

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Veterans' Affairs Legislation
Amendment (Participants in British
Nuclear Tests) Bill 2011**

No. , 2011

(Veterans' Affairs)

**A Bill for an Act to amend the *Veterans'*
Entitlements Act 1986 and other legislation, and for
related purposes**

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3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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2 **Schedule 1—Amendments**
3

4 ***Australian Participants in British Nuclear Tests (Treatment)***
5 ***Act 2006***

6 **1 Subsection 4(1) (definition of *nuclear test participant*)**

7 Omit “and (3A)”, substitute “, (3A) and (3C)”.

8 **2 After subsection 5(3B)**

9 Insert:

10 (3C) A person is a ***nuclear test participant*** if the person satisfies the
11 requirements specified in an instrument under subsection (3D).

12 (3D) The Commission may, by legislative instrument, specify
13 requirements for the purposes of subsection (3C).

14 **3 Section 32**

15 Before “The”, insert “(1)”.

16 **4 At the end of section 32**

17 Add:

18 (2) However, subsection (1) does not apply to the Commission’s
19 power under subsection 5(3D).

20 **5 Treatment before instrument takes effect but on or after**
21 **19 June 2006**

22 (1) If the Commission makes an instrument under subsection 5(3D) of the
23 *Australian Participants in British Nuclear Tests (Treatment) Act 2006*,
24 the Commission may approve, under subsection 13(1) of that Act,
25 treatment for a person that was provided before that instrument took
26 effect but on or after 19 June 2006 if:

- 27 (a) the person makes a claim under that Act before that
28 instrument took effect, or within 6 months after that
29 instrument took effect, for a determination that the person is
30 an eligible person; and

1 (b) the Commission determines under that Act that the person is
2 an eligible person because of subsection 5(3C) of that Act.

3 (2) This item has effect despite subsection 13(2) of that Act.

4 **6 Expenses of travel before instrument takes effect but on or**
5 **after 19 June 2006**

6 (1) This item applies if the Commission makes an instrument under
7 subsection 5(3D) of the *Australian Participants in British Nuclear Tests*
8 *(Treatment) Act 2006* and travel is undertaken before that instrument
9 took effect but on or after 19 June 2006 for the purpose of:

10 (a) obtaining treatment for a person who:

11 (i) makes a claim under that Act before that instrument
12 took effect, or within 6 months after that instrument
13 took effect, for a determination that the person is an
14 eligible person; and

15 (ii) is determined by the Commission under that Act to be
16 an eligible person because of subsection 5(3C) of that
17 Act; or

18 (b) accompanying a person described in paragraph (a) travelling
19 for the purpose described in that paragraph as his or her
20 attendant.

21 (2) If a claim for a determination of entitlement to be paid travelling
22 expenses in connection with the travel is made under that Act
23 (disregarding subsection 21(2) of that Act) within 6 months after that
24 instrument took effect, the Commission may:

25 (a) approve or authorise the travel, for the purposes of section 19
26 of that Act; and

27 (b) determine the claim under that Act.

28 ***Veterans' Entitlements Act 1986***

29 **7 Section 5 (index of definitions, at the end of the entry**
30 **dealing with British nuclear test defence service)**

31 Add "and (5)".

32 **8 Subsection 68(1) (definition of *British nuclear test defence***
33 ***service*)**

1 Omit “and (4)”, substitute “, (4) and (5)”.

2 **9 At the end of section 69B**

3 Add:

4 (5) A person rendered *British nuclear test defence service* while the
5 person was a member of the Defence Force if the person satisfies
6 the requirements specified in an instrument under subsection (6).

7 (6) The Commission may, by legislative instrument, specify
8 requirements for the purposes of subsection (5).

9 **10 After subsection 213(1)**

10 Insert:

11 (1A) However, subsection (1) does not apply to the Commission’s
12 power under subsection 69B(6).

13 **11 Backdating determinations of entitlement to pension**

14 (1) If, on or after the commencement of this item, the Commission grants a
15 claim for a pension under the *Veterans’ Entitlements Act 1986* on the
16 basis of a person’s British nuclear test defence service (within the
17 meaning of subsection 69B(5) of that Act), then subsection 20(3) of that
18 Act does not apply in relation to the grant of that claim.

19 Note: Subsection 20(3) of that Act prevents backdating of the grant of pension claims before
20 the date of eligibility for the pension.

21 (2) For the purposes of subitem (1), it does not matter whether the claim is
22 made before, on or after the commencement of this item.