





# **Veterans' Affairs Legislation Amendment (Budget Measures) Act 2009**

**No. 80, 2009**

**An Act to amend the law relating to veterans'  
affairs, and for other purposes**

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



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**No. 80, 2009**

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## **An Act to amend the law relating to veterans' affairs, and for other purposes**

*[Assented to 10 September 2009]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Veterans' Affairs Legislation Amendment (Budget Measures) Act 2009*.

### **2 Commencement**

This Act commences on the day after it receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Deposit of certain payments into foreign bank accounts**

#### ***Military Rehabilitation and Compensation Act 2004***

##### **1 Subsection 430(1)**

Omit “an account with a bank.”, substitute:

an account with:

- (a) a bank; or
- (b) if the person is physically outside Australia—a foreign corporation that takes money on deposit.

##### **2 Subsection 430(4) (definition of *account*)**

Repeal the definition, substitute:

*account* means an account, maintained by a person, to which money received on deposit by a bank, or a foreign corporation, from that person is credited.

#### ***Veterans’ Entitlements Act 1986***

##### **3 Section 58C (note)**

After “bank”, insert “or foreign corporation that takes money on deposit”.

##### **4 Subsection 58F(1)**

Omit “an account with a bank.”, substitute:

an account with:

- (a) a bank; or
- (b) if the person is physically outside Australia—a foreign corporation that takes money on deposit.

##### **5 Paragraph 118PB(2)(c)**

Omit “a bank”, substitute “an”.

**6 Subsection 122(4) (note)**

Omit “with a bank”.

**7 Subsection 122A(1)**

Omit all the words after “or in common with another person,”, substitute:

with:

- (a) a bank; or
- (b) if the pensioner is physically outside Australia—a foreign corporation that takes money on deposit.

**8 After subsection 122A(1)**

Insert:

(1AA) If the Commission gives a direction under subsection (1), the pension is payable in accordance with the direction.

**9 Subsection 122A(1B)**

Omit “under subsection (1)”, substitute “under subsection (1AA)”.

**10 Section 122C**

Repeal the section, substitute:

**122C Payment of pension or allowance outside Australia**

If a pension, allowance or other pecuniary benefit under this Act, other than a pension or allowance to which section 58A applies, is payable to a person who is physically outside Australia, then it may be paid:

- (a) in the manner determined by the Commission; and
- (b) in the instalments determined by the Commission.

## **Part 2—Amendments relating to insurance**

### *Defence Service Homes Act 1918*

#### **11 After section 38CA**

Insert:

#### **38CAA Insurance of certain other houses etc.—*Defence Home Ownership Assistance Scheme Act 2008***

- (1) The Commonwealth may undertake insurance of, or in relation to:
  - (a) a house in which a person who is eligible under the *Defence Home Ownership Assistance Scheme Act 2008* has an interest; or
  - (b) building materials on the site of a house mentioned in paragraph (a), being materials used in the building of, or otherwise in relation to, the house; or
  - (c) any permanent improvement of a structural kind that has been made to a house mentioned in paragraph (a), or that has been constructed on the land on which such a house is built, and any building materials on the site of, and used in the building of, or in relation to, such an improvement.
- (2) The Commonwealth may undertake insurance against risks related to the land on which a house mentioned in paragraph (1)(a) is built, or on which a house mentioned in paragraph (1)(b) is being, or is to be, built.
- (3) In this section:

*eligible* and *house* have the same respective meanings as in the *Defence Home Ownership Assistance Scheme Act 2008*.

Note: The heading to section 38CA is altered by adding at the end “—**Home Loans Assistance Act**”.

#### **12 After section 38EA**

Insert:

**38EAA Termination of insurance undertaken under section 38CAA**

- (1) This section applies if:
  - (a) the Commonwealth has undertaken insurance under section 38CAA in relation to a house in which a person who is eligible under the *Defence Home Ownership Assistance Scheme Act 2008* has an interest; and
  - (b) the person ceases to be eligible.
- (2) If this section applies:
  - (a) the insurance undertaken in relation to the house does not cease to have effect when the person ceases to be eligible; and
  - (b) unless the insurance has already ceased to have effect for some other reason, the Secretary must give reasonable notice in writing to each person having an interest in the house that the insurance will cease to have effect on a day specified in the notice.
- (3) If the Secretary gives a notice under paragraph (2)(b), the insurance ceases to have effect on the day specified in the notice unless it has already ceased to have effect.
- (4) If this section applies because a person dies and the person is survived by a widow or widower, the Secretary must not give a notice under paragraph (2)(b) in relation to the house unless the Secretary is satisfied that the widow or widower is not eligible.
- (5) In this section:

*eligible* and *house* have the same respective meanings as in the *Defence Home Ownership Assistance Scheme Act 2008*.

## **Part 3—Provisions relating to dependants' pensions**

### ***Income Tax Assessment Act 1997***

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

After:

farm help income support..... 53-10 and 53-15

insert:

lump sum payment under section 198N of the *Veterans' Entitlements Act 1986*..... 52-65

#### **14 After subsection 52-65(1D)**

Insert:

(1E) A lump sum payment under section 198N of the *Veterans' Entitlements Act 1986* is exempt from income tax.

### ***Veterans' Entitlements Act 1986***

#### **15 After section 198M**

Insert:

#### **198N Cancellation of entitlement to pension**

- (1) This section applies if, because of subsection 4(6) or (8B) of the *Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986*, a pension is payable to a person, including a pension whose rate has been reduced to nil.
- (2) Despite section 4 of that Act, the pension is not payable to the person on or after 22 September 2009.
- (3) However, the person is entitled to receive a lump sum payment, to be paid on or after 24 September 2009, equal to 3 years' worth of the pension, calculated according to the rate at which the person's last pension payment was paid.

**Schedule 1** Amendments

**Part 3** Provisions relating to dependants' pensions

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- (4) Subsections (2) and (3) do not apply to a person who is paid a pension on the basis that the person was, at the time section 66 of the *Repatriation Legislation Amendment Act 1985* came into force, without adequate means of support.
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*[Minister's second reading speech made in—  
House of Representatives on 28 May 2009  
Senate on 13 August 2009]*