



Veterans' Entitlements Legislation Amendment (2007 Election Commitments) Act 2008

No. 48, 2008

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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[Assented to 25 June 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Veterans' Entitlements Legislation
Amendment (2007 Election Commitments) Act 2008*.

2 Commencement

This Act commences on 1 July 2008.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Extension of the automatic grant of certain pensions

Veterans' Entitlements Act 1986

1 Subparagraph 13(2)(c)(i)

Omit “section 24”, substitute “section 23, 24 or 25”.

2 Subparagraph 13(2)(c)(ii)

Omit “, 23 or 25”.

3 Subparagraph 13A(1)(c)(i)

Omit “section 24”, substitute “section 23, 24 or 25”.

4 Subparagraph 13A(1)(c)(ii)

Omit “, 23 or 25”.

5 Subparagraph 70(2)(c)(i)

Omit “section 24”, substitute “section 23, 24 or 25”.

6 Subparagraph 70(2)(c)(ii)

Omit “, 23 or 25”.

7 Application

The amendments made by this Schedule apply in relation to deaths occurring on or after the commencement of this Schedule.

Schedule 2—Extension of income support supplement to all war widows/war widowers

Part 1—Main amendments

Veterans' Entitlements Act 1986

1 Section 45A

Repeal the section, substitute:

45A Eligibility for income support supplement

A person is eligible for income support supplement if the person is a war widow or war widower.

2 Section 45AA

Repeal the section.

3 At the end of subsection 45Q(4)

Add:

; and (c) if:

- (i) the person's claim states the person is permanently incapacitated for work; and
- (ii) at the time the Commission determines that income support supplement is to be granted to the person, the Commission is satisfied that the person is permanently incapacitated for work in accordance with a determination under section 45QA;

the Commission must determine that income support supplement is payable to the person on the grounds of permanent incapacity.

Note: Section 52-65 of the *Income Tax Assessment Act 1997* provides for payments of income support supplement to be exempt from income tax in certain situations if the supplement is received on the grounds of permanent incapacity.

4 After section 45Q

Insert:

45QA Commission must determine circumstances in which persons are permanently incapacitated for work

- (1) The Commission must, by legislative instrument, determine the circumstances in which persons are permanently incapacitated for work for the purposes of subparagraph 45Q(4)(c)(ii).
- (2) The Commission may, by legislative instrument, vary or revoke a determination under subsection (1).

5 Transitional—existing determinations that income support supplement payable

The repeal and substitution of section 45A of the *Veterans' Entitlements Act 1986* made by this Schedule does not affect the validity, after the commencement of this Schedule, of a determination that was in force under section 45Q of that Act immediately before that commencement.

- Note 1: This item ensures that a determination in force before that commencement that income support supplement was payable to a person continues in force after that commencement.
- Note 2: This item also ensures that, if the determination referred to the supplement being payable because the person was permanently incapacitated for work, payments of the supplement to the person after that commencement will be on the grounds of permanent incapacity.
- Note 3: Section 52-65 of the *Income Tax Assessment Act 1997* provides for payments of income support supplement to be exempt from income tax in certain situations if the supplement is received on the grounds of permanent incapacity.

6 Transitional—determination of permanent incapacity for work

A determination in force under section 45AA of the *Veterans' Entitlements Act 1986* immediately before the commencement of this Schedule continues in force after that commencement as if it were a determination under section 45QA of that Act.

7 Application—determination of claims

The amendment of section 45Q of the *Veterans' Entitlements Act 1986* made by this Schedule applies in relation to:

- (a) claims made after the commencement of this Schedule; and
- (b) claims made before that commencement that had not been determined by the Commission before that commencement.

Part 2—Consequential amendments

Social Security Act 1991

8 Subparagraph 1061PZG(1)(b)(iii)

Omit “granted on the ground set out in subparagraph 45A(1)(b)(iii) of that Act”, substitute “on the grounds of permanent incapacity”.

9 Subparagraph 1209M(2)(a)(iii)

Omit “granted on the ground set out in subparagraph 45A(1)(b)(iii) of the Veterans’ Entitlements Act”, substitute “under the Veterans’ Entitlements Act on the grounds of permanent incapacity”.

10 Subparagraph 1209Z(1)(b)(iii)

Omit “subsection 45A(2)”, substitute “section 5Q”.

11 Subparagraph 1209ZB(1)(b)(iii)

Omit “subsection 45A(2)”, substitute “section 5Q”.

Veterans’ Entitlements Act 1986

12 Subsection 5H(9)

Omit “referred to in subsection 45A(2)”.

13 At the end of subsection 5H(9)

Add:

Note: For *qualifying age* see section 5Q.

14 Subsection 5J(1D)

Omit “referred to in subsection 45A(2)”.

15 At the end of subsection 5J(1D)

Add:

Note: For *qualifying age* see section 5Q.

16 Subsection 5LA(4) (note)

Repeal the note, substitute:

Note: For *qualifying age* see section 5Q.

17 Subsection 5NB(1) (paragraph (c) of the definition of *compensation affected pension*)

Omit “within the meaning of subsection 45A(2)”.

18 Subsection 5NB(1) (subparagraphs (d)(ii), (e)(ii) and (f)(ii) of the definition of *compensation affected pension*)

Omit “within the meaning of subsection 45A(2)”.

19 Subsection 5NB(1) (definition of *compensation affected pension*) (note)

Omit “Note”, substitute “Note 1”.

20 Subsection 5NB(1) (at the end of the definition of *compensation affected pension*)

Add:

Note 2: For *qualifying age* see section 5Q.

21 Subsection 5Q(1) (definition of *pension age*) (note)

Omit “subsection 45A(2)”, substitute “section 5Q”.

22 Subparagraph 45N(1)(bb)(iii)

Omit “(see subsection (1A))”.

23 At the end of paragraph 45N(1)(bb)

Add:

Note: For *qualifying age* see section 5Q.

24 Subsection 45N(1A)

Repeal the subsection.

25 Section 45TA (definition of *qualifying age*)

Repeal the definition.

26 At the end of subsection 45TB(3)

Add:

Note: For *qualifying age* see section 5Q.

27 Subsection 52(1A)

Omit “referred to in subsection 45A(2)”.

28 At the end of subsection 52(1A)

Add:

Note: For *qualifying age* see section 5Q.

29 At the end of subsections 52ZA(1) and (2)

Add:

Note 5: For *qualifying age* see section 5Q.

30 Subsection 52ZA(4)

Repeal the subsection.

31 Subparagraph 52ZZWA(2)(a)(ii)

Omit “on the ground set out in subparagraph 45A(1)(b)(iii)”, substitute “and be permanently incapacitated for work in the circumstances set out in a determination under section 45QA”.

32 Subparagraph 52ZZWL(1)(b)(ii)

Omit “within the meaning of subsection 45A(2)”.

33 Subsection 52ZZWL(1) (after note 3)

Insert:

Note 3A: For *qualifying age* see section 5Q.

34 Subparagraph 52ZZWN(1)(b)(ii)

Omit “within the meaning of subsection 45A(2)”.

35 Subsection 52ZZWN(1) (after note 3)

Insert:

Note 3A: For *qualifying age* see section 5Q.

36 Subsection 59M(1) (after note 1)

Insert:

Note 1A: For *qualifying age* see section 5Q.

37 At the end of subsection 118PA(2)

Add:

Note: For *qualifying age* see section 5Q.

38 At the end of subsection 118V(1A)

Add:

Note 4: For *qualifying age* see section 5Q.

39 Subsection 118V(4A)

Repeal the subsection.

Schedule 3—Extension of disability pension bereavement payments

Income Tax Assessment Act 1997

1 Section 52-65 (after table item 14.1)

Insert:

14.2	Section 98AA Bereavement payment	Not applicable	Exempt
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2 Section 52-75 (after table item 14)

Insert:

14A	Section 98AA Bereavement payment	Not applicable	Section 98AA
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Veterans' Entitlements Act 1986

3 After section 98A

Insert:

98AA Bereavement payments in respect of certain single, disabled veterans

- (1) The Commission must pay an amount (*bereavement payment*), worked out in accordance with subsection (2), to the estate of a deceased veteran if:
 - (a) immediately before the veteran died, he or she was not a member of a couple; and
 - (b) immediately before the veteran died, he or she was being paid a pension under Part II as a veteran to whom subsection 22(4) or section 24 applied; and
 - (c) the veteran died in indigent circumstances; and
 - (d) an application for the bereavement payment is made in accordance with sections 111 and 112.

- (2) The amount of the bereavement payment is 6 times the amount of the pension that would have been payable to the veteran, if he or she had not died, on the first pension pay day after he or she died.

Note: The heading to section 98A is altered by inserting “**partnered,**” before “**disabled veterans**”.

4 Subsection 111(1)

After “allowances”, insert “, payments”.

5 After paragraph 111(1)(b)

Insert:

- (ba) bereavement payment under section 98AA;

6 Before subsection 112(1)

Insert:

- (1A) An application for bereavement payment under section 98AA in respect of a deceased veteran must be made within 12 months after the death of the veteran.

7 Before paragraph 112(4)(a)

Insert:

- (aa) bereavement payment under section 98AA; or

8 At the end of paragraph 112(4)(a)

Add “or”.

9 Subsection 112(4)

After “subsection”, insert “(1A),”.

10 At the end of paragraph 115(1)(a)

Add “or”.

11 After paragraph 115(1)(a)

Insert:

- (aa) bereavement payment under section 98AA; or

12 At the end of paragraphs 115(1)(b), (c), (d) and (e)

Add “or”.

13 Paragraph 119(1)(ee)

After “allowance”, insert “, payment”.

14 Subsection 119(2) (paragraph (d) of the definition of application)

After “allowance”, insert “, payment”.

15 Subsection 175(4)

After “allowance”, insert “, payment”.

16 Application

- (1) The amendments of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to bereavement payments received during the 2008-09 income year and later income years.
 - (2) The amendments of the *Veterans’ Entitlements Act 1986* made by this Schedule apply in relation to deaths of veterans occurring on or after 1 July 2008.
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*[Minister’s second reading speech made in—
House of Representatives on 13 March 2008
Senate on 15 May 2008]*

(49/08)
