIDOWERS AND NON-ILLNESS SEPARATED SPOUSES”.***

Subdivision F of Division 7 of Part III (heading):

After “*Widows*” insert “*and Widowers*”.

Section 45:

Add at the end:

“(2) If:

- (a) a man is a war widower because he is receiving a pension under Part II or IV at a rate determined under or by reference to subsection 30 (1); and
- (b) he is also receiving:
 - (i) an age service pension; or
 - (ii) an invalidity service pension; or
 - (iii) a carer service pension;

the rate of the service pension payable to him is to be calculated in accordance with the Rate Calculator at the end of this section.”.

Section 45 (Note):

After “widow” insert “and ‘war widower’”.

Section 45 (heading of the Rate Calculator):

After “*WIDOWS*” insert “*AND WIDOWERS*”.

Section 45 (Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers—point 45-A1—Step 1 of the Method statement):

- (a) After “widow’s” insert “or widower’s”.
- (b) Omit “her”, substitute “him or her”.

Section 45 (Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers—point 45-A1—Step 2 of the Method statement):

After “widow’s” insert “or widower’s”.

Section 45 (Service Pension Rate Calculator for ‘Frozen Rate’ Widows and Widowers—point 45-A1—Step 3 of the Method statement):

- (a) After “widow’s” insert “or widower’s”.
- (b) After “widow” insert “or widower”.

SCHEDULE 2—continued

Section 45 (Service Pension Rate Calculator for 'Frozen Rate' Widows and Widowers—Module B—point 45-B1):

After “widow” (wherever occurring) insert “or widower”.

Section 45 (Service Pension Rate Calculator for 'Frozen Rate' Widows and Widowers—Module B—point 45-B2):

- (a) After “widow” insert “or widower”.
- (b) Omit “her” (wherever occurring), substitute “his or her”.

Subparagraph 50A (2) (c) (i):

Omit “wife”, substitute “partner”.

Section 53 (Fringe Benefits Ordinary Income Test Calculator—point 53B-4):

Omit the point, substitute:

Fringe benefits income of widows, widowers and non-illness separated spouses

“53B-4. If:

- (a) a person is receiving a partner service pension; and
- (b) the person’s rate of that pension is calculated under section 44 (Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses); and
- (c) the person is a member of a couple; and
- (d) the person’s partner is receiving an age service pension or an invalidity service pension; and
- (e) the partner’s service pension rate includes a child add-on for a child or child add-ons for children;

the person’s **fringe benefits income** is the person’s annual rate of ordinary income less \$156.

Note: a person’s rate of partner service pension may be calculated under the Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses, and the person may also be a member of a couple. This situation arises if the person has entered into a de facto relationship since the person was widowed or separated.”

Section 53 (Fringe Benefits Ordinary Income Test Calculator—heading of point 53B-5):

Omit “*widows and non-illness separated wives*”, substitute “*widows, widowers and non-illness separated spouses*”.

Subsection 53D (Note 2):

- (a) Omit “wife”, substitute “partner”.
- (b) Omit “she”, substitute “he or she”.

SCHEDULE 2—continued

Section 56J:

Omit “wife”, substitute “partner”.

Section 56J (Note):

Omit “wife” (wherever occurring), substitute “partner”.

Section 56K:

Omit “wife”, substitute “partner”.

Section 56K (Note 2):

Omit “wife” (wherever occurring), substitute “partner”.

Paragraph 58K (1) (c):

Omit “wife”, substitute “partner”.

Subparagraph 58M (1) (d) (iii):

Omit “wife”, substitute “partner”.

Subparagraph 58N (a) (iii):

Omit “wife”, substitute “partner”.

Subparagraph 58N (c) (iii):

Omit “wife”, substitute “partner”.

Section 59A (Indexed and Adjusted Amounts Table—column 4—items 1, 6, 7, 9, 10, 11 and 12):

(a) After “Widows” insert “, Widowers”.

(b) Omit “Wives”, substitute “Spouses”.

Paragraph 74 (12) (a):

After “widow” insert “or widower”.

Paragraph 113 (1) (c):

Omit “non-illness separated wife”, substitute “non-illness separated spouse”.

Section 118A (definition of “special wife service pensioner”):

Omit the definition.

Section 118A:

Insert:

“ ‘special partner service pensioner’ means a person who either:

(a) is:

(i) a non-illness separated spouse who is receiving a partner service pension; and

SCHEDULE 2—continued

(ii) is neither the partner of an eligible pensioner within the meaning of section 118A of this Act nor the partner of an eligible 1947 Act pensioner or eligible 1991 Act pensioner within the meaning of section 19A of the Social Security Act; or

(b) is:

(i) receiving a partner service pension because of paragraph 38 (1) (c) or (d); and

(ii) is neither the partner of an eligible pensioner within the meaning of section 118A of this Act nor the partner of an eligible 1947 Act pensioner or eligible 1991 Act pensioner within the meaning of section 19A of the Social Security Act;”.

Paragraph 118D (2) (b):

Omit “wife”, substitute “partner”.

Subsections 118F (2) and 118G (4):

Omit “per fortnight”.

Paragraph 118F (2) (b):

Omit “wife”, substitute “partner”.

Sections 118G and 118H:

Omit “non-illness separated wife”, substitute “non-illness separated spouse”.

Subsection 118G (4):

Omit “wife”, substitute “partner”.

Subsection 118H (5):

Omit “wife”, substitute “partner”.

Paragraph 118JB (2) (b):

Omit “wife”, substitute “partner”.

Subsection 118M (1) (paragraph (b) of the definition of “X”):

Omit “wife”, substitute “partner”.

Subsections 118N (1) and (2):

Omit “wife”, substitute “partner”.

Subsection 123 (1) (paragraph (c) of the definition of “child”):

Omit “wife”, substitute “spouse”.

SCHEDULE 2—continued

Subsections 128A (2) and (3):

Omit “wife”, substitute “spouse”.

Subsection 128B (1):

Omit “wife”, substitute “spouse”.

Veterans' Entitlements (Rewrite) Transition Act 1991

Paragraph 4 (c):

- (a) After “wife’s service pension” insert “or spouse’s service pension”.
- (b) Omit “wife”, substitute “partner”.

Sections 13, 14 and 15:

Omit “wife’s”, substitute “spouse’s”.

SCHEDULE 3

Section 5

OTHER AMENDMENTS OF ACTS

PART 1

Defence Service Homes Act 1918

Subsection 4 (1) (definition of "agreement"):

After "1A" insert ", and as in force from time to time".

Subsection 4 (1) (definition of "Eligible person"):

Omit "the female dependant", substitute "a widow, widower or dependent parent".

Subsection 4 (1) (definition of "Female dependant"):

Omit the definition.

Subsection 4 (1) (definition of "further advance"):

Omit "widow's advance", substitute "widow or widower advance".

Subsection 4 (1) (definition of "widow's advance"):

Omit the definition.

Subsection 4 (1):

Insert:

"**'dependent parent'** means a parent of a person mentioned in paragraphs (a) to (g) of the definition of 'Eligible person' if:

(a) the person so mentioned:

(i) is dead; and

(ii) at the time of death, was not legally married; and

(b) one of the following subparagraphs applies:

(i) the parent is a widow or widower and was dependent on the person before the person became an eligible person;

(ii) the parent's husband or wife is so incapacitated as to be unable to contribute materially to that parent's support;

'widow or widower advance' means a subsidised advance to a person referred to in section 20 for a purpose referred to in that section;".

Subsection 4 (2C):

Omit "female dependant", substitute "widow, widower or dependent parent".

Subsection 18 (6):

Omit "widow's advance", substitute "widow or widower advance".

SCHEDULE 3—continued

Subsection 20 (1):

Omit “widow’s advance”, substitute “widow or widower advance”.

Paragraph 20 (1) (a):

Omit the paragraph, substitute:

“(a) the person is:

- (i) the widow, widower, widowed mother or widowed father of an eligible person; or
- (ii) the wife or husband of an eligible person who is temporarily or permanently insane; and”.

Paragraph 20 (1) (c):

Omit “widow’s advance”, substitute “widow or widower advance”.

Subsection 20 (2):

Omit “widow’s advance”, substitute “widow or widower advance”.

Paragraphs 20 (2) (a) and (b):

Omit “she”, substitute “he or she”.

Paragraph 23 (1) (a):

Omit the paragraph, substitute:

“(a) the applicant is a purchaser or borrower who is:

- (i) the widow or widower of an eligible person; or
- (ii) the widowed mother or widowed father of an eligible person; or
- (iii) the wife or husband of an eligible person who is temporarily or permanently insane; or”.

Paragraph 25 (1) (c):

Omit “widow’s advance”, substitute “widow or widower advance”.

Section 32:

Omit “widow’s advance”, substitute “widow or widower advance”.

Paragraph 36 (1) (b):

Omit “widow’s advance”, substitute “widow or widower advance”.

Veterans' Entitlements Act 1986

Before paragraph 31 (7) (a):

Insert:

“(aa) by reason of the Commission having regard to a matter that affects the payment of a pension or attendant allowance in the circumstances specified in paragraph (6) (a); or”.

SCHEDULE 3—continued

Subsection 31 (8):

Omit “(not being a date more than 3 months before the date of the determination)”.

Subsection 74 (3):

After “compensation” (first occurring) insert “(other than a lump sum payment mentioned in paragraph (3A) (a))”.

After subsection 74 (3):

Insert:

“(3A) In this section, if:

(a) a lump sum payment is made under section 137 of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* to a person who is:

- (i) a member of the Forces or a member of a Peacekeeping Force, in respect of the incapacity of the member from injury or disease; or
- (ii) a dependant of a member of the Forces or of a member of a Peacekeeping Force, in respect of the death of the member from injury or disease; and

(b) that person is in receipt of, or is subsequently granted, a pension under this Part in respect of that incapacity or death;

the person is taken to have been, or to be, in receipt of payments of compensation:

(c) that is determined by, or under the instructions of, the Commonwealth Actuary to be equivalent to the amount of that lump sum payment; and

(d) at the rate per fortnight for the person's life determined by, or under the instructions of, the Commonwealth Actuary; and

(e) beginning:

(i) on the day that lump sum payment is made to that person; or

(ii) on the day the pension becomes payable to the person;

whichever is the later day.”.

SCHEDULE 3—continued

Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986

Section 12:

Repeal the section.

PART 2

Veterans' Entitlements Act 1986

Section 5 (Index of definitions):

Insert the following terms in their respective appropriate alphabetical positions (determined on a letter-by-letter basis):

“exempt funeral investment	5Q (1)
“tax year	5Q (1)
“type A funeral investment	5Q (1)
“type B funeral investment	5Q (1)”.

Subsection 5D (1) (definition of “disease”):

Omit the definition, substitute:

“ ‘disease’ means:

- (a) any physical or mental ailment, disorder, defect or morbid condition (whether of sudden onset or gradual development); or
- (b) the recurrence of such an ailment, disorder, defect or morbid condition;

but does not include:

- (c) the aggravation of such an ailment, disorder, defect or morbid condition; or
- (d) a temporary departure from:
 - (i) the normal physiological state; or
 - (ii) the accepted ranges of physiological or biochemical measures;

that results from normal physiological stress (for example, the effect of exercise on blood pressure) or the temporary effect of extraneous agents (for example, alcohol on blood cholesterol levels);”.

After subsection 5G (1):

Insert:

“(1A) In deciding for the purposes of this Act whether or not a person resides in Australia, regard must be had to:

- (a) the nature of the accommodation used by the person in Australia; and

SCHEDULE 3—continued

- (b) the nature and extent of the family relationships the person has in Australia; and
- (c) the nature and extent of the person's employment, business or financial ties with Australia; and
- (d) any other matter relevant to determining whether the person intends to remain permanently in Australia.”.

Subsection 5H (8):

Add at the end:

- “(zh) a payment received by the person for serving, or being summoned to serve, on a jury;
- (zi) a payment received by the person for expenses incurred by the person as a witness, other than an expert witness, before a court, tribunal or commission;
- (zj) a return on an exempt funeral investment.”.

Subsection 5Q (1):

Insert:

“**‘exempt funeral investment’** means:

- (a) a type A funeral investment of not more than \$5,000 (disregarding any return on the investment) that does not relate to a funeral:
 - (i) to which another type A funeral investment relates; or
 - (ii) to which a type B funeral investment relates; or
 - (iii) expenses for which have been paid in advance; or
- (b) a type B funeral investment of not more than \$5,000 (disregarding any return on the investment) that does not relate to a funeral:
 - (i) to which another type B funeral investment relates; or
 - (ii) to which a type A funeral investment relates; or
 - (iii) expenses for which have been paid in advance;

‘tax year’ has the same meaning as **‘year of income’** has in the Income Tax Assessment Act;

Note: section 6 of the Income Tax Assessment Act defines **‘year of income’** as the financial year (1 July to 30 June) or, if another accounting period has been adopted under section 18 of that Act instead of the financial year, that accounting period.

‘type A funeral investment’ means an investment:

- (a) that:
 - (i) matures on the death of the investor; or
 - (ii) matures on the death of the investor's partner; and
- (b) that cannot be realised before maturity; and
- (c) the return on which is not payable before maturity; and

SCHEDULE 3—continued

- (d) the amount paid on whose maturity is to be applied to the expenses of the funeral of the person on whose death it matures;
- 'type B funeral investment'** means an investment:
- (a) made by:
 - (i) a person who is a member of a couple; or
 - (ii) both members of a couple; and
 - (b) that matures on the death of:
 - (i) whichever member of the couple dies first; or
 - (ii) whichever member of the couple dies last; and
 - (c) that cannot be realised before maturity; and
 - (d) the return on which is not payable before maturity; and
 - (e) the amount paid on whose maturity is to be applied to the expenses of the funeral of a member of the couple.”.

Paragraph 13 (1) (c):

After “pensions” insert “by way of compensation”.

Paragraph 13 (1) (d):

After “pension” insert “by way of compensation”.

Subsection 13 (2):

After “pensions” insert “by way of compensation”.

Before Division 8 of Part III:

Insert:

“Division 8AA—Ordinary income test—ordinary income concept

Ordinary income is generally total gross income (not net income after deductions) from all sources

“45A. (1) A person’s ordinary income is to be worked out by adding together the person’s ordinary income from all sources.

Note: for ‘ordinary income’ see subsection 5H (1).

“(2) A person’s ordinary income consists of:

- (a) the person’s ordinary income as defined in subsection 5H (1); and
- (b) amounts that are taken to be ordinary income of the person under section 45B (trading stock) or under Division 8 (investment income), Division 8A (money held or invested at low interest rate), Division 8B (money on loan) or Division 8C (deprived assets).

“(3) Subject to sections 45B, 45C and 45D, a person’s ordinary income is the person’s gross ordinary income without any deduction.

SCHEDULE 3—continued

Ordinary income from a business—treatment of trading stock

“45B. (1) If:

- (a) a person carries on a business; and
- (b) the value of all the business' trading stock on hand at the end of a tax year is greater than the value of all the business' trading stock on hand at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to include the amount of the difference in values.

“(2) If:

- (a) a person carries on a business; and
- (b) the value of all the business' trading stock on hand at the end of a tax year is greater than the value of all business' trading stock at the beginning of that tax year;

the person's ordinary income for that tax year in the form of profits from the business is to be reduced by the amount of the difference in values.

Permissible reductions—business income

“45C. (1) Subject to subsections (2) and (3) and section 45D, if a person carries on a business, the person's ordinary income from the business is to be reduced by:

- (a) losses and outgoings that related to the business and are allowable deductions for the purposes of section 51 of the Income Tax Assessment Act; and
- (b) depreciation that relates to the business and is an allowable deduction for the purposes of subsection 54 (1) of that Act; and
- (c) amounts that relate to the business and are allowable deductions under subsection 82AA (1) of that Act.

“(2) If the person is to be taken because of Division 8A to receive ordinary income or additional ordinary income from money, the person's ordinary income from the money is not to be reduced by any expenses incurred by the person because of the investment of the money.

“(3) If the person is to be taken because of Division 8B to receive ordinary income or additional ordinary income from a loan, the person's ordinary income from the loan is not to be reduced by any expenses incurred by the person because of the loan.

Permissible reductions—investment income

“45D. If a person is to be taken because of Division 8 to receive ordinary income by way of rate of return on an investment, the person's ordinary income on the investment may be reduced but only in accordance with section 46G or 46R (reasonable investment costs).”

SCHEDULE 3—continued

Division 8A of Part III (heading):

After “8A—” insert “*Ordinary income test—*”.

Division 8B of Part III (heading):

After “8B—” insert “*Ordinary income test—*”.

Division 8C of Part III (heading):

After “8C—” insert “*Ordinary income test—*”.

After paragraph 52 (1) (j):

Insert:

“(ja) an amount invested in an exempt funeral investment and any return on the investment;”.

Section 59A (Indexed and Adjusted Amounts Table):

After item 7 in the Table insert:

“7AA.	Rent assistance free area	rent free area	<p>* Service Pension Rate Calculator Where There Are No Dependent Children—point 41-C12—Table C-2—column 3—all amounts</p> <p>* Service Pension Rate Calculator Where There Are Dependent Children—point 42-D12—Table D-2—column 3—all amounts</p> <p>* Service Pension Rate Calculator for Widows, Widowers and Non-illness Separated Spouses—point 44-C12—Table C-2—column 3—all amounts</p>
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SCHEDULE 3—continued

"7A.	Maintenance income free area for service pension	maintenance free area	<p>* Service Pension Rate Calculator Where There Are No Dependent Children—point 41-E6—Table E-1—column 3—all amounts</p> <p>* Service Pension Rate Calculator Where There Are Dependent Children—point 42-F9—Table F-1—columns 3 and 5—all amounts</p> <p>* Service Pension Rate Calculator For Widows, Widowers and Non-illness Separated Spouses—point 44-E6—Table E-1—columns 3 and 5—all amounts</p>
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”.

Subsection 59B (1) (CPI Indexation Table):

After item 4 in the Table insert:

"4A.	Maintenance free area	1 July	December	most recent December quarter before reference quarter	\$2.60
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”.

Subsection 59B (1) (CPI Indexation Table—items 6, 7, 8, 9 and 10 of column 3):

Omit “13 June”, substitute “1 July”.

After section 59G:

Insert:

SCHEDULE 3—continued

Adjustment of rent free area

“59GA. (1) This Act has effect as if, on 1 July each year, the rent free area applicable to a person who is not a member of a couple were replaced with the amount that is, on that day, the pension free area applicable to a person who is not a member of a couple.

“(2) This Act has effect as if, on 1 July each year, the rent free area applicable to a person who is partnered were replaced with the amount that is, on that day, the pension free area applicable to a person who is partnered.”.

Section 59H:

Omit “13 June” (wherever occurring), substitute “1 July”.

Section 59J:

Omit “13 June”, substitute “1 July”.

Section 59K:

Omit “13 June” (wherever occurring), substitute “1 July”.

Paragraph 70 (1) (c):

After “pension” insert “by way of compensation”.

Paragraph 70 (1) (d):

After “pension” insert “by way of compensation”.

Subsection 70 (2):

After “pensions” insert “by way of compensation”.

Paragraph 118JA (a):

Omit the paragraph, substitute:

“(a) the person is in receipt of:

(i) a service pension; or

(ii) a pension whose rate is specified under subsection 30 (1) or (2); or”.

Subsection 118JB (1):

Omit subsection (1), substitute:

“(1) Subject to subsection (2), the rate of a pharmaceutical allowance for a person is twice the amount of the rate specified in subsection (2).”.

After subsection 118JB (2):

Add:

“Note: the amount specified in subsection (2) is indexed in line with CPI increases under section 198E.”.

SCHEDULE 3—continued

After section 198D:

Insert:

Indexation of pharmaceutical allowance

“198E. (1) In this section, unless the contrary intention appears:

‘index number’, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician for that quarter;

‘relevant rate’ means the rate specified in subsection 118JB (2);

‘year to which this section applies’ means:

- (a) the year commencing on 20 September 1991; or
- (b) any later year commencing on 20 September.

“(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purpose of this section.

“(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the consumer price index, then, for the purposes of the application of this section after the change took place, or takes place, regard is to be had only to index numbers published in terms of the new reference base.

“(4) Where the factor worked out under subsection (5) in relation to a relevant rate in relation to a year to which this section applies is greater than 1, this Act, and any Act that refers to this Act, have effect as if for that relevant rate there were substituted, on the first day of that year:

- (a) subject to paragraph (b)—the rate worked out by multiplying by that factor:
 - (i) where subparagraph (ii) does not apply—the relevant rate; or
 - (ii) if, because of another application or other applications of this section, this Act has had effect as if another rate was substituted, or other rates were successively substituted, for the relevant rate—the substituted rate or the last substituted rate, as the case may be; or
- (b) where the amount of the rate worked out under paragraph (a) is not a multiple of 10 cents per fortnight—a rate equal to that amount rounded down to the nearest multiple of 10 cents.

SCHEDULE 3—continued

“(5) The factor to be worked out for the purposes of subsection (4) in relation to a year to which this section applies is:

- (a) in relation to the year commencing on 20 September 1991—the number, calculated to 3 decimal places, worked out by dividing the index number for the March quarter 1991 by the index number for the March quarter 1990; or
- (b) in relation to each subsequent year—the number calculated to 3 decimal places, worked out by dividing the index number for the last preceding March quarter by the highest index number in respect of an earlier March quarter, not being a March quarter that occurred before 1991; or
- (c) if the number worked out under paragraph (a) or (b) would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so worked out increased by 0.001.

“(6) Where, because of the application of this section, this Act has effect as if another rate were substituted for a relevant rate on the first day of a year to which this section applies, the substitution, in so far as it affects instalments of pharmaceutical allowance under this Act, has effect in relation to every instalment of the allowance that falls due on or after the first day of that year.”.

PART 3

Veterans' Entitlements Act 1986

Subsection 198 (1) (definition of “relevant year”):

Omit “12 June 1987”, substitute “1 July 1991”.

PART 4

Veterans' Entitlements Act 1986

Section 118JA:

Repeal the section, substitute:

Qualification for pharmaceutical allowance

“118JA. Subject to sections 118K and 118L, a person is eligible to receive a pharmaceutical allowance if:

- (a) the person is in receipt of:
 - (i) a service pension under section 38 or 39, a spouse's service pension under section 40 or a carer's service pension under section 41; or
 - (ii) a pension whose rate is specified under subsection 30 (1) or (2); or

SCHEDULE 3—continued

- (b) but for subsection 13 (7), a pension would have been payable to the person at a rate specified in subsection 30 (2).”
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NOTE

1. No. 27, 1986, as amended. For previous amendments, see Nos. 106 and 130 of 1986; Nos. 78, 88 and 130 of 1987; Nos. 13, 35, 75, 99, 134 and 135 of 1988; Nos. 59, 83, 84, 93, 163 and 164 of 1989; Nos. 56, 84 and 119 of 1990; and No. 2 of 1991.

NOTES ABOUT SECTION HEADINGS

1. On the day sections 40, 48 and 66 of the *Veterans' Entitlements Act 1986* are taken to be modified by section 3 of this Act, the headings to the sections are to be read as if they had been altered by omitting “wife’s” and substituting “spouse’s”.
2. On the day sections 38, 41, 42 and 58K of the *Veterans' Entitlements Act 1986* are amended by section 4 of this Act, the headings to the sections are altered by omitting “wife” and substituting “partner”.
3. On the day sections 38A and 38B of the *Veterans' Entitlements Act 1986* are amended by section 4 of this Act, the headings to the sections are altered by omitting “Wife” and substituting “Partner”.
4. On the day section 38N of the *Veterans' Entitlements Act 1986* is amended by section 4 of this Act, the heading to the section is altered by omitting “woman’s wife” and substituting “person’s partner”.
5. On the day section 44 of the *Veterans' Entitlements Act 1986* is amended by section 4 of this Act, the heading to the section is altered by omitting “wife service pension for widows and non-illness separated wives” and substituting “partner service pension for widows, widowers and non-illness separated spouses”.
6. On the day section 45 of the *Veterans' Entitlements Act 1986* is amended by section 4 of this Act, the heading to the section is altered by inserting “or war widower” after “widow”.
7. On the day sections 18, 20 and 32 of the *Defence Service Homes Act 1918* are amended by section 5 of this Act, the headings to those sections are altered by omitting “widows’ advances” and substituting “widow or widower advances”.

[Minister’s second reading speech made in—
House of Representatives on 31 May 1991
Senate on 5 June 1991]