



Treatment Benefits (Special Access) (Consequential Amendments and Transitional Provisions) Act 2019

No. 42, 2019

**An Act to deal with consequential and transitional
matters arising from the enactment of the
Treatment Benefits (Special Access) Act 2019, and
for related purposes**

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

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Transitional provisions		3
Schedule 2—Consequential amendments		4
	<i>Aged Care Act 1997</i>	4
	<i>A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999</i>	4
	<i>Healthcare Identifiers Act 2010</i>	5
	<i>Income Tax Assessment Act 1936</i>	5
	<i>Income Tax Assessment Act 1997</i>	5
	<i>Military Rehabilitation and Compensation Act 2004</i>	6
	<i>National Cancer Screening Register Act 2016</i>	7
	<i>National Health Act 1953</i>	7
	<i>Safety, Rehabilitation and Compensation Act 1988</i>	8
	<i>Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988</i>	9
	<i>Social Security Act 1991</i>	9
	<i>Veterans’ Entitlements Act 1986</i>	11



Treatment Benefits (Special Access) (Consequential Amendments and Transitional Provisions) Act 2019

No. 42, 2019

**An Act to deal with consequential and transitional
matters arising from the enactment of the
Treatment Benefits (Special Access) Act 2019, and
for related purposes**

[Assented to 5 April 2019]

The Parliament of Australia enacts:

*No. 42, 2019 Treatment Benefits (Special Access) (Consequential Amendments and
Transitional Provisions) Act 2019 1*

1 Short title

This Act is the *Treatment Benefits (Special Access) (Consequential Amendments and Transitional Provisions) Act 2019*.

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.	5 April 2019
2. Schedules 1 and 2	At the same time as the <i>Treatment Benefits (Special Access) Act 2019</i> commences. However, the provisions do not commence at all if that Act does not commence.	6 April 2019

Note: This table relates only to the provisions of this Act as originally enacted.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—Transitional provisions

1 Application of Act

The *Treatment Benefits (Special Access) Act 2019* applies in relation to the provision of treatment, travel expenses incurred and the payment of pharmaceutical supplement on and after 1 July 2019.

2 Application of amendments to the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*

The amendments made by items 8, 9, 10 and 11 of Schedule 2 apply to assessments for the 2019-20 year of income and later years of income.

3 Application of amendments to the *Safety, Rehabilitation and Compensation Act 1988* and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*

If a person is eligible to be provided with treatment under section 7 of the *Treatment Benefits (Special Access) Act 2019* as a result of a claim to establish eligibility having been determined under that Act before 1 July 2019:

- (a) section 119A of the *Safety, Rehabilitation and Compensation Act 1988*, as amended by this Act, applies as if the claim were determined on 1 July 2019; and
- (b) section 144A of the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*, as amended by this Act, applies as if the claim were determined on 1 July 2019.

Schedule 2—Consequential amendments

Aged Care Act 1997

1 Subparagraph 86-3(1)(i)(iii)

Omit “; and”, substitute “; or”.

2 At the end of paragraph 86-3(1)(i)

Add:

(iv) the *Treatment Benefits (Special Access) Act 2019*; and

3 Paragraph 86-6(a)

Omit “or section 36 of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”, substitute “, section 36 of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or section 46 of the *Treatment Benefits (Special Access) Act 2019*”.

4 At the end of subsection 96-10(2)

Add:

; or (d) the Repatriation Commission has accepted financial responsibility for the amount of the subsidy as mentioned in section 15 of the *Treatment Benefits (Special Access) Act 2019*.

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

5 Subsection 13(2) (note)

Omit “or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”, substitute “, the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or the *Treatment Benefits (Special Access) Act 2019*”.

6 Subsection 14(2) (note)

Omit “or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”, substitute “, the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or the *Treatment Benefits (Special Access) Act 2019*”.

Healthcare Identifiers Act 2010**7 Section 5 (after subparagraph (a)(ii) of the definition of Veterans’ Affairs Department)**

Insert:

(ia) section 1 of the *Treatment Benefits (Special Access) Act 2019*; or

Income Tax Assessment Act 1936**8 Paragraph 251U(1)(b)**

Omit “or the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*”, substitute “, the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006* or the *Treatment Benefits (Special Access) Act 2019*”.

Income Tax Assessment Act 1997**9 Section 11-15 (table item headed “social security or like payments”)**

After:

pharmaceutical supplement for Australian participants
in British nuclear tests or in the British
Commonwealth Occupation Force Subdivision 52-CB

insert:

pharmaceutical supplement for Australian
surgical-medical team members Subdivision 52-CC

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

After:

travelling expenses for Australian participants in
British nuclear tests or in the British
Commonwealth Occupation Force Subdivision 52-CB

insert:

travelling expenses for Australian surgical-medical
team members Subdivision 52-CC

11 After Subdivision 52-CB

Insert:

Subdivision 52-CC—Exempt payments under the Treatment Benefits (Special Access) Act 2019

52-120 Payments of travelling expenses and pharmaceutical supplement are exempt

- (1) A payment made to you under Part 3 (travelling expenses) of the *Treatment Benefits (Special Access) Act 2019* is exempt from income tax.
- (2) A payment of pharmaceutical supplement made to you under Part 4 of the *Treatment Benefits (Special Access) Act 2019* is exempt from income tax.

Military Rehabilitation and Compensation Act 2004

12 At the end of subsection 301(4)

Add:

; or (g) he or she is receiving pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

National Cancer Screening Register Act 2016

13 Section 4 (after subparagraph (b)(iii) of the definition of *claims information*)

Insert:

(iiia) the *Treatment Benefits (Special Access) Act 2019*;

National Health Act 1953

14 Subsection 84(1) (at the end of paragraph (b) of the definition of *medicare card*)

Add:

(iii) a scheme that applies under section 20 of the *Treatment Benefits (Special Access) Act 2019*; or

15 Subsection 84(1) (definition of *repatriation pharmaceutical benefit*)

Repeal the definition, substitute:

repatriation pharmaceutical benefit means a pharmaceutical benefit within the meaning of:

- (a) section 91 of the *Veterans' Entitlements Act 1986*; or
- (b) subsection 4(1) of the *Australian Participants in British Nuclear Tests and British Commonwealth Occupation Force (Treatment) Act 2006*; or
- (c) subsection 5(1) of the *Treatment Benefits (Special Access) Act 2019*.

16 Subparagraph 84C(4A)(a)(iii)

Omit “; and”, substitute “; or”.

17 At the end of paragraph 84C(4A)(a)

Add:

(iv) under a scheme that applies under section 20 of the *Treatment Benefits (Special Access) Act 2019*; and

18 After subparagraph 85E(2)(b)(iii)

Insert:

(iiia) the *Treatment Benefits (Special Access) Act 2019*; or

Safety, Rehabilitation and Compensation Act 1988

19 At the end of subsection 16(1)

Add:

Note: Compensation is not payable under this subsection in relation to certain claims (see section 119A).

20 After section 119

Insert:

119A Persons entitled to treatment under other legislation not entitled to certain compensation

Compensation not payable in relation to certain claims

- (1) Comcare is not liable, under subsection 16(1) of this Act, to pay compensation in respect of the cost of medical treatment obtained in relation to an injury of an employee if the employee is eligible to be provided with treatment under section 7 of the *Treatment Benefits (Special Access) Act 2019* as a result of a claim to establish eligibility having been determined under that Act.

Note: In this Act, the definition of *injury* includes a disease (see section 5A of this Act).

Exceptional circumstances determination

- (2) However, if Comcare is satisfied that there are exceptional circumstances, Comcare may determine, in writing, that on and from a specified day subsection (1) of this section does not apply in relation to an employee and an injury.
- (3) Comcare must notify the employee of the determination within 7 days of the determination being made.
- (4) A determination under subsection (2) is not a legislative instrument.
-

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

21 After paragraph 144A(1)(a)

Insert:

- (ab) eligible to be provided with treatment under section 7 of the *Treatment Benefits (Special Access) Act 2019* as a result of a claim to establish eligibility having been determined under that Act; or

Social Security Act 1991

22 At the end of point 1066A-D2

Add:

- ; or (d) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

23 Subparagraph 1066A-D3(b)(iii)

Omit “; and”, substitute “; or”.

24 At the end of paragraph 1066A-D3(b)

Add:

- (iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and

25 At the end of point 1066B-D2

Add:

- ; or (d) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

26 Subparagraph 1066B-D3(b)(iii)

Omit “; and”, substitute “; or”.

27 At the end of paragraph 1066B-D3(b)

Add:

- (iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and
-

28 Subparagraph 1067G-C2(b)(iii)

Omit “; and”, substitute “; or”.

29 At the end of paragraph 1067G-C2(b)

Add:

- (iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and

30 Subparagraph 1067L-C2(b)(iii)

Omit “; and”, substitute “; or”.

31 At the end of paragraph 1067L-C2(b)

Add:

- (iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and

32 At the end of point 1068-D4

Add:

- ; or (d) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

33 Subparagraph 1068-D5(b)(iii)

Omit “; and”, substitute “; or”.

34 At the end of paragraph 1068-D5(b)

Add:

- (iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and

35 At the end of point 1068A-C2

Add:

- ; or (d) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

36 At the end of point 1068B-E2

Add:

; or (d) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*.

37 Subparagraph 1068B-E3(b)(iii)

Omit “; and”, substitute “; or”.

38 At the end of paragraph 1068B-E3(b)

Add:

(iv) pharmaceutical supplement under Part 4 of the *Treatment Benefits (Special Access) Act 2019*; and

Veterans’ Entitlements Act 1986

39 At the end of subsection 203(2)

Add:

; (e) the *Treatment Benefits (Special Access) Act 2019*.

[*Minister’s second reading speech made in—
House of Representatives on 14 February 2019
Senate on 2 April 2019*]

(15/19)
