



Veterans' Entitlements Amendment (Income Support Measures) Bill 2010

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Veterans' Entitlements Amendment (Income Support Measures) Bill 2010

Date introduced: 10 March 2010

House: House of Representatives

Portfolio: Veterans' Affairs

Commencement: Sections 1 to 3, Items 1 to 28 and Items 34 and 35 on the date of Royal Assent. Items 29 to 33 and Item 36 on the day after date of Royal Assent.

Links: The [links](#) to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bills page, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The majority of provisions in the Bill align the *Veterans' Entitlements Act 1986* (VEA) with like provisions in the *Social Security Act 1991* (SSA). The Bill also removes redundant provisions.

Background

Schedule 1–Amendments

Benevolent homes

The amendments in the Bill remove references to 'benevolent homes' in the VEA. The term 'benevolent homes' used to refer to institutions in which a person may be placed for a prolonged period. This could apply to an adult in a place for the mentally ill or a young person or child in a place for the care of the child. For a long time there was a disagreement between the Federal Government and the States about the provision for such persons and the payment of pensions or family assistance payments. Was it a matter for the States or a matter for the Commonwealth? The Bill removes references to the term 'benevolent homes', which was a term commonly used to describe a home (institution) into which a person in State care was placed. The term is now redundant.

Labour market programs

The Bill proposes to exempt as income under the income test payments provided for expenses incurred during part-time work as a part of a labour market program. Payments provided to an employee to cover expenses that they have no discretion over, such as amounts for a uniform, are not income for the income test. These provisions will align the

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VEA income test provisions with like provisions in the SSA, where such income is also exempt. It is not likely that many VEA income support recipients would be undertaking a labour market program. The main income support payment under the VEA is age service pension which is paid to retired aged veterans.

However, there are some income tested income support payment that are payable to a person of working age, for example, Invalidity Service Pension¹ and Income Support Supplement (ISS).² Some of these recipients may have income for work expenses for part-time work while undertaking a labour market program.

Comparable foreign pension

The provisions presented in the Bill will require a person's partner to claim any foreign pension entitlement. Currently, the recipient of an income support payment provided under the VEA is required to claim but not his/her partner. All income support pensions and payments provided by the Commonwealth are subject to an income and asset test. The rationale for those tests is that persons who have the means to support themselves should use their own resources before calling upon the public purse for financial assistance. That being the case, where a VEA payment recipient or their partner has an entitlement to a foreign pension they will, under the proposed amendments in this Bill, be compelled to claim and receive that payment. These provisions will align the VEA income test provisions with like provisions in the SSA.

Comparable foreign pension- treatment of arrears payments

Where a person claims a foreign pension, it may take some time for the overseas paying agency to determine entitlement, the rate payable and to deliver the payment. Often when payments eventually commence, there is also an amount for arrears owed. Under the current pensions' income test, lump-sum payments are treated as income in the year of receipt. This is because the rate of pension paid is an annual rate based on the assessed level of annual income. This annual rate is then reduced to a fortnightly rate to provide fortnightly payments.

The amendments to the VEA presented in the Bill are to apportion any lump-sum arrears of foreign pension received over the period for which it has been paid, rather than as a lump-sum amount in the year of receipt. This will align the VEA income test provisions with like provisions in the SSA.

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1. Invalidity Service Pension is payable to a veteran of working age who is unable to work for at least 8 hours a week.
 2. Income Support Supplement is the lower rate of income support that is payable to War Widow/er Pension recipient whose income/assets are below the pensions income/assets test limits.

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For most persons receiving a small lump-sum amount apportioned over a period of less than a year there will not be much of a change to their payments. It will depend on their level of other income and their rate will only be affected if their total income exceeds the income test free areas.³

For those overpaid, there will be the creation of a debt and recovery action, but this applies under the current arrangements. Those who will be more adversely affected will be those who receive a large lump-sum amount for a period covering more than 12 months. This will result in a debt for a period that would not have normally arisen; that is for a period of more than a year prior to the receipt of the arrears. A debt will be created for the past period the lump-sum represents and a debt raised and recovered.

Disregarded superannuation asset

Generally, where a person has monies or valuable consideration in an investment, a property or a business, the value of the investment can be regarded as an asset under the assets test and any income realised is counted under the income test in calculation the rate of pension payable. However, in some circumstances the value of the investment can be disregarded.

The Bill presents amendments to the provisions in the VEA for the disregard of an asset. The proposed amendments to the VEA will align it with like provisions in the SSA. The Minister will be empowered to disregard a particular asset under the assets test. This might commonly occur where it is considered the person is unable to access their value in the assets, for example, where the asset has gone bankrupt for asset test purposes.

Deprivation refers to where a person gives away or disposes of an asset without adequate return or value and the asset value then continues to be maintained as an asset value for five years. This power, for the Minister to disregard an asset, will not impact on any pre-existing application of the deprivation provisions that may have been applied in a case.

Main provisions

The Bill contains only one schedule. All proposed amendments are to the VEA.

Items 1, 4 and 28 remove references to 'benevolent homes' from the VEA. **Item 27** is a consequential amendment to a heading arising from those changes.

Items 5, 9, 13, 17 and 23 contains amendments which will empower the Secretary to issue a notice to a person claiming certain VEA payments requiring their partner to claim a

3. From September 2009 to March 2010, the single rate pension income test free area is \$3,702.15 per year or \$142.00 per fortnight (pf). For a partnered couple the free area is \$6,465.70 per year or \$248.00pf.

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foreign pension where the Secretary considers they may have an entitlement to a foreign pension.

Item 29 inserts a new section 204 which refers to an arrears payment of a foreign pension which has been received is to be regarded as income over the period of periodic payments it has been paid for. Any excess payment of income support under the VEA in that arrears period is then a debt.

Concluding comments

The amendments to the VEA presented in this Bill are generally beneficial. Much of the provisions are to align the VEA with like provisions in the SSA. This alignment is sustained to ensure consistency in treatment of like means tested income support payments between the two acts. The main example of this is the age pension in the SSA with the service pension in the VEA, which have the same income and asset testing provisions. There a few minor exemptions to the like treatment of income and assets.

The only 'losers' might be those very few income support recipients who receive a lump-sum arrears of foreign pension that exceeds 12 months in periodic payments, who may now have a larger debt than under the current provisions. The numbers will be very small and it could be argued that to recover any excess amount of Australian income support payment over the whole of any arrears period of foreign pension paid is appropriate.

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