



Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021

No. 142, 2021

**An Act to amend the law relating to veterans'
entitlements, military rehabilitation and
compensation and social security, and for related
purposes**

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

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No. 142, 2021

An Act to amend the law relating to veterans' entitlements, military rehabilitation and compensation and social security, and for related purposes

[Assented to 13 December 2021]

The Parliament of Australia enacts:

*No. 142, 2021 Veterans' Affairs Legislation Amendment (Exempting Disability
Payments from Income Testing and Other Measures) Act 2021 1*

1 Short title

This Act is the *Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021*.

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. | 13 December 2021 |
| 2. Schedules 1 to 3 | 1 January 2022. | 1 January 2022 |
| 3. Schedule 4 | 1 July 2022. | 1 July 2022 |
| 4. Schedule 5 | 1 January 2022. | 1 January 2022 |

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

2 *Veterans' Affairs Legislation Amendment (Exempting Disability Payments from Income Testing and Other Measures) Act 2021* No. 142, 2021

Schedule 1—Exempting adjusted disability pension from the social security income test and removal of Defence Force Income Support Allowance

A New Tax System (Family Assistance) Act 1999

1 Paragraph 7(haa) of Schedule 3

Repeal the paragraph.

2 Saving provision

Paragraph 7(haa) of Schedule 3 to the *A New Tax System (Family Assistance) Act 1999*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of Defence Force Income Support Allowance under Part VIIAB of the *Veterans' Entitlements Act 1986* made before, on or after that commencement.

Child Support (Assessment) Act 1989

3 Subsection 5(1) (paragraph (g) of the definition of *tax free pension or benefit*)

Repeal the paragraph.

4 Saving provision

Paragraph (g) of the definition of *tax free pension or benefit* in subsection 5(1) of the *Child Support (Assessment) Act 1989*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of Defence Force Income Support Allowance under Part VIIAB of the *Veterans' Entitlements Act 1986* made before, on or after that commencement.

Child Support (Registration and Collection) Act 1988

5 Subparagraph 72AC(1)(b)(iva)

Omit “1986; or”, substitute “1986.”.

6 Subparagraph 72AC(1)(b)(v)

Repeal the subparagraph.

7 Saving provision

Section 72AC of the *Child Support (Registration and Collection) Act 1988*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the receipt of Defence Force Income Support Allowance under Part VIIAB of the *Veterans’ Entitlements Act 1986* before, on or after that commencement.

Farm Household Support Act 2014

8 Section 95 (table item 1)

Repeal the item.

9 Saving provision

Item 1 of the table in section 95 of the *Farm Household Support Act 2014*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to working out if a person is qualified for farm household allowance or if farm household allowance is payable to a person, or working out the rate of a person’s farm household allowance, in respect of days occurring before the commencement of this item.

Income Tax Assessment Act 1936

10 Subparagraph 160AAAA(2)(c)(ii)

Omit “, income support supplement or Defence Force Income Support Allowance (within the meaning of the *Veterans’ Entitlements Act 1986*) or a DFISA-like payment mentioned in Division 4 of Part VIIAB of that Act”, substitute “or income support supplement under the *Veterans’ Entitlements Act 1986*”.

11 Subparagraph 160AAAB(2)(c)(ii)

Omit “, income support supplement or Defence Force Income Support Allowance (within the meaning of the *Veterans’ Entitlements Act 1986*) or a DFISA-like payment mentioned in Division 4 of Part VIIAB of that Act”, substitute “or income support supplement under the *Veterans’ Entitlements Act 1986*”.

12 Paragraph 202EA(5)(ia)

Omit “1986;”, substitute “1986.”.

13 Paragraph 202EA(5)(j)

Repeal the paragraph.

14 Saving provisions

- (1) Section 160AAAA of the *Income Tax Assessment Act 1936*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a year of income in which the assessable income of a taxpayer of the year of income includes an amount of Defence Force Income Support Allowance within the meaning of the *Veterans’ Entitlements Act 1986*, or a DFISA-like payment mentioned in Division 4 of Part VIIAB of that Act, as in force immediately before that commencement.
- (2) Section 160AAAB of the *Income Tax Assessment Act 1936*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a year of income in which the assessable income of a beneficiary of the year of income includes an amount of Defence Force Income Support Allowance within the meaning of the *Veterans’ Entitlements Act 1986*, or a DFISA-like payment mentioned in Division 4 of Part VIIAB of that Act, as in force immediately before that commencement.
- (3) Paragraph 202EA(5)(j) of the *Income Tax Assessment Act 1936*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of Defence Force Income Support Allowance under Part VIIAB of the *Veterans’ Entitlements Act 1986* made before, on or after that commencement.

Income Tax Assessment Act 1997

15 Section 11-15 (table item headed “social security or like payments”)

Omit:

DFISA bonus and DFISA bonus bereavement payment... 52-65

16 Paragraph 52-65(1)(a)

Omit “, pension bonus bereavement payment, DFISA bonus or DFISA bonus bereavement payment”, substitute “or pension bonus bereavement payment”.

17 Subsection 52-65(1A)

Repeal the subsection, substitute:

- (1A) Payments of pension bonus and pension bonus bereavement payment under Part IIIAB of the *Veterans’ Entitlements Act 1986* are exempt from income tax.

18 Section 52-65 (table item 5A.1)

Repeal the item.

19 Section 52-75 (table item 5A)

Repeal the item.

20 Saving provisions

- (1) Subsection 52-65(1A) of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of DFISA bonus or DFISA bonus bereavement payment under Part VIIAB of the *Veterans’ Entitlements Act 1986* made before, on or after the commencement of this item.
- (2) Item 5A.1 of the table in section 52-65 of the *Income Tax Assessment Act 1997*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of Defence Force Income Support Allowance made before, on or after the commencement of this item.

Social Security Act 1991

21 Before subparagraph 8(8)(y)(i)

Insert:

- (ia) pension under Part II or IV of the Veterans' Entitlements Act (other than a pension that is payable under section 30 of that Act to a dependant of a deceased veteran); or

22 After subparagraph 8(8)(y)(i)

Insert:

- (ib) pension payable because of subsection 4(6) or (8B) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* (other than a pension payable in respect of a child); or

23 Subparagraph 8(8)(y)(ix)

Omit "or".

24 Subparagraph 8(8)(y)(x)

Repeal the subparagraph.

25 After paragraph 8(8)(zo)

Insert:

- (zoa) a payment (either as a weekly amount or a lump sum) under section 68, 71, 75 or 80 of the Military Rehabilitation and Compensation Act (permanent impairment);
- (zob) a payment of a Special Rate Disability Pension under Part 6 of Chapter 4 of the Military Rehabilitation and Compensation Act;

26 Subsection 23(1) (definition of *Defence Force Income Support Allowance* or *DFISA*)

Repeal the definition.

27 Subsection 23(1D)

Repeal the subsection.

28 Paragraph 92C(e) (note)

Repeal the note.

29 Subparagraph 92C(f)(ii)

Omit “Act; or”, substitute “Act.”.

30 Subparagraph 92C(f)(iii)

Repeal the subparagraph.

31 Point 1071A-4 (paragraph (cb) of the definition of *income*)

Repeal the paragraph.

32 Subparagraph 1134(1)(e)(ia)

Repeal the subparagraph.

33 Subclause 146(3) of Schedule 1A

Repeal the subclause, substitute:

Provisional annual payment rate

- (3) The person’s provisional annual payment rate is taken to be the amount worked out under subclause (4) if $\frac{1}{364}$ of that amount is greater than $\frac{1}{364}$ of the person’s provisional annual payment rate apart from this clause.

Note: The provisional annual payment rate is an amount worked out under the method statement in point 1064-A1. Point 1064-A1 may be relevant of its own force or because of point 1065-A1 or section 796.

34 Subclause 146(6) of Schedule 1A

Repeal the subclause.

35 Application and saving provisions

- (1) Subparagraphs 8(8)(y)(ia) and (ib) and paragraphs 8(8)(zoa) and (zob) of the *Social Security Act 1991*, as inserted by this Schedule, apply in relation to working out if a person is qualified for a social security payment or if a social security payment is payable to a person, or working out the rate of a person’s social security payment, in respect of days occurring on or after the commencement of this item.

- (2) Subparagraph 8(8)(y)(x) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment covered by that subparagraph that is made before, on or after that commencement.
- (3) Subsection 23(1D) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a day occurring before that commencement on which adjusted disability pension (within the meaning of section 118NA of the *Veterans' Entitlements Act 1986* as in force immediately before that commencement) was payable to a person or a person's partner.
- (4) Subparagraph 92C(f)(iii) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of DFISA bonus under Part VIIAB of the *Veterans' Entitlements Act 1986* that is made before, on or after that commencement.
- (5) Paragraph (cb) of the definition of *income* in point 1071A-4 of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment covered by that paragraph that is made before, on or after that commencement.
- (6) Subparagraph 1134(1)(e)(ia) of the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a day occurring before that commencement on which DFISA under Part VIIAB of the *Veterans' Entitlements Act 1986* was payable to a person.
- (7) Clause 146 of Schedule 1A to the *Social Security Act 1991*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to working out a person's provisional annual payment rate in relation to a day occurring before that commencement.

Social Security (Administration) Act 1999

36 Section 123TC (paragraph (ea) of the definition of category H welfare payment)

Omit “payment; or”, substitute “payment.”.

37 Section 123TC (paragraph (f) of the definition of category H welfare payment)

Repeal the paragraph.

38 Section 123TC (paragraph (da) of the definition of category R welfare payment)

Omit “payment; or”, substitute “payment.”.

39 Section 123TC (paragraph (e) of the definition of category R welfare payment)

Repeal the paragraph.

40 Subparagraph 123TK(1)(a)(i)

Omit “, income support supplement or Defence Force Income Support Allowance”, substitute “or income support supplement”.

41 Section 124D (subparagraph (c)(i) of the definition of schooling requirement payment)

Repeal the subparagraph.

42 Saving provisions

- (1) Despite the amendments of the *Social Security (Administration) Act 1999* made by this Schedule, Part 3B of that Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of Defence Force Income Support Allowance made before, on or after that commencement.
- (2) Despite the amendments of the *Social Security (Administration) Act 1999* made by this Schedule, Part 3C of that Act, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to working out if Defence

Force Income Support Allowance is payable to a person in relation to a day occurring before that commencement.

Veterans' Entitlements Act 1986

43 Paragraph 5H(8)(g)

Repeal the paragraph.

44 Subsection 5L(3C)

Omit “, pension bonus bereavement payment, DFISA bonus or DFISA bonus bereavement payment”, substitute “or pension bonus bereavement payment”.

45 Subsection 5Q(1) (definition of *Defence Force Income Support Allowance* or *DFISA*)

Repeal the definition.

46 Subsection 5Q(1) (definition of *DFISA bonus*)

Repeal the definition.

47 Subsection 5Q(1) (definition of *DFISA bonus bereavement payment*)

Repeal the definition.

48 Paragraph 45TC(1)(e) (note)

Repeal the note.

49 Subparagraph 45TC(1)(f)(ia)

Repeal the subparagraph.

50 Paragraph 45TC(2)(e) (note)

Repeal the note.

51 Subparagraph 45TC(2)(f)(ia)

Repeal the subparagraph.

52 Paragraph 45TC(3)(e) (note)

Repeal the note.

53 Subparagraph 45TC(3)(f)(ia)

Repeal the subparagraph.

54 Section 53J (note)

Repeal the note.

55 Subsection 53M(7)

Repeal the subsection.

56 Paragraph 53NA(1)(a)

Omit “, DFISA”.

57 Part VIIAB

Repeal the Part.

58 Paragraphs 121(5D)(a) and (b)

Repeal the paragraphs, substitute:

- (a) is not to exceed the total of the amount of pension (calculated in accordance with this section) payable to the person for days that:
 - (i) are days on which the pension was payable to the person; and
 - (ii) are included in the first 7 days of the pension period; and

59 Subsection 121(5G)

Omit “sections 122B, 122D and 122E”, substitute “section 122B”.

60 Subsection 121(6A)

Repeal the subsection.

61 Sections 122D and 122E

Repeal the sections.

62 Paragraph 199(e)

Repeal the paragraph.

63 Application and transitional provisions

- (1) Paragraph 5H(8)(g) of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment covered by that paragraph that is made before, on or after that commencement.
- (2) Subsection 5L(3C) of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment of DFISA bonus or DFISA bonus bereavement payment that is made before, on or after that commencement.
- (3) Subparagraphs 45TC(1)(f)(ia), (2)(f)(ia) and (3)(f)(ia) of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a payment of DFISA bonus that is made before, on or after that commencement.
- (4) Subsection 53M(7) of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to DFISA that was payable before that commencement.
- (5) Section 53NA of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to DFISA paid before, on or after that commencement.
- (6) The *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to the following:
 - (a) Defence Force Income Support Allowance that was payable to a person in relation to a day occurring before that commencement;
 - (b) Defence Force Income Support Allowance that is paid to a person before, on or after that commencement in relation to a day occurring before that commencement;

Schedule 1 Exempting adjusted disability pension from the social security income test and removal of Defence Force Income Support Allowance

- (c) adjusted disability pension (within the meaning of section 118NA of that Act as in force immediately before that commencement) payable in relation to a day occurring before that commencement;
 - (d) working out whether DFISA bonus is payable to a person, where adjusted disability pension (within the meaning of section 118NA of that Act as in force immediately before that commencement) was payable in relation to a day occurring before that commencement;
 - (e) DFISA bonus that is paid to a person before, on or after that commencement;
 - (f) working out qualification for, and the amount of, a DFISA bonus bereavement payment and making such a payment, where adjusted disability pension (within the meaning of section 118NA of that Act as in force immediately before that commencement) was payable in relation to a day occurring before that commencement.
- (7) The *Veterans' Entitlements Act 1986* and regulations made under Division 4 of Part VIIAB of that Act, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to a payment under those regulations that was payable to a person, or a non-financial benefit under those regulations that was to be provided to a person, in relation to a day occurring before that commencement.
- (8) Paragraph 199(e) of the *Veterans' Entitlements Act 1986*, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment or benefit covered by that paragraph that is made before, on or after that commencement.

Schedule 2—Increased rent assistance

Veterans' Entitlements Act 1986

1 Paragraph 5H(8)(e) (note)

Repeal the note, substitute:

Note: However, a payment referred to in paragraph (b), (c) or (e) is counted in working out a person's total income for the purposes of the hardship rules (see section 52Z).

2 Subsection 5H(8) (note)

Repeal the note, substitute:

Note: However, some of the amounts referred to in paragraphs (zp), (zq), (zr) and (zu) are counted for the purposes of the hardship rules (see subsection 52Z(3A)).

3 Section 59A (table item 6, column 2)

Omit "or income support supplement", substitute ", income support supplement or veteran payment".

4 Section 59A (table item 6A, column 2)

Omit "or income support supplement", substitute ", income support supplement or veteran payment".

5 Section 59A (table item 7AA)

Repeal the item.

6 Point SCH6-C1 of Schedule 6

Omit "and point SCH6-C15".

7 Point SCH6-C1 of Schedule 6

Omit "Points SCH6-C13 and SCH6-C14 apply only to a person who is in receipt of a service pension or a veteran payment. Points SCH6-C14B and SCH6-C14C apply only to a person who is in receipt of an income support supplement.".

8 Point SCH6-C2 of Schedule 6

Omit “Subject to points SCH6-C13 and SCH6-C14 (which apply only to a person who is in receipt of a service pension or a veteran payment) and points SCH6-C14B and SCH6-C14C (which apply only to a person who is in receipt of an income support supplement), a”, substitute “A”.

9 Paragraph SCH6-C7(b) of Schedule 6

Omit “pension; and”, substitute “pension.”.

10 Paragraph SCH6-C7(c) of Schedule 6

Repeal the paragraph.

11 Point SCH6-C7 of Schedule 6 (notes 1 and 2)

Repeal the notes.

12 Points SCH6-C12 to SCH6-C16 of Schedule 6

Repeal the points.

13 Application provision

The amendments of Schedule 6 to the *Veterans’ Entitlements Act 1986* made by this Schedule apply in relation to working out the rate of service pension, income support supplement or veteran payment for days occurring on or after the commencement of this item.

Schedule 3—Removing references to disability pension

Veterans’ Entitlements Act 1986

1 Subsection 5H(1) (paragraph (b) of the definition of *adjusted income*)

Repeal the paragraph, substitute:

- (b) a payment to the person that is a payment in respect of incapacity or death resulting from employment in connection with a war or war-like operations in which the Crown has been engaged, other than:
 - (i) a pension under Part II or IV (other than a pension that is payable under section 30 to a dependant of a deceased veteran); or
 - (ii) a pension payable because of subsection 4(6) or (8B) of the *Veterans’ Entitlements (Transitional Provisions and Consequential Amendments) Act 1986* (other than a pension payable in respect of a child); and

2 Paragraph 5H(8)(ea)

Omit “a disability pension payable to the person under Part 2 or Part 4”, substitute “a pension payable to the person under Part II or IV”.

3 Subsection 5Q(1) (definition of *disability pension*)

Repeal the definition.

4 Part II (heading)

Repeal the heading, substitute:

Part II—Pensions by way of compensation to veterans and their dependants

5 Division 2 of Part II (heading)

Repeal the heading, substitute:

Division 2—Eligibility for pensions by way of compensation to veterans and their dependants

6 Section 13 (heading)

Repeal the heading, substitute:

13 Eligibility for pensions by way of compensation to veterans and their dependants

7 Paragraph 52Z(3A)(da)

Omit “a disability pension payable to the person under Part II or Part IV”, substitute “a pension payable to the person under Part II or IV”.

8 Section 62A (heading)

Repeal the heading, substitute:

62A Energy supplement for veterans and members of Defence Force or Peacekeeping Force

9 Part IV (heading)

Repeal the heading, substitute:

Part IV—Pensions by way of compensation to members of Defence Force or Peacekeeping Force and their dependants

10 Division 2 of Part IV (heading)

Repeal the heading, substitute: Division 2—Eligibility for pensions by way of compensation to members of Defence Force or Peacekeeping Force and their dependants

11 Section 70 (heading)

Repeal the heading, substitute:

70 Eligibility for pensions by way of compensation to members of Defence Force or Peacekeeping Force and their dependants

12 Section 98A (heading)

Repeal the heading, substitute:

98A Bereavement payment in respect of partnered veterans receiving pensions by way of compensation

13 Paragraph 98A(1)(b)

Omit “a disability pension”, substitute “a pension under Part II or IV (other than a pension payable to a person as a dependant of a deceased veteran)”.

14 Paragraph 98A(2)(a)

Omit “the disability pension” (wherever occurring), substitute “that pension”.

15 Subparagraph 98A(2)(b)(i)

Omit “the disability pension”, substitute “that pension”.

16 Subsection 98A(3) (paragraph (a) of the definition of *deceased veteran’s amount*)

Omit “in receipt of the disability pension”, substitute “in receipt of the pension covered by paragraph (1)(b)”.

17 Subsection 98A(3) (paragraph (a) of the definition of *deceased veteran’s amount*)

Omit “the amount of the disability pension”, substitute “the amount of that pension”.

18 Subsection 98A(3) (subparagraph (b)(i) of the definition of *deceased veteran’s amount*)

Omit “disability pension”, substitute “pension covered by paragraph (1)(b)”.

19 Paragraph 98A(5)(a)

Omit “disability pension”, substitute “pension covered by paragraph (1)(b)”.

20 Subsection 98A(6) (definition of *disability pension*)

Repeal the definition.

21 Subsection 98A(6) (definition of *first available pension pay day*)

Omit “disability pension”, substitute “pension covered by paragraph (1)(b)”.

22 Section 98AA (heading)

Repeal the heading, substitute:

98AA Bereavement payments in respect of certain single veterans receiving pensions by way of compensation

Schedule 4—Indexation of above general rates

Veterans' Entitlements Act 1986

1 Subsection 198(5E)

Repeal the subsection, substitute:

Indexation of each above general rate

(5E) This Act has effect as if, on each adjustment day, there were substituted, for each above general rate, the rate worked out using the following formula and rounded up to the nearest \$0.10:

$$\frac{\text{Above general rate on the day before the adjustment day}}{\text{Pension MBR factor for the adjustment day}}$$

2 Application provision

The amendment made by this Schedule applies in relation to each adjustment day that occurs after the commencement of this item.

Schedule 5—Non-liability rehabilitation pilot

Military Rehabilitation and Compensation Act 2004

1 Section 3

After:

- (a) compensation and other benefits to be provided for current and former members of the Defence Force who suffer a service injury or disease; and

insert:

- (aa) rehabilitation programs for current or former members of the Defence Force (including some who have made a claim for acceptance of liability by the Commission for a service injury or disease and some who have not made such a claim and who need not have a service injury or disease); and

2 Section 37

After:

This Chapter provides for the following for certain current and former members suffering a service injury or disease:

- (a) rehabilitation programs;
- (b) assistance in finding suitable defence or civilian work;
- (c) assistance in moving from defence service to civilian life.

insert:

This Chapter also provides for rehabilitation programs for certain current and former members who:

- (a) have made a claim for acceptance of liability by the Commission for a service injury or disease, where the claim has not been determined; or

- (b) have not made such a claim and who need not have a service injury or disease.

3 Section 37

After:

Part 2 also provides for rehabilitation for certain persons who have made a claim for acceptance of liability by the Commission for a service injury or disease, where the claim has not been determined.

insert:

Part 2A provides for a non-liability rehabilitation pilot for certain members or former members who have not made such a claim and who need not have a service injury or disease.

4 Part 2 of Chapter 3 (heading)

Repeal the heading, substitute:

Part 2—Rehabilitation programs—general

5 After Part 2 of Chapter 3

Insert:

Part 2A—Non-liability rehabilitation pilot

53A Simplified outline of this Part

There is a non-liability rehabilitation pilot for certain members or former members who:

- (a) have not made a claim for acceptance of liability by the Commission for a service injury or disease; and
- (b) need not have a service injury or disease.

For these members or former members, a rehabilitation program is to be provided that consists of either or both of the following:

- (a) vocational assessment and rehabilitation;
- (b) psycho-social training.

53B Persons to whom this Part applies

- (1) This Part applies to a person if:
 - (a) either:
 - (i) the person is a member; or
 - (ii) the person is a former member but the person was a member at any time on or after 1 December 1988; and
 - (b) the person has not made a claim of a kind referred to in paragraph 319(1)(a); and
 - (c) the person is included in a class of persons determined in an instrument under section 53D; and
 - (d) the Commission has determined, in writing, that this Part applies to the person.
- (2) A determination under paragraph (1)(d) is not a legislative instrument.
- (3) The member or former member need not have sustained a service injury or contracted a service disease.
- (4) Sections 7, 8 and 9 of the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* do not apply for the purposes of this Part.

53C Provision of rehabilitation programs

- (1) The rehabilitation authority for a person to whom this Part applies must make arrangements with an approved program provider for the provision of a rehabilitation program for the person that consists of either or both of the following:
 - (a) vocational assessment and rehabilitation;
 - (b) psycho-social training.

- (2) For the purposes of designing or providing the rehabilitation program:
- (a) the rehabilitation authority or approved program provider concerned may seek the assistance of persons with suitable qualifications or expertise in the design or provision of rehabilitation programs; and
 - (b) the rehabilitation authority or approved program provider concerned may take into account any relevant information of which it is aware or that is brought to its attention.

Conditions and limits

- (3) A rehabilitation program under this section is subject to:
- (a) the conditions in relation to the provision of the program that are determined in an instrument under section 53D; and
 - (b) the limits (whether financial or otherwise) in relation to the provision of the program that are determined in that instrument.

Cost of rehabilitation program to be paid by Commonwealth

- (4) The cost of a rehabilitation program under this section is to be paid by the Commonwealth.

Section 38 does not apply

- (5) Section 38 does not apply for the purposes of this Part.

53D Legislative instrument

- (1) The Commission may, by legislative instrument:
- (a) determine a class of persons for the purposes of paragraph 53B(1)(c); and
 - (b) determine conditions in relation to the provision of a rehabilitation program for the purposes of paragraph 53C(3)(a); and
 - (c) determine limits (whether financial or otherwise) in relation to the provision of a rehabilitation program for the purposes of paragraph 53C(3)(b).

- (2) Without limiting subsection (1), a determination under that subsection may make provision for and in relation to an approved program provider or the Commission being satisfied of one or more specified matters.

*[Minister's second reading speech made in—
House of Representatives on 21 October 2021
Senate on 2 December 2021]*

(111/21)

*No. 142, 2021 Veterans' Affairs Legislation Amendment (Exempting Disability
Payments from Income Testing and Other Measures) Act 2021 27*