



# **Veterans' Entitlements (Partner Service Pension — Retention of Eligibility for Non-illness Separated Spouse) Determination R25/2009<sup>1</sup>**

*Veterans' Entitlements Act 1986*

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The REPATRIATION COMMISSION makes this Determination under subsection 38 (2AD) of the *Veterans' Entitlements Act 1986*.

Dated 23 April 2009

IAN CAMPBELL  
President

GARY COLLINS  
Acting Deputy President

BRIGADIER W D ROLFE, AO (Rtd)  
Commissioner

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**1 Name of Determination**

This Determination is the *Veterans' Entitlements (Partner Service Pension — Retention of Eligibility for Non-illness Separated Spouse) Determination R25/2009*.

**2 Commencement**

This Determination commences on 1 July 2009.

**3 Purpose**

The purpose of this Determination is to set out the circumstances in which a non-illness separated spouse of a veteran retains eligibility for the partner service pension, despite being separated from the veteran for more than 12 months.

**4 Definition**

In this Determination:

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

*Note* The following terms are defined in the Act:

- Commission — section 5A
- MRCA — subsection 5Q (1)
- Military Rehabilitation and Compensation Commission — subsection 5Q (1)
- non-illness separated spouse — subsection 5E (1)
- veteran — subsection 5C (1).

**5 Specified circumstances**

- (1) Subsection (2) specifies circumstances for subsection 38 (2AD) of the Act.
- (2) On the first day on which the non-illness separated spouse of the veteran does not reside in the same residence as the veteran:
  - (a) the veteran has a psychological or other mental health incapacity caused by any of the following:
    - (i) a war-caused injury or war-caused disease for which the Commission has determined that the veteran is entitled to be granted a pension;
    - (ii) a defence-caused injury or defence-caused disease for which the Commission has determined that the veteran, as a member of the Forces or member of a Peacekeeping Force, is entitled to be granted a pension;
    - (iii) a service injury or service disease, within the meaning given by the MRCA, for which the Military Rehabilitation and Compensation Commission has determined to accept liability;

- (iv) a disease or disorder, mentioned in subsection 85 (2) of the Act, for which the veteran is eligible for treatment under the Act;
  - (v) a condition to which a determination under paragraph 88A (1) (a) of the Act applies; and
- (b) the Commission is satisfied that, before that day, the domestic environment shared by the spouse with the veteran was, because of the veteran's behaviour, unsafe or abusive for the spouse or any child of the spouse.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.