



Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) (Veterans' Affairs) Regulations 2019

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 08 August 2019

David Hurley
Governor-General

By His Excellency's Command

Christian Porter
Attorney-General

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Part 1—Preliminary

1 Name

This instrument is the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) (Veterans’ Affairs) Regulations 2019*.

2 Commencement

- (1) Each provision of this instrument 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. The whole of this instrument	The day after this instrument is registered.	22 August 2019

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under item 86 of Schedule 2 to the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

Act means the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*.

Part 2—Matters of a transitional nature

6 Transitional provision—sections 233 and 234 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) at the time of the member's death, a person was not the wholly dependent partner of the member; and
 - (c) the person would have been the wholly dependent partner of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of section 233 of the *Military Rehabilitation and Compensation Act 2004*, the person is taken to have been the wholly dependent partner of the member.
- (3) For the purposes of section 234 of the *Military Rehabilitation and Compensation Act 2004*, the date of the member's death is taken to be 1 July 2009.

7 Application provision—section 239 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) at the time of the member's death, a person was not the wholly dependent partner of the member; and
 - (c) the person would have been the wholly dependent partner of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of section 239 of the *Military Rehabilitation and Compensation Act 2004*, the person is taken to have been the wholly dependent partner of the member.
- (3) Compensation for the cost of obtaining financial advice, under section 239 of the *Military Rehabilitation and Compensation Act 2004*, is not payable for financial advice received by the person before 1 July 2009.

8 Application provision—section 242 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) at the time of the member's death, a person was not the wholly dependent partner of the member; and
 - (c) the person would have been the wholly dependent partner of the member if the Act had been in force at the time of the member's death.

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- (2) For the purposes of section 242 of the *Military Rehabilitation and Compensation Act 2004*, the Commonwealth is not liable to pay compensation to the person.

9 Transitional provision—section 245 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) at the time of the member's death, a person was not the wholly dependent partner of the member; and
 - (c) the person would have been the wholly dependent partner of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of section 245 of the *Military Rehabilitation and Compensation Act 2004*, the person is taken to have been the wholly dependent partner of the member.

10 Application provision—section 251 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) a person is an eligible young person; and
 - (c) before 1 July 2009, the person was not a dependant of the member; and
 - (d) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) The Commonwealth is not liable to pay compensation to the person under section 251 of the *Military Rehabilitation and Compensation Act 2004*.

11 Transitional provision—section 253 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) a person is an eligible young person; and
 - (c) before 1 July 2009, the person was not a dependant of the member; and
 - (d) immediately before the member's death, the person was wholly or mainly dependent on the member; and
 - (e) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of subsection 253(1) of the *Military Rehabilitation and Compensation Act 2004*, compensation is payable to the person for a week or part of a week occurring after 30 June 2009, as if the member had died on 1 July 2009.

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12 Application provision—section 255 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) a person is an eligible young person; and
 - (c) before 1 July 2009, the person was not a dependant of the member; and
 - (d) immediately before the member's death, the person was wholly or mainly dependent on the member; and
 - (e) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) The Commonwealth is not liable to pay compensation to the person under section 255 of the *Military Rehabilitation and Compensation Act 2004*.

13 Transitional provision—section 258 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) a person is an eligible young person; and
 - (c) immediately before the member's death, the person was not a dependant of the member; and
 - (d) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of subsection 258(1) of the *Military Rehabilitation and Compensation Act 2004*:
 - (a) the power to determine a scheme to provide education and training is taken to include the power to determine a scheme to provide education and training to the person; and
 - (b) benefits under a scheme determined under subsection 258(1) of the *Military Rehabilitation and Compensation Act 2004* are not payable to the person before 1 July 2009.

14 Application provision—section 262 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
 - (a) a member died before 1 July 2009; and
 - (b) immediately before the member's death, a person was not a dependant of the member; and
 - (c) the person would have been a dependant of the member if the Act had been in force at the time of the member's death; and
 - (d) the person would not have been:
 - (i) the wholly dependent partner of the member; or
 - (ii) an eligible young person who was a dependant of the member; if the Act had been in force at the time of the member's death.

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- (2) The Commonwealth is not liable to pay compensation to the person under section 262 of the *Military Rehabilitation and Compensation Act 2004*.

15 Application provision—section 266 of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) immediately before the member's death, a person was not a dependant of the member; and
 - (c) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) The Commonwealth is not liable to pay compensation to the person for the cost of the deceased member's funeral, under section 266 of the *Military Rehabilitation and Compensation Act 2004*.

16 Transitional provision—subsection 284(1) of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) at the time of the member's death, a person was not the wholly dependent partner of the member; and
 - (c) the person would have been the wholly dependent partner of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of subsection 284(1) of the *Military Rehabilitation and Compensation Act 2004*:
- (a) the person is taken to be entitled to treatment under Part 3 of Chapter 6 of the *Military Rehabilitation and Compensation Act 2004* for any injury or disease of the person; and
 - (b) the date of the member's death is taken to be 1 July 2009.

17 Transitional provision—subsection 284(2) of the *Military Rehabilitation and Compensation Act 2004*

- (1) This section applies if:
- (a) a member died before 1 July 2009; and
 - (b) a person is an eligible young person; and
 - (c) immediately before the member's death:
 - (i) the person was not a dependant of the member; and
 - (ii) the person was wholly or mainly dependent on the member; and
 - (d) the person would have been a dependant of the member if the Act had been in force at the time of the member's death.
- (2) For the purposes of subsection 284(2) of the *Military Rehabilitation and Compensation Act 2004*:

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- (a) the person is taken to be entitled to treatment under Part 3 of Chapter 6 of the *Military Rehabilitation and Compensation Act 2004* for any injury or disease of the person; and
- (b) the date of the member's death is taken to be 1 July 2009.

18 Transitional provision—section 300 of the *Military Rehabilitation and Compensation Act 2004*

For the purposes of section 300 of the *Military Rehabilitation and Compensation Act 2004*, a person to whom section 16 or 17 of this instrument applies is taken to be entitled to treatment under Part 3 of Chapter 6 of the *Military Rehabilitation and Compensation Act 2004* from 30 June 2009.

Note: Section 300 of the *Military Rehabilitation and Compensation Act 2004* provides that a person who is eligible for treatment under Part 3 of Chapter 6 of that Act is eligible for pharmaceutical allowance.

19 Transitional provision—section 13A of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
 - (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not a dependant of the veteran; and
 - (c) the person would have been a dependant of the veteran if the Act had been in force at the time of the veteran's death.
- (2) On or after 1 July 2009, section 13A of the *Veterans' Entitlements Act 1986* applies to the person as if the person is a dependant of the veteran.

20 Transitional provision—subsections 20(2A) and (2B) of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
 - (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not a dependant of the veteran; and
 - (c) the person would have been a dependant of the veteran if the Act had been in force at the time of the veteran's death; and
 - (d) subsection 20(2A) or (2B) of the *Veterans' Entitlements Act 1986* applies to the person.
- (2) For the purposes of paragraph 20(2A)(b) or (2B)(b) of the *Veterans' Entitlements Act 1986*, the date of the veteran's death is taken to be 1 July 2009.

21 Transitional provision—section 20 of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
 - (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not a dependant of the veteran; and

- (c) the person would have been a dependant of the veteran if the Act had been in force at the time of the veteran's death; and
 - (d) the person makes a claim for a pension under section 14 of the *Veterans' Entitlements Act 1986*.
- (2) For the purposes of section 20 of the *Veterans' Entitlements Act 1986*, the date of effect of a determination of a claim under subsection 19(3) of the *Veterans' Entitlements Act 1986* must not be before 1 July 2009.

22 Transitional provision—Part III of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
- (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not the partner of the veteran; and
 - (c) the person would have been the widow or widower of the veteran, for the purposes of section 38 of the *Veterans' Entitlements Act 1986*, if the Act had been in force at the time of the veteran's death.
- (2) Part III of the *Veterans' Entitlements Act 1986* applies to the person as if:
- (a) the veteran had died on 1 July 2009; and
 - (b) the person was receiving a partner service pension immediately before the veteran's death.

23 Transitional provision—subsection 86(2) of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
- (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not a dependant of the veteran; and
 - (c) the person would have been a dependant of the veteran if the Act had been in force at the time of the veteran's death.
- (2) For the purposes of subsection 86(2) of the *Veterans' Entitlements Act 1986*, the veteran is taken to have died on 30 June 2009.

24 Transitional provision—paragraph 86(4)(a) of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
- (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not the child of the veteran; and
 - (c) the person would have been a child of the veteran if the Act had been in force at the time of the veteran's death.
- (2) For the purposes of paragraph 86(4)(a) of the *Veterans' Entitlements Act 1986*, the veteran is taken to have died on 30 June 2009.

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25 Transitional provision—Part VII of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
 - (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not an eligible child of the veteran; and
 - (c) the person would have been an eligible child of the veteran if the Act had been in force at the time of the veteran's death.
- (2) Benefits under the Scheme prepared by the Commission under Part VII of the *Veterans' Entitlements Act 1986* are not payable to the person before 1 July 2009.

26 Transitional provision—Part VIIC of the *Veterans' Entitlements Act 1986*

- (1) This section applies if:
 - (a) a veteran died before 1 July 2009; and
 - (b) immediately before the veteran's death, a person was not the partner of the veteran; and
 - (c) the person would have been:
 - (i) a war widow or war widower of the veteran, for the purposes of subsection 118V(1A) of the *Veterans' Entitlements Act 1986*; or
 - (ii) the widow or widower of a veteran, for the purposes of subparagraph 118V(3)(a)(iii) of the *Veterans' Entitlements Act 1986*; if the Act had been in force at the time of the veteran's death.
- (2) Part VIIC of the *Veterans' Entitlements Act 1986* applies to the person as if the veteran had died on 1 July 2009.

Schedule 1—Repeals

Same-Sex Relationships (Equal Treatment in Commonwealth Laws — General Law Reform) (Veterans' Affairs) Regulations 2009

1 The whole of the instrument

Repeal the instrument.