

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Veterans'
Affairs, the Honourable Ben Humphreys M.P.)



VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL 1991

OUTLINE AND FINANCIAL IMPACT STATEMENT

This Bill introduces a significant change to Veterans' Affairs legislation by removing a longstanding area of discrimination relating to the payment of benefits to dependants of eligible female service and ex-servicewomen. The Bill also contains a number of minor changes to improve administration of benefits for veterans and dependants under Veterans' Affairs legislation and to maintain consistency with the Social Security Act 1991 in the administration of the income and assets tests provisions applicable to the payment of service pensions.

The most important change relates to the Government's decision announced on 22 January 1991 to extend benefits to dependants of eligible female veterans on the same basis as applies to dependants of male veterans. This legislation will benefit dependants of servicewomen who served in the Persian Gulf as well as dependants of female veterans from earlier conflicts. The decision extends to the provision of Defence Service Homes loan and insurance benefits to dependants of female veterans

These changes are consistent with the Government's moves to eliminate discrimination and corrects the situation in which the dependants of entitled servicewomen of previous wars and conflicts did not have access to the same benefits that applied to dependants of servicemen. To give effect to these changes, amendments are proposed to the Veterans' Entitlements Act 1986, the Defence Service Homes Act 1918 and the Social Security Act 1991.

The minor changes in the Bill relate to:

- . the repeal of obsolete provisions in the Veterans' Entitlements (Transitional Provisions and Consequential Amendments) Act 1986 for treatment and funeral benefits for Boer War veterans;
- . the payment of pharmaceutical allowance to orphans not in receipt of orphan's pension;
- . the indexation of pharmaceutical allowance;
- . amendment of the Repatriation Commission's review powers in subsections 31(7) and 31(8) to allow determining authorities on review to set effective dates for the operation of decisions to commence from a date earlier than the date the decision is made;

- . the removal of an anomaly in section 74 of the Veterans' Entitlements Act 1986, relating to adjustment of pension in respect of lump sum payments under the Commonwealth Employees Rehabilitation and Compensation Act 1988;

- . amendment to the definition of "disease" to ensure that conditions, which are not considered as being a disease in medical terms, are not included in the definition;

- . indexation of the maintenance free area; and

- . the following minor changes to provisions governing the administration of service pensions:
 - . providing better descriptions of the meaning of residency status;
 - . the exclusion of fees paid to jurors and non-expert witnesses from the definition of "income";
 - . clarification of the definition of "income" to remove uncertainty about the circumstances and type of business expenses which may be allowable deductions for the purposes of deciding a person's income;
 - . disregarding as income and assets the value of funeral bonds; and

- . aligning indexation provisions with those of the Social Security Act 1991, in relation to the assets value limits.

Financial Impact

All of the above items have no or minimal financial impact with the exception of the extension of benefits to the dependants of female veterans and the indexation of the pharmaceutical allowance.

The additional program cost for extending benefits to dependants of female veterans, after adjustments have been made for offset savings in Social Security age pensions and health insurance costs from the Department of Community Services and Health, is \$1.601m in 1991/92, \$1.847m in 1992/93, \$2.094m in 1993/94 and \$2.339m in 1994/95.

The cost for indexation of pharmaceutical allowance is \$1.127m in 1991/92, \$2.524m in 1992/3, \$3.821m in 1993/94 and \$5.079m in 1994/95.

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL 1991**PART 1 - PRELIMINARY**Clause 1 : Short title

This clause would provide that the amending Act is to be known as the Veterans' Affairs Legislation Amendment Act 1991.

Clause 2 : Commencement

This clause would provide that Part 1 and Part 3, which cover the preliminary part of the Bill and the transitional and savings provisions for the extension of benefits to the spouses of eligible female veterans, are to commence on 1 July 1991. This clause would also provide that section 3, which relates to the amendments to the Veterans' Entitlements Act for the period 22 January 1991 to and including 30 June 1991 in relation to the extension of benefits to the dependants of female veterans, is to commence on 22 January 1991. The selection of this retrospective date of effect will enable benefits to be backdated to the date of the announcement of the Government's decision to eliminate this area of discrimination from the Act.

Clause 4 would amend various Acts to take account of the extension of benefits to dependants of female veterans and the changes in terminology necessary following the plain English rewrite of Part III of the Veterans' Entitlements Act. The amendments to the Social Security Act 1991 would commence on 1 July 1991, immediately after the commencement of the Social Security (Job Search and Newstart) Amendment Act 1991 and the Social Security (Rewrite) Amendment Act 1991. The amendments to the other Acts would commence on 1 July 1991, immediately after the commencement of section 19 of the Veterans' Entitlements (Rewrite) Transition Act 1991.

The amendments specified in clause 5 would commence on the date on which the Act receives Royal Assent with the exception that Part 2 of Schedule 3 would commence from 1 July 1991, Part 3 of the Schedule would commence from 12 June 1991 and Part 4 of the Schedule would commence from 20 March 1991. The explanation for the selection of these dates is provided in the relevant parts in this explanatory memorandum.

PART 2 - AMENDMENTS OF ACTS

Clause 3 : Modifications and amendments of the Veterans' Entitlements Act 1986 (commencing on 22 January 1991)

Clause 3 would provide that, for the purposes of the interim changes necessary to give effect to the extension of benefits to the dependants of female veterans for the period 22 January 1991 to and including 30 June 1991, the Veterans' Entitlements Act 1986 would be read as if it had been modified as set out in Part 1 of Schedule 1 of this Bill. This clause would also provide for the amendment of the Veterans' Entitlements Act as set in Part 2 of Schedule 1.

Clause 4 : Amendments of Acts (commencing on 1 July 1991)
and Clause 5 : Other amendments of Acts

These two clauses would provide for the amendments of the Acts as set out in the relevant Schedule to which they refer.

PART 3 - TRANSITIONAL AND SAVINGS ETC

Clause 6 : Principal Act

This clause would provide that, in this Part, the "Principal Act" means the Veterans' Entitlements Act 1986.

Clause 7 : Certain claims may be made after re-marriage or marriage - pensions under Part II of the Principal Act

Clause 7 is a transitional provision which would allow the requirements set out in subsection 13(8) of the Principal Act to be waived in relation to claims by male dependants of deceased female veterans during the period 22 January 1991 to and including 30 September 1991.

Clause 8 : Date of operation of grant of pensions under Parts II and IV of the Principal Act

This clause is a further transitional provision which would provide, in respect of claims lodged after 21 January 1991 and before 1 October 1991, that the Commission may approve payment of the claim, if successful, from a date not earlier than 22 January 1991. This clause would, therefore, provide for backdating of claims to a date earlier than three months prior to the date of lodgement of the claim but would not allow the claim to be granted from a date earlier than the date on which eligibility for pension arose under the Principal Act.

Clause 9 : Date of operation of grant of spouse's service pension etc.

Clause 9 is a transitional provision which would provide for written claims lodged within the period 22 January 1991 to and including 30 June 1991 to be regarded as being proper claims, notwithstanding the provisions of section 46 of the Principal Act. This clause would also

provide, in respect of successful claims, that pension may be backdated to a date not earlier than 22 January 1991. Subclause 9(2) would make the same provisions in respect of such claims lodged in the period from 1 July 1991 to and including 30 September 1991.

Clause 10 : Certain claims may be made after re-marriage or marriage - pensions under Part IV of the Principal Act

This clause would operate in the same way as clause 8 in respect of pensions for dependants of female members and veterans of the Defence and Peacekeeping Forces as set out in Part IV of the Principal Act.

Clause 11 : Certain expressions are taken to have particular meaning on and after 22 January 1991

This is a transitional clause which would ensure that in the "interim period", defined as meaning the period 22 January 1991 to and including 30 June 1991, provisions in any Act in force after 22 January 1991 which refer to "wife's service pension", would be taken to be referring to a "spouse's service pension" and that other references to dependants of male veterans such as "wife" or "widow" would be taken to include a reference to the "husband" or "widower" of a deceased veteran.

Clause 12 : Application

This clause would provide that amendments to section 118JA of the Principal Act, made by Part 4 of Schedule 3, would apply to payments under that Act that fall due on or after 20 March 1991. Those amendments provide for the payment of pharmaceutical allowance for student children over the age of sixteen years from the same date that this allowance commenced for all other eligible recipients. This group was inadvertently excluded from entitlement in the 1990 Budget amendments to the Veterans' Entitlements Act.

SCHEDULE 1

MODIFICATIONS AND AMENDMENTS OF VETERANS' ENTITLEMENTS

ACT 1986 (COMMENCING ON 22 JANUARY 1991)

PART 1

Modifications of Veterans' Entitlements Act 1986

This Schedule would provide, in accordance with clause 3, for the Act to be read as though it had been modified as set out in the Schedule for the period 22 January 1991 to and including 30 June 1991. The changes made by Schedule 1 all relate to the need to substitute certain terms, such as "wife" with "spouse". This would ensure that

the provisions of the Act which confer eligibility and set out the conditions for payment of pensions to dependants of veterans will apply equally during that period to dependants of female veterans.

PART 2

Amendments of Veterans' Entitlements Act 1986

Part 2 of Schedule 1 would make a number of changes to the Act so that references to "widow" are amended to also include "widower" as appropriate. The Schedule would also insert new subsections 13(8B) and 70(11A), both of which would provide that the Commonwealth is not liable to pay pension to a male dependant of a deceased veteran who re-married or married before 22 January 1991.

SCHEDULE 2

AMENDMENT OF ACTS (COMMENCING ON 1 JULY 1991)

PART 1

Social Security Act 1991

These changes refer to consequential changes to the Social Security Act 1991. These all relate to the need

to maintain consistency between Social Security and Veterans' Affairs legislation in the new terminology required to describe both male and female dependants for whom benefits will now be made available under the same eligibility provisions that apply to dependants of male veterans. For example, the amendments would insert a definition of "widower" in the Social Security Act and substitute terms such as "spouse" for "wife".

PART 2

Veterans' Entitlements Act 1986

The amendments set out in this part of Schedule 2 are in accordance with the provisions in clause 4, which provides that the Acts specified, in this case the Veterans' Entitlements Act 1986, would be amended from 1 July 1991 in the manner specified in the Schedule. The changes to the Veterans' Entitlements Act 1986 in this part of Schedule 2 relate entirely to the changes required to definitions and terminology used to describe pension entitlement to ensure that dependants of female veterans are included as appropriate.

For example, a new definition of "non-illness separated spouse" is to be inserted in subsection 5E(1) to take account of the fact that this category of pension would include, from 1 July 1991, males as well as females. The reference to "spouse" is thus a reference to a "person"

Similarly, a definition of "war widower" would be inserted in subsection 5E(1) of the Principal Act to take account of the fact that, after 1 July 1991, widowers as well as widows will be entitled to claim for pension in respect of the death of a veteran partner.

The majority of the references in this part of Schedule 2, therefore, relate to the need to omit terms such as "wife", "widow" and "wife service pension" and substitute "partner", "widow or widower" and "partner service pension" as appropriate.

Veterans' Entitlements (Rewrite) Transition Act 1991

The amendments in this section of Schedule 2 relate to changes in terminology only.

SCHEDULE 3

OTHER AMENDMENTS OF ACTS

PART 1

Defence Service Homes Act 1918

These amendments to the Defence Service Homes Act would remove all aspects of sex discrimination remaining in the Act by extending benefits to the dependants of eligible

female veterans on the same basis as currently applies to dependants of eligible male veterans.

To implement this, three areas of entitlement would require amendment:

- who is an "eligible person" (s.4);
- entitlement to widows' advances (s.20); and
- entitlement to instalment relief (s.23).

An eligible person for the purposes of the Defence Service Homes Act currently includes the "female dependant" of an "eligible person" (both defined in subsection 4(1)). To extend benefits to male counterparts of a "female dependant", the definition of "female dependant" would be omitted. Existing paragraph (a) of the definition would be replaced by use of the terms "widow" or "widower". Paragraph (b) would be replaced by the concept of "dependent parent" which would be defined in subsection 4(1).

Section 20 of the Act sets out the criteria for the issue of a certificate of entitlement in respect of a widow's advance. Paragraph 20(1)(a) currently provides, in part, that to be eligible for a certificate of entitlement for a widow's advance the person must be the widow, or widowed mother, of an eligible person, or the wife of an eligible person who is insane.

Section 23 provides the eligibility criteria for the issue of certificates of entitlement for instalment relief in cases where financial hardship is involved. Paragraph 23(1)(a) currently provides that instalment relief is available to the widow or widowed mother of an eligible person, or the wife of an eligible person who is insane.

The amendments proposed would replace paragraphs 20(1)(a) and 23(1)(a) to extend entitlement to the male counterparts of those currently eligible. The title of widow's advance would be replaced by "widow or widower advance".

Minor consequential amendments are proposed to substitute references to terms which have been replaced.

An amendment is also proposed to the definition of "agreement" in subsection 4(1). As currently defined, "agreement" refers to the agreement of 1988 and the supplementary agreement of 1990 which are Schedules 1 and 1A to the Act. Clause 25 of the agreement and clause 11 of the supplementary agreement provide for variations to the respective agreements. This amendment would ensure that any variation to either agreement is recognised for the purposes of the Act.

Veterans' Entitlements Act 1986Before paragraph 31(7)(a) - insert new paragraph (aa)

The insertion of this new paragraph would provide the Commission with greater flexibility in setting the date from which a decision under subsection 31(6) of the Veterans' Entitlements Act is to take effect.

Subsection 31(8)

The amendment to this subsection would provide that increases in pension arising as a result of a decision in accordance with the subsection, could be expressed to operate from a date which is more than three months before the date on which the decision is made.

After subsection 74(3) - insert new subsection 74(3A)

Rates of pension payable to members of the Defence Force or Peacekeeping Forces and to their dependants, may be reduced in specified circumstances where the member, or dependant, is also in receipt of compensation payments.

Section 74 of the Principal Act details the way in which such payments are to be treated. Specifically, subsection 74(3) provides that, where a lump sum compensation payment is made, the person is deemed to have been in receipt of compensation for life, as

determined in accordance with the Commonwealth Actuary's instructions, from the earlier of:

- . the commencement date of pension; or
- . the date the lump sum is paid.

Section 137 of the Commonwealth Employee's Rehabilitation and Compensation Act 1988 enables a former employee who is being paid compensation in weekly payments (of less than \$58.05) to commute these payments to a lump sum.

Section 74 of the Principal Act does not take these redemptive provisions into account. A strict interpretation of subsection 74(3) would require retrospective adjustment of the pension from the date pension was first paid, even if the pension had been previously adjusted for regular compensation payments received.

This amendment would insert a new subsection 74(3A) into the Principal Act to ensure that persons electing to commute their compensation from regular payments to a lump sum are not disadvantaged. A consequential amendment would be made to subsection 74(3).

**Veterans' Entitlements (Transitional Provisions and
Consequential Amendments) Act 1986**

Section 12 - repeal the section

This amendment would repeal section 12 relating to Boer War veterans. The section is now obsolete as there are no surviving Boer War veterans or dependants.

PART 2

Veterans' Entitlements Act 1986

Section 5 (Index of definitions)

This amendment would provide for the insertion of four new definitions into the index of definitions in section 5. This would be consequential on amendments made elsewhere in this Bill.

New subsection 5D(1) (definition of "disease")

This amendment would omit the current definition of "disease" and insert a new definition. This amendment is in response to the Administrative Appeals Tribunal decision in FOWLER. The amended definition is intended to prevent conditions which are not medically defined as a disease being regarded as such for the purposes of the

Act. The amendment would ensure that temporary departures from the normal physiological state or a temporary departure from the accepted ranges of physiological or biological measurements that result from stress or the temporary affect of extraneous agents would not be included in the definition of "disease". This would mean, for example, that the temporary affect of exercise on blood pressure or, to take a more extreme example, the temporary affect of alcohol on sensory faculties, are clearly seen as conditions which do not come within the definition of "disease". The definition would continue to exclude from the definition aggravation of a physical or mental ailment, disorder, defect or morbid condition.

After subsection 5G(1) - insert new subsection 5G(1A)

Section 5G provides the meaning of Australian residency relevant to claims for service pension. New subsection 5G(1A) would include in the Principal Act a list of factors decision makers would be required to consider when determining residency status. This would formalise existing practice.

The factors include:

- . the nature of accommodation in Australia;
- . the nature and extent of family relationships in Australia;

- . the nature and extent of employment, business or financial ties with Australia; and
- . any other matter relevant to determining intention to remain permanently in Australia.

Subsection 5H(8) - add new paragraphs (zh), (zi) and (zj)

Subsection 5H(8) provides a list of payments and amounts which are excluded from "income" for the purposes of the ordinary income test.

New paragraphs 5H(8)(zh) and (zi) would provide that remuneration of jury fees and allowances paid to non-expert witnesses at proceedings before a court, tribunal or commission are disregarded for the purposes of the ordinary income test.

New paragraph 5H(8)(zj) would provide that, in spite of Subdivisions 8B and 8C of Part III, any return on an exempt funeral investment (whenever made) is to be disregarded for the purposes of the ordinary income test.

Subsection 5Q(1) - new definitions

Four new definitions would be inserted into subsection 5Q(1). Subsection 5Q(1) provides a wide range of general definitions that are used throughout the Act. The new definitions are "exempt funeral investment", "type A funeral investment", "type B funeral investment" and "tax year".

The funeral investment definitions are relevant for the purposes of amendments proposed elsewhere in the Bill to ensure that amounts invested in an "exempt funeral investment" and any return on such an investment are excluded from the ordinary income test and the assets test.

"**exempt funeral investment**" would mean:

- . a type A funeral investment of not more than \$5,000 (not including any return on the investment) where that investment does not relate to a funeral to which a type B or another type A funeral investment relates, or to a funeral for which expenses have been paid in advance; or
- . a type B funeral investment of not more than \$5,000 (not including any return on the investment) where that investment does not relate to a type A or another type B funeral investment, or a funeral for which expenses have been paid in advance.

A "**type A funeral investment**" would mean an investment that matures on the death of the investor or an investment which matures on the death of the investor's partner, subject to certain additional criteria. These are that the investment must be one that cannot be realised before maturity, the return on which is not

payable before maturity and where the amount paid on maturity is to be applied to the expenses of the funeral of the person on whose death it matures.

A "**type B funeral investment**" would mean an investment made by a person who is a member of a couple, or made by both members of the couple, where the investment matures on the death of whichever member of the couple dies first or whichever member of the couple dies last. A "type B funeral investment" is subject to the same additional criteria as are specified for a "type A funeral investment".

The definition of "**tax year**" would have the same meaning as the term "year of income" in the Income Tax Assessment Act. A note explains the meaning of "year of income" in that Act. This amendment is consequential on proposed new subsections 45A-45D.

Section 13

This amendment would insert "by way of compensation" in the appropriate places in this section. This amendment and a similar amendment to the eligibility for pension provisions in section 70, would make it clear that pensions payable to the dependants of deceased veterans are payments in the way of compensation in respect of the death of a veteran in the circumstances described in those sections.

Before Division 8 of Part III - insert new Division 8AA -
Ordinary income test - ordinary income concept

A new Division 8AA is to be inserted before Division 8 of Part III of the Act. This Division would deal with the concept of ordinary income for income assessment purposes. It would make it clear that ordinary income for service pension purposes generally means gross income but that certain expenses incurred in deriving income from a business, including adjustments for decreases in the value of stock on hand, can be allowed as ordinary income deductions but only from ordinary income derived from the business concerned and not from any other sources.

New section 45A would provide that, subject to certain exceptions, ordinary income is generally total gross ordinary income from all sources.

New subsection 45A(1) would provide that the ordinary income of a person is to be worked out by totalling the person's ordinary income from all sources. A note signposts the definition of "ordinary income".

New subsection 45A(2) would provide that a person's ordinary income includes amounts for trading stock adjustments (see new section 45B), investment income (Division 8, Part III), deemed income from money held or invested at low interest (Division 8A, Part III), deemed

income from money on loan (Division 8B Part III) and deemed income attributed to deprived assets (Division 8C, Part III).

New subsection 45A(3) would specify that a person's ordinary income is usually the person's gross ordinary income without any reduction. Exceptions to this general rule would arise where:

- . deductions are allowable for trading stock adjustments under new subsection 45B(2); or
- . business deductions are allowable under new section 45C; or
- . investment income deductions are allowable under new section 45D.

New section 45B would cover the treatment of changes in the value of trading stock of a business during a tax year for the purpose of working out a person's ordinary income. If the value of the trading stock of a person's business on hand at the end of the tax year is different from the value of stock on hand at the start of that year, the person's ordinary income in the form of profits from the business for that year must include the difference in those values.

New section 45C would provide that the ordinary income derived from a business by a person can usually be reduced by certain expenses of that business that are

allowable deductions under the Income Tax Assessment Act 1936. However, where:

- . a person is deemed to receive ordinary income or additional ordinary income from money because of Division 8A of Part III; or
- . a person is deemed to receive ordinary income or additional ordinary income from a loan because of Division 8B of Part III;

no expenses are to be allowed to reduce the person's deemed income.

New section 45D would provide that, where a person is taken to receive a return on an investment because of Division 8 of Part III, then only those reasonable investment expenses covered by sections 46G or 46R are to be allowable deductions from a person's ordinary income.

Amendments are also to be made to the headings of Divisions 8A-8C of Part III to ensure consistency.

Subsection 52(1) - insert new paragraph 52(1)(ia)

Subsection 52(1) sets out assets, the value of which are disregarded for all the purposes of the assets test, other than for the purposes of the disposal of assets provisions in sections 52G and 52H.

Paragraph 52(1)(j) currently provides an assets test exemption for certain prepaid funeral expenses.

Generally, this involves the person entering into a contract with a funeral director where he or she pays over money and the funeral director agrees to provide a service. However, many investment companies now offer "funeral bonds". These allow the investor to set aside money for the payment of funeral expenses without necessarily committing themselves to a particular funeral director.

Generally, the income accruing to such bonds is not liberated but is added to the value of the bond. Accordingly, the value of the bond will increase over time. Although no income can be assessed on receipt where no interest is liberated, such investments are either accruing return investments or market-linked investments. As such, a rate of income can be deemed to be received from them. This is currently counted as income for the purposes of the ordinary income test.

It is proposed that, in future, funeral bonds should be exempt in terms of both the income and assets tests, provided the bond has a contribution limit of \$5,000 or less per funeral and cannot be redeemed prior to maturity on the death of the investor or the investor's spouse.

However, a person would only be able to claim either an exemption for funeral bonds or the existing exemption for prepaid expenses. Type A or type B funeral investments which are not "exempt funeral investments" (eg.

contribution is greater than \$5,000) are not to be exempt as "prepaid" expenses.

This amendment would amend the Act by inserting new paragraph 52(1)(ja). This paragraph would provide that the amount invested in an exempt funeral investment (whenever made) or the amount of any return on an exempt funeral investment (whenever made) would be disregarded in calculating the value of a person's property for the purposes of the assets test.

Section 59A (Indexed and Adjusted Amounts Table) - insert
new item

Section 59A contains a table which sets out all amounts in Part III of the Act which are to be indexed or adjusted.

The rent assistance free area is the amount of disability pension a person or a person's partner may receive before affecting his or her rate of rent assistance. "Rent assistance free areas" are set out in the Rate Calculators in Division 7 of the Act. These amounts are currently adjusted, however, this amendment would insert a new item 7AA into the Table. The need to do this in the Veterans' Entitlements (Rewrite) Transition Bill 1991 was overlooked.

The maintenance income test applicable to service pensions allows for a person to receive a certain amount of maintenance income without that amount affecting their pension rate. The amount of maintenance income a person is able to receive before their pension rate is affected varies according to the circumstances of the recipient. This amount is referred to as the "maintenance income free area".

"Maintenance income free areas" are set out in the Rate Calculators in Division 7 of Part III of the Act. Currently these amounts are not indexed.

This amendment would insert a new item 7A into the table in section 59A to include the maintenance income free areas as amounts to be indexed. An amendment to the table in subsection 59B(1) would provide details of the indexation.

Subsection 59B(1) (CPI Indexation Table)

Subsection 59B(1) contains a table with all amounts that are to be indexed in accordance with CPI movements. Details are given on the indexation day, the reference quarter and the base quarter for the amount and the manner of rounding to be adopted.

This amendment would insert a new item 4A into the table to provide for the annual indexation of the maintenance income free area. The amounts would be indexed on 1 July, with a reference quarter of December and rounded to the nearest \$2.60.

The amendment would also adjust the indexation date in column 3 of items 6, 7, 8, 9 and 10. These items are for indexation of assets value limits applicable to the assets test and for determining eligibility for fringe benefits. The indexation date would be amended from 13 June to 1 July which aligns these indexation dates with the current indexation date for the ordinary income free area.

Consequential amendments would also be made to sections 59H, 59J and 59K.

New section 59GA - Adjustment of rent free area

This new section would provide for the automatic adjustment of the two rent free area amounts on 1 July each year with reference to the relevant pension free area.

Paragraph 118JA(a)- omit and substitute new paragraph
118JA(a)

This amendment is consequential on the amendment in Part 4 of this Schedule. It would amend the provision as a consequence of the plain English rewrite of Part III of the Veterans' Entitlements Act.

Subsection 118JB(1) - omit and substitute new subsection
118JB(1)

Section 118JB provides for the rate of pharmaceutical allowance payable in specified circumstances. Currently the rate is set at \$5.00 per fortnight (subsection 118JB(1)) or \$2.50 per fortnight (subsection 118JB(2)).

It is proposed to index the pharmaceutical allowance from September 1991. (See proposed new section 198E.) To ensure that after indexation the higher rate will always remain as twice the lower rate, existing subsection 118JB(1) would be replaced with new subsection 118JB(1) which would specify this relationship.

After section 198D - insert new section 198E -

Indexation of pharmaceutical allowance

Part VIIA of the Act provides, in part, for the payment of pharmaceutical allowance. The allowance is payable at one of two rates, currently either \$5.00 per fortnight (subsection 118JB(1)) or \$2.50 per fortnight (subsection 118JB(2)) depending on individual circumstances.

This amendment would insert a new section 198E into the Act which would provide that, from September 1991, the rate of pharmaceutical allowance specified in subsection 118JB(2) would be indexed annually based on the Consumer Price Index for the twelve months ending in March each year.

A related amendment would be made to subsection 118JB(1) to specify that the higher rate of allowance would be calculated to be twice the lower rate of the allowance specified in subsection 118JB(2). This amendment is necessary to ensure that, after indexation, the higher rate remains at twice the lower rate. If both rates were to be independently indexed, rounding of each amount independently may not achieve this result.

PART 3**Veterans' Entitlements Act 1986**Subsection 198(1) - amend definition of "relevant year"

Section 198 provides for the indexation of rates of certain pensions and amounts of assets value limits. These assets value limits are defined as "relevant amount" and currently indexed annually on 12 June. This amendment would change the indexation date from 12 June to 1 July, commencing in 1991.

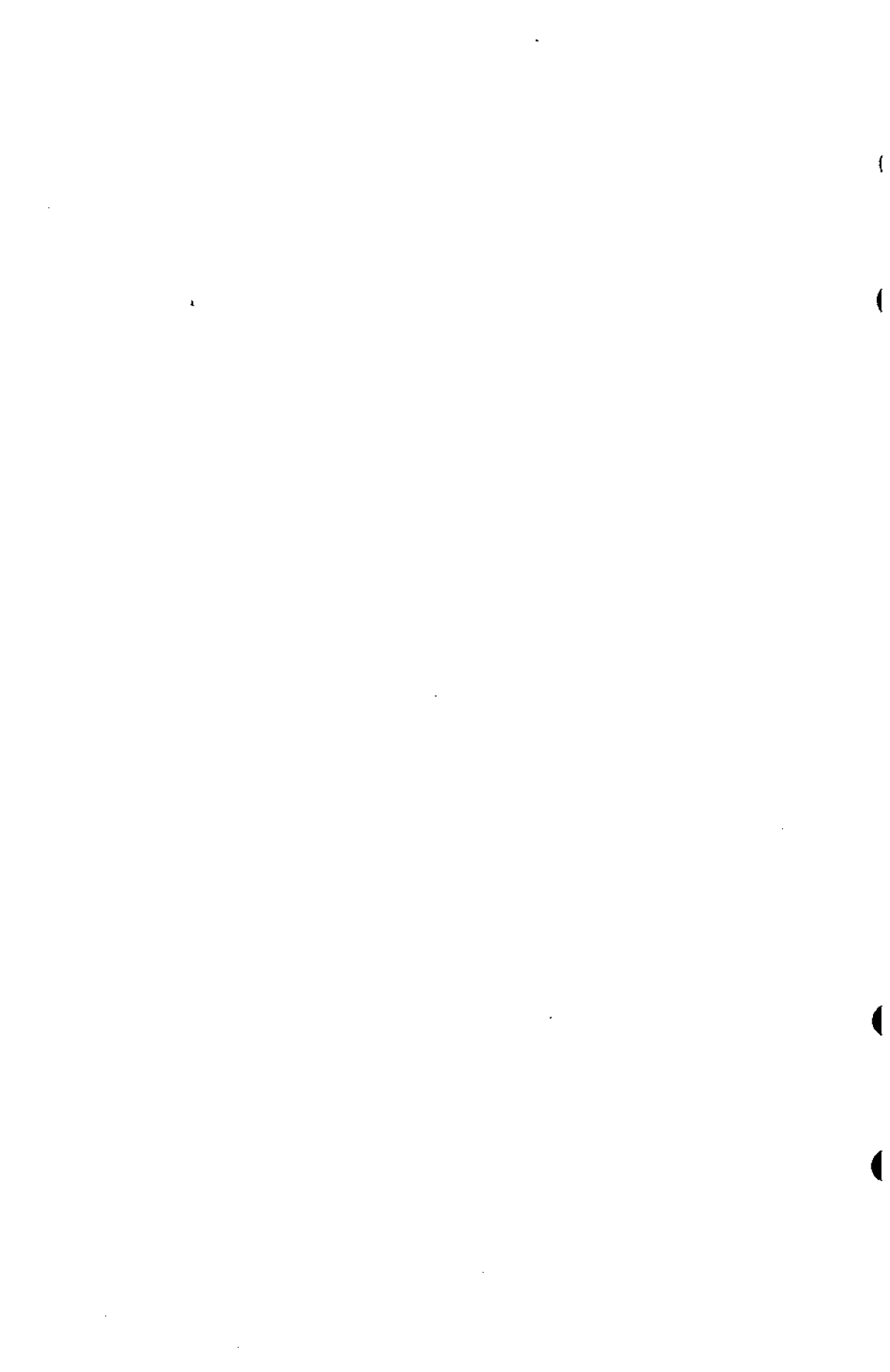
PART 4**Veterans' Entitlements Act 1986**Section 118JA - repeal and substitute new section 118JA -
Qualification for pharmaceutical allowance

Section 118JA provides, subject to sections 118K and 118L, the eligibility criteria for payment of pharmaceutical allowance. It provides, in part, that the allowance is payable to a person who is in receipt of a pension the rate of which is specified under subsection 30(1) or 30(2).

The rate of pension specified under subsection 30(2) provides for pension to certain dependent children of deceased veterans. Subsection 13(7) of the Act, however,

precludes payment of this pension to a student over the age of sixteen years who is in receipt of a specified educational allowance. These students currently are not eligible for pharmaceutical allowance.

New section 118JA would ensure that pharmaceutical allowance is payable to this category of person. The new section would be taken to have commenced on 20 March 1991, this being the date on which pharmaceutical allowance was first payable.



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