



Defence, Veterans' and Families' Acute Support Package Act 2022

No. 40, 2022

An Act to amend the law relating to veterans' entitlements and military rehabilitation and compensation, 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. 40, 2022

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

[Assented to 7 October 2022]

The Parliament of Australia enacts:

1 Short title

This Act is the *Defence, Veterans' and Families' Acute Support Package Act 2022*.

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. The whole of this Act	The day after the end of the period of 7 days beginning on the day this Act receives the Royal Assent.	14 October 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Military Rehabilitation and Compensation Act 2004

1 Section 3

Omit “counselling or”, substitute “counselling and”.

2 Section 268A

Omit “counselling or”, substitute “counselling and”.

3 Chapter 5A (heading)

Omit “Family”, substitute “Acute”.

4 Part 1 of Chapter 5A (heading)

Omit “Family”, substitute “Acute”.

5 Section 268A

Omit all the words from and including “The member” to and including “July 2004.”.

6 Section 268B

Repeal the section, substitute:

268B Acute support package

Acute support package

- (1) The Commission may, by legislative instrument, make provision for and in relation to the granting of a package (an *acute support package*) of assistance or benefits of a specified kind to a person:
- (a) who is a member or former member; or
 - (b) who is or was a related person of a member, former member or deceased member;
- to assist the person to adjust to challenging life circumstances.

Schedule 1 Amendments
Part 1 Main amendments

Note: Decisions of the Commission under this instrument are reviewable (see section 345B).

Eligibility criteria for acute support package

- (2) The instrument must provide that a person is not eligible for an acute support package unless the criteria mentioned in subsection (3), (4), (5) or (6) are satisfied.
- (3) If the person is a member or former member, the criteria are as follows:
 - (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the person is receiving, or is eligible to receive, compensation for incapacity under Part 3 or 4 of Chapter 4 or a Special Rate Disability Pension;
 - (c) the Commission is satisfied that the person, or a related person, is experiencing, or is at risk of experiencing, crisis.
- (4) If the person is a related person of a member or former member, the criteria are as follows:
 - (a) the member or former member is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the member or former member is receiving, or is eligible to receive, compensation for incapacity under Part 3 or 4 of Chapter 4 or a Special Rate Disability Pension;
 - (c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.
- (5) If the person is a wholly dependent partner of a deceased member, the criteria are as follows:
 - (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the deceased member's death occurred no more than 2 years before the day the person's eligibility for the package is determined;
 - (c) either:
 - (i) the deceased member's death was related to service rendered by the member; or

- (ii) the Commission is satisfied that the deceased member's death was a suicide related to service rendered by the member.
- (6) If the person was the partner of a member or former member, the criteria are as follows:
- (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) at the time the person's eligibility for the package is determined, either or both of the following apply:
 - (i) the person ceased being the member's or former member's partner within the previous 12 months;
 - (ii) a child of the member or former member who is under 18 years lives with the person;
 - (c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

Instrument may deal with various matters

- (7) Without limiting subsection (1), the instrument may make provision for and in relation to the following:
- (a) additional eligibility criteria for an acute support package;
 - (b) criteria for the granting of assistance or benefits;
 - (c) the kinds of assistance or benefits that may be granted, which may include child care, counselling, household assistance, services to build capacity and academic and extra-curricular support for children;
 - (d) the conditions on which assistance or benefits are granted;
 - (e) limits (whether financial or otherwise) on the provision of assistance or benefits;
 - (f) the suspension or cancellation of the provision of assistance or benefits;
 - (g) arrangements for the payment of assistance or benefits.
- (8) Without limiting paragraph (7)(a) or (b), the criteria may depend on the Commission being satisfied of one or more specified matters.

Definition of related person—extended meaning of member

- (9) For the purposes of the definition of *related person* in subsection 15(2), a reference to a member includes a reference to a deceased member.

Note: A reference to a member in that definition also includes a reference to a former member (see section 20).

7 At the end of Part 1 of Chapter 8

Add:

345B Application of this Chapter to decisions about acute support packages

This Chapter applies in relation to a decision by the Commission under an instrument made under section 268B (about acute support packages) as if:

- (a) a reference to a claimant were a reference to the person to whom the decision relates; and
- (b) a reference to a claim were omitted.

8 After paragraph 415(1)(a)

Insert:

- (aa) an amount is paid under an instrument made under section 268B to a person as a result of a false or misleading statement or representation, or a failure or omission to comply with this Act or the instrument; or

9 Transitional provision

- (1) This item applies to a person if, immediately before the commencement of this item, the person had been granted assistance or benefits under an instrument made under section 268B of the *Military Rehabilitation and Compensation Act 2004*, as in force immediately before that commencement.
- (2) Despite the repeal of section 268B of the *Military Rehabilitation and Compensation Act 2004* by this Part, the instrument made under that section, as in force immediately before that repeal, continues to apply in

relation to the assistance or benefits granted to the person before the commencement of this item.

Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988

10 Subsection 4(1)

Insert:

related person of another person means:

- (a) any of the following:
 - (i) the spouse of the other person;
 - (ii) a parent or step-parent of the other person;
 - (iii) a parent or step-parent of the partner of the other person;
 - (iv) a grandparent of the other person;
 - (v) a child or stepchild of the other person;
 - (vi) a child or stepchild of the partner of the other person;
 - (vii) a grandchild of the other person;
 - (viii) a sibling or half-sibling of the other person; or
- (b) a person in respect of whom the other person stands in the position of a parent; or
- (c) a person who stands in the position of a parent to the other person.

11 After Part III

Insert:

Part IIIA—Acute support

41B Acute support package

Acute support package

- (1) The MRCC may, by legislative instrument, make provision for and in relation to the granting of a package (an ***acute support package***) of assistance or benefits of a specified kind to a person:
 - (a) who is an employee; or

- (b) who is or was a related person of an employee or deceased employee;
to assist the person to adjust to challenging life circumstances.

Note: Decisions of the MRCC under the instrument are reviewable (see section 60A).

Eligibility criteria for an acute support package

- (2) The instrument must provide that a person is not eligible for an acute support package unless the criteria mentioned in subsection (3), (4), (5) or (6) are satisfied.
- (3) If the person is an employee, the criteria are as follows:
 - (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the person is receiving, or is eligible to receive, compensation under Division 3 of Part II;
 - (c) the MRCC is satisfied that the person, or a related person, is experiencing, or is at risk of experiencing, crisis.
- (4) If the person is a related person of an employee, the criteria are as follows:
 - (a) the employee is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the employee is receiving, or is eligible to receive, compensation under Division 3 of Part II;
 - (c) the MRCC is satisfied that the person is experiencing, or is at risk of experiencing, crisis.
- (5) If the person was the spouse of an employee immediately before the employee's death, the criteria are as follows:
 - (a) the person was wholly or partly dependent on the employee at the date of the employee's death;
 - (b) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (c) the deceased employee's death occurred no more than 2 years before the day the person's eligibility for the package is determined;
 - (d) the deceased employee's death resulted from an injury.

- (6) If the person was the spouse of an employee, the criteria are as follows:
- (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) at the time the person's eligibility for the package is determined, either or both of the following apply:
 - (i) the person ceased being the employee's spouse within the previous 12 months;
 - (ii) a child of the employee who is under 18 years lives with the person;
 - (c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

Instrument may deal with various matters

- (7) Without limiting subsection (1), the instrument may make provision for and in relation to the following:
- (a) additional eligibility criteria for an acute support package;
 - (b) criteria for the granting of assistance or benefits;
 - (c) the kinds of assistance or benefits that may be granted, which may include child care, counselling, household assistance, services to build capacity and academic and extra-curricular support for children;
 - (d) the conditions on which assistance or benefits are granted;
 - (e) limits (whether financial or otherwise) on the provision of assistance or benefits;
 - (f) the suspension or cancellation of the provision of assistance or benefits;
 - (g) arrangements for the payment of assistance or benefits.
- (8) Without limiting paragraph (7)(a) or (b), the criteria may depend on the MRCC being satisfied of one or more specified matters.

12 After section 60

Insert:

60A Application of this Part to decisions about acute support packages

This Part applies in relation to a decision by the MRCC under an instrument made under section 41B (about acute support packages) as if:

- (a) a reference to a determination included a reference to a decision by the MRCC under that instrument; and
- (b) a reference to a claimant were a reference to the person to whom the decision relates.

13 After paragraph 114(1)(a)

Insert:

- (aa) an amount is paid under an instrument made under section 41B to a person as a result of a false or misleading statement or representation, or a failure or omission to comply with this Act or the instrument; or

14 After subsection 152(1)

Insert:

- (1A) The MRCC may, by resolution, delegate any of its functions or powers under an instrument made under section 41B to a person to whom it can, under section 384 of the MRCA, delegate functions or powers under that Act.

15 After subsection 160(1A)

Insert:

- (1B) The Consolidated Revenue Fund is appropriated for the purposes of paying assistance or benefits granted under an instrument made under section 41B.

Veterans' Entitlements Act 1986

16 At the end of subsection 5H(8)

Add:

- (zze) a payment under an instrument made under any of the following:

- (i) section 115S of this Act;
- (ii) section 268B of the MRCA;
- (ii) section 41B of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*.

17 After Part VIB

Insert:

Part VIC—Acute support

115S Acute support package

Acute support package

- (1) The Commission may, by legislative instrument, make provision for and in relation to the granting of a package (an ***acute support package***) of assistance or benefits of a specified kind to a person:
 - (a) who is a veteran; or
 - (b) who is or was a related person of a veteran or a deceased veteran;to assist the person to adjust to challenging life circumstances.

Note: Decisions of the Commission under the instrument are reviewable (see section 135A).

Eligibility criteria for an acute support package

- (2) The instrument must provide that a person is not eligible for an acute support package unless the criteria mentioned in subsection (3), (4), (5) or (6) are satisfied.
- (3) If the person is a veteran, the criteria are as follows:
 - (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the person is receiving, or is eligible to receive, a pension at a rate provided for by section 23, 24 or 25 or a veteran payment;
 - (c) the Commission is satisfied that the person, or a related person, is experiencing, or is at risk of experiencing, crisis.

- (4) If the person is a related person of a veteran, the criteria are as follows:
- (a) the veteran is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) the veteran is receiving, or is eligible to receive, a pension at a rate provided for by section 23, 24 or 25 or a veteran payment;
 - (c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.
- (5) If the person is a war widow or war widower, the criterion is that the person is under 65 years of age at the time the person's eligibility for an acute support package is determined.
- (6) If the person was the partner of a veteran, the criteria are as follows:
- (a) the person is under 65 years of age at the time the person's eligibility for an acute support package is determined;
 - (b) at the time the person's eligibility for the package is determined, either or both of the following apply:
 - (i) the person ceased being the veteran's partner within the previous 12 months;
 - (ii) a child of the veteran who is under 18 years lives with the person;
 - (c) the Commission is satisfied that the person is experiencing, or is at risk of experiencing, crisis.

Instrument may deal with various matters

- (7) Without limiting subsection (1), the instrument may make provision for and in relation to the following:
- (a) additional eligibility criteria for an acute support package;
 - (b) criteria for the granting of assistance or benefits;
 - (c) the kinds of assistance or benefits that may be granted, which may include child care, counselling, household assistance, services to build capacity and academic and extra-curricular support for children;
 - (d) the conditions on which assistance or benefits are granted;
 - (e) limits (whether financial or otherwise) on the provision of assistance or benefits;

- (f) the suspension or cancellation of the provision of assistance or benefits;
 - (g) arrangements for the payment of assistance or benefits.
- (8) Without limiting paragraph (7)(a) or (b), the criteria may depend on the Commission being satisfied of one or more specified matters.

Meaning of related person etc.

- (9) For the purposes of this section, a **related person** of a veteran is:
- (a) any of the following persons:
 - (i) the partner of the veteran;
 - (ii) a parent or step-parent of the veteran;
 - (iii) a parent or step-parent of the partner of the veteran;
 - (iv) a grandparent of the veteran;
 - (v) a child of the veteran;
 - (vi) a child of the partner of the veteran;
 - (vii) a grandchild of the veteran;
 - (viii) a sibling of the veteran; or
 - (b) a person in respect of whom the veteran stands in the position of a parent; or
 - (c) a person who stands in the position of a parent to the veteran.
- (10) For the purposes of this section, the **partner** of a veteran is a person in respect of whom at least one of the following applies:
- (a) if the veteran is a member of the Aboriginal race of Australia or a descendant of Indigenous inhabitants of the Torres Strait Islands—the person is recognised as the veteran’s husband, wife or spouse by the custom prevailing in the group to which the veteran belongs;
 - (b) the person is legally married to the veteran;
 - (c) a relationship between the person and the veteran (whether the person and the member are the same sex or different sexes) is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(d) the person (whether of the same sex or a different sex to the member):

- (i) is, in the Commission’s opinion, in a de facto relationship with the veteran; and
- (ii) is not an ancestor, descendant, brother, sister, half-brother or half-sister of the veteran.

(11) The definition of *child* in subsection 5F(1) does not apply for the purposes of this section.

18 Subsection 132(5)

After “135”, insert “or 135A”.

19 After section 135

Insert:

135A Review of decisions relating to acute support packages

(1) If:

- (a) the Commission makes a decision in relation to a person under an instrument made under section 115S (about acute support packages); and

(b) the person is dissatisfied with the decision;

the person may make an application to the Board for a review of the decision of the Commission.

(2) An application for review must be made within 3 months after the decision is made.

20 At the end of section 136

Add:

- (4) An application under subsection (1) relating to a decision under an instrument made under section 115S (about acute support packages) may be made by the person to whom the decision relates.

21 Subsection 137(1)

After “or (3)”, insert “or 135A(1)”.

22 Section 137A

After “135”, insert “or 135A”.

23 Paragraph 175(1)(a)

After “135”, insert “or 135A”.

24 After paragraph 199(da)

Insert:

- (e) assistance or benefits granted under an instrument made under section 115S; and

Part 2—Other amendments

Income Tax Assessment Act 1997

25 Section 11-15 (before table item headed “agricultural industry exit grants”)

Insert:

acute support packages for veterans and their families

acute support packages for veterans and their families 52-185

26 At the end of Subdivision 52-H

Add:

52-185 Acute support packages are exempt

Payments under an instrument made under any of the following are exempt from income tax:

- (a) section 268B of the *Military Rehabilitation and Compensation Act 2004*;
- (b) section 41B of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;
- (c) section 115S of the *Veterans’ Entitlements Act 1986*.

27 Application of amendments

The amendments made by items 25 and 26 of this Schedule apply to assessments for the 2022-23 income year and later income years.

Social Security Act 1991

28 After paragraph 8(8)(zs)

Insert:

- (zsa) a payment under an instrument made under any of the following:
 - (i) section 268B of the *Military Rehabilitation and Compensation Act 2004*;
 - (ii) section 41B of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*;

(iii) section 115S of the *Veterans' Entitlements Act 1986*;

[*Minister's second reading speech made in—
House of Representatives on 3 August 2022
Senate on 7 September 2022*]

(69/22)
