



Veterans' Affairs Legislation Amendment (Partner Service Pension and Other Measures) Act 2019

No. 75, 2019

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

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Extended eligibility for partner service pension		3
	<i>Veterans’ Entitlements Act 1986</i>	3
Schedule 2—Extended service on submarine special operations		11
	<i>Veterans’ Entitlements Act 1986</i>	11
Schedule 3—Other amendments		12
	<i>Defence Service Homes Act 1918</i>	12
	<i>Veterans’ Entitlements Act 1986</i>	12



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No. 75, 2019

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

[Assented to 20 September 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the *Veterans' Affairs Legislation Amendment (Partner Service Pension and Other Measures) Act 2019*.

*No. 75, 2019 Veterans' Affairs Legislation Amendment (Partner Service Pension and
Other Measures) Act 2019 1*

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	20 September 2019
2. Schedule 1	20 September 2019.	20 September 2019
3. Schedule 2	1 July 2019.	1 July 2019
4. Schedule 3	The day after this Act receives the Royal Assent.	21 September 2019

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Extended eligibility for partner service pension

Veterans’ Entitlements Act 1986

1 Paragraph 38(1)(b)

After “is a person”, insert “in relation to whom the following apply”.

2 Subparagraph 38(1)(b)(i)

Repeal the subparagraph, substitute:

- (i) subsection (1AA) applies to the person;

3 Subparagraph 38(1)(b)(ii)

Omit “whose non-illness separated spouse”, substitute “the veteran”.

4 Paragraph 38(1)(c)

After “is a person”, insert “in relation to whom the following apply”.

5 Subparagraph 38(1)(c)(i)

Repeal the subparagraph, substitute:

- (i) the person is an eligible person in relation to a veteran who has died (see subsection (1AB));

6 Subparagraph 38(1)(c)(ia)

Omit “whose partner or non-illness separated spouse”, substitute “the veteran”.

7 Subparagraph 38(1)(c)(ia)

Omit “and”.

8 Subparagraph 38(1)(c)(ii)

Omit “who”, substitute “the person”.

9 Paragraph 38(1)(d)

After “is a person”, insert “in relation to whom the following apply”.

10 Subparagraph 38(1)(d)(i)

Repeal the subparagraph, substitute:

- (i) the person is an eligible person in relation to a veteran who has died (see subsection (1AB));

11 Subparagraph 38(1)(d)(ii)

Omit “who”, substitute “the person”.

12 Subparagraph 38(1)(d)(ii)

Omit “and”.

13 Subparagraph 38(1)(d)(iii)

Omit “whose partner or non-illness separated spouse”, substitute “the veteran”.

14 Paragraph 38(1)(e)

After “is a person”, insert “in relation to whom the following apply”.

15 Subparagraph 38(1)(e)(i)

Repeal the subparagraph, substitute:

- (i) the person is an eligible person in relation to a veteran who has died (see subsection (1AB)) and who has rendered qualifying service;

16 Subparagraph 38(1)(e)(ii)

Omit “who”, substitute “the person”.

17 Paragraph 38(1)(g)

After “is a person”, insert “in relation to whom the following apply”.

18 Subparagraph 38(1)(g)(i)

Repeal the subparagraph, substitute:

- (i) subsection (1AA) applies to the person;

19 Subparagraph 38(1)(g)(ii)

Omit “whose non-illness separated spouse”, substitute “the veteran”.

20 Paragraph 38(1)(h)

After “is a person”, insert “in relation to whom the following apply”.

21 Subparagraph 38(1)(h)(i)

Repeal the subparagraph, substitute:

- (i) the person is an eligible person in relation to a veteran who has died (see subsection (1AB));

22 Subparagraph 38(1)(h)(ii)

Omit “whose partner or non-illness separated spouse”, substitute “the veteran”.

23 Subparagraph 38(1)(h)(ii)

Omit “and”.

24 Subparagraph 38(1)(h)(iii)

Omit “who”, substitute “the person”.

25 Paragraph 38(1)(i)

After “is a person”, insert “in relation to whom the following apply”.

26 Subparagraph 38(1)(i)(i)

Repeal the subparagraph, substitute:

- (i) the person is an eligible person in relation to a veteran who has died (see subsection (1AB));

27 Subparagraph 38(1)(i)(ii)

Omit “who”, substitute “the person”.

28 Subparagraph 38(1)(i)(ii)

Omit “and”.

29 Subparagraph 38(1)(i)(iii)

Omit “whose partner or non-illness separated spouse”, substitute “the veteran”.

30 After subsection 38(1)

Insert:

(1AA) This subsection applies to a person if:

(a) the person is the non-illness separated spouse of a veteran; or

(b) the following apply:

(i) a relationship between the person and a veteran (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(ii) the person and the veteran have separated and the person is living separately and apart from the veteran on a permanent basis;

(iii) the separation has not resulted in a determination under subsection 5R(5); or

(c) the following apply:

(i) the person and a veteran were, in the Commission's opinion (formed as mentioned in section 11A), in a de facto relationship;

(ii) the person and the veteran have separated and the person is living separately and apart from the veteran on a permanent basis;

(iii) the separation has not resulted in a determination under subsection 5R(5);

(iv) the person and the veteran are not within a prohibited relationship; or

(d) the following apply:

(i) the person becomes divorced from a veteran;

(ii) immediately before the divorce, paragraph (a) applied in relation to the person and the veteran; or

(e) the following apply:

(i) a relationship, described in subparagraph (b)(i), between the person and a veteran ceases to be registered under a law of the State or Territory concerned;

(ii) immediately before the cessation, paragraph (b) applied in relation to the person and the veteran.

- (1AB) For the purposes of this section, a person is an **eligible person** in relation to a veteran who has died if:
- (a) the person is the widow or widower of the veteran; or
 - (b) the following apply:
 - (i) immediately before the veteran died, a relationship between the person and the veteran (whether of the same sex or a different sex) was registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;
 - (ii) immediately before the veteran died, the person was living separately and apart from the veteran on a permanent basis;
 - (iii) the person has not been a member of a couple at any time on or after the first day on which the person was living separately and apart from the veteran on a permanent basis and before the veteran's death; or
 - (c) the following apply:
 - (i) at any time before the veteran's death, the person and the veteran were, in the Commission's opinion (formed as mentioned in section 11A), in a de facto relationship;
 - (ii) immediately before the veteran died, the person was living separately and apart from the veteran on a permanent basis;
 - (iii) immediately before the veteran died, the person and the veteran were not within a prohibited relationship;
 - (iv) the person has not been a member of a couple at any time on or after the first day on which the person was living separately and apart from the veteran on a permanent basis and before the veteran's death; or
 - (d) the following apply:
 - (i) at any time before the veteran's death, the person became divorced from the veteran;
 - (ii) immediately before the divorce, paragraph (1AA)(a) applied in relation to the person and the veteran;
 - (iii) the person has not been a member of a couple at any time on or after the first day on which the person was
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- living separately and apart from the veteran on a permanent basis and before the veteran's death; or
- (e) the following apply:
- (i) at any time before the veteran's death, a relationship, described in subparagraph (b)(i), between the person and the veteran ceased to be registered under a law of the State or Territory concerned;
 - (ii) immediately before the cessation, paragraph (1AA)(b) applied in relation to the person and the veteran;
 - (iii) the person has not been a member of a couple at any time on or after the first day on which the person was living separately and apart from the veteran on a permanent basis and before the veteran's death.

31 Subsection 38(2A)

Repeal the subsection, substitute:

- (2A) A person's eligibility under paragraph (1)(b), (c), (d), (e), (g), (h) or (i) ceases if the person becomes a member of a couple.

Note: The person may become eligible for partner service pension under paragraph (1)(a), (aa) or (f).

32 Subsections 38(2B), (3) and (3A)

Repeal the subsections.

33 Application provisions

- (1) The amendments made by this Schedule apply in relation to working out eligibility for partner service pension for days on or after the commencement of this item.
- (2) For the purposes of subitem (1), paragraph 38(1AA)(b) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
 - (a) a relationship registered before, on or after the commencement of this item; and
 - (b) a separation occurring on or after the commencement of this item.

- (3) For the purposes of subitem (1), paragraph 38(1AA)(c) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
- (a) a de facto relationship entered into before, on or after the commencement of this item; and
 - (b) a separation occurring on or after the commencement of this item.
- (4) For the purposes of subitem (1), paragraph 38(1AA)(d) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
- (a) a divorce occurring on or after the commencement of this item; and
 - (b) a separation occurring before, on or after the commencement of this item.
- (5) For the purposes of subitem (1), paragraph 38(1AA)(e) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
- (a) a relationship ceasing to be registered on or after the commencement of this item; and
 - (b) a separation occurring on or after the commencement of this item.
- (6) For the purposes of subitem (1), paragraph 38(1AB)(b) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
- (a) the death of a veteran occurring on or after the commencement of this item; and
 - (b) a relationship registered before, on or after the commencement of this item; and
 - (c) a separation occurring on or after the commencement of this item.
- (7) For the purposes of subitem (1), paragraph 38(1AB)(c) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
- (a) the death of a veteran occurring on or after the commencement of this item; and
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- (b) a de facto relationship entered into before, on or after the commencement of this item; and
 - (c) a separation occurring on or after the commencement of this item.

- (8) For the purposes of subitem (1), paragraph 38(1AB)(d) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
 - (a) the death of a veteran occurring on or after the commencement of this item; and
 - (b) a divorce occurring on or after the commencement of this item; and
 - (c) a separation occurring before, on or after the commencement of this item.

- (9) For the purposes of subitem (1), paragraph 38(1AB)(e) of the *Veterans' Entitlements Act 1986*, as inserted by this Schedule, applies in relation to:
 - (a) the death of a veteran occurring on or after the commencement of this item; and
 - (b) a relationship ceasing to be registered on or after the commencement of this item; and
 - (c) a separation occurring on or after the commencement of this item.

Schedule 2—Extended service on submarine special operations

Veterans' Entitlements Act 1986

1 Section 6 (table item 4B)

Omit “from 1978 to 1992”.

2 Section 6DB (heading)

Omit “from 1978 to 1992”.

3 Paragraphs 6DB(a) and (b)

Omit “31 December 1992”, substitute “12 May 1997”.

4 Subparagraphs 7A(1)(a)(v) and (vi)

Omit “31 December 1992”, substitute “12 May 1997”.

Schedule 3—Other amendments

Defence Service Homes Act 1918

1 Subsection 4(1) (definition of *widow*)

Omit “includes a woman who was a de facto partner of”, substitute “means a woman who was legally married to, or a de facto partner of”.

2 Subsection 4(1) (definition of *widower*)

Omit “includes a man who was a de facto partner of”, substitute “means a man who was legally married to, or a de facto partner of”.

3 At the end of subsections 20(1) and 23(1)

Add:

Note: Paragraph (a)—see the definitions of *widow* and *widower* in subsection 4(1). *Widowed parent* has a corresponding meaning: see section 18A (parts of speech and grammatical forms) of the *Acts Interpretation Act 1901*.

Veterans’ Entitlements Act 1986

4 Subsection 5E(1) (paragraph (b) of the definition of *non-illness separated spouse*)

Omit “direction”, substitute “determination”.

5 Subsection 5E(1) (paragraph (b) of the definition of *widow*)

Repeal the paragraph, substitute:

- (b) a woman who was legally married to a person, but living separately and apart from the person on a permanent basis, immediately before the person died.

6 Subsection 5E(1) (paragraph (b) of the definition of *widower*)

Repeal the paragraph, substitute:

- (b) a man who was legally married to a person, but living separately and apart from the person on a permanent basis, immediately before the person died.

*[Minister's second reading speech made in—
House of Representatives on 1 August 2019
Senate on 12 September 2019]*

(149/19)

*No. 75, 2019 Veterans' Affairs Legislation Amendment (Partner Service Pension and
Other Measures) Act 2019 13*