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No. 177 2001–02

Veterans' Affairs Legislation Amendment (2002
Budget Measures) Bill 2002

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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Veterans' Affairs Legislation Amendment (2002 Budget
Measures) Bill 2002

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26 June 2002

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Veterans' Affairs Legislation Amendment (2002 Budget Measures) Bill 2002

Date Introduced: 20 June 2002

House: Representatives

Portfolio: Veterans' Affairs

Commencement: **Items 3 to 5 in Schedule 1** are proposed to commence from 20 September 2002. All other **Items** and **Schedules** in this Bill are proposed to commence from the date the Bill receives Royal Assent.

Purpose

To provide legislative support for the 'unfreezing' of the rate of Income Support Supplement (ISS), which is paid to recipients of War Widows/ers' Pension (WWP). Income Support Supplement is paid as income support and can be paid in addition to WWP, albeit at a lower rate than other income support pensions, recognising that WWP is also paid.

It is proposed to increase the rate of ISS twice yearly (20 March and 20 September) being the same times the twice yearly indexation of the other main income support pensions occur. These pensions are the civilian age pension, veterans' service pension, parenting payment - sole parent, carer payment etc. The indexation factor proposed to be applied to the rate of ISS, is the same proportional increase as is applied in the corresponding six monthly indexation to the rate of service pension. These pensions are indexed twice yearly (20 March and 20 September) to both the Consumer Price Index (CPI) and to 25% of Male Total Average Weekly Earnings (MTAWE), the factor realising the greater increase being used.

Background

Schedule 1 – amendments relating to the indexation of ISS

War Widows/ers Pension (WWP) and Income Support Supplement (ISS)

WWP is paid to compensate widowed partners and dependants of veterans who have died as a result of war service or eligible defence service. As at June 2002, the fortnightly rate of WWP is \$446.80. WWP, being compensation, is neither income nor asset tested.

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Recognising that some WWP recipients may also require income support, ISS may be paid in addition to WWP, with a maximum fortnightly rate as at June 2002 of \$124.90.

Many WWP recipients may not otherwise need income support, having their own other means of support, eg. income from employment or income from a partner. However, some WWP recipients may not have any other source of significant income and ISS is paid to assist them with income support. ISS, like the other income support payments, is income and asset tested but paid at a lower rate, recognising that WWP is also paid.

Ceiling rate income support payments for WWP recipients introduced in 1986

From 1 November 1986, the rate of any income support payment, paid in addition to a WWP, was frozen at \$120.10 per fortnight.¹ Prior to this, WWP recipients could also access a full-rate income support payment, subject to the income and assets tests. Pre-existing WWP recipients receiving a higher rate of income support payment, in addition to their WWP, were saved and continued to receive that rate. However, any new grants of income support payment paid in addition to a WWP on or after 1 November 1986, were restricted to the ceiling 'frozen' rate.

This decision was announced in the 1986-87 Budget.² The decision was made at a time of reviewing and rationalising welfare payments provided through the social security system, arising from the Social Security Review of the mid-1980s. In talking to the Bill³ that provided the legislation for a 'frozen' rate of income support payment, the then Minister for Social Security the Hon. Mr Brian Howe, MP said:

This Bill will also make a number of amendments to the Veterans' Entitlements Act 1986 to give effect to the Government's decisions announced in the Budget. The opportunity is also taken in this Bill to make a number of machinery amendments, the need for which has become apparent from the experience of the last four months since the Veterans' Entitlements Act came into operation. The Bill will also provide that the rate of service pension payable to a widow who is also in receipt of a war widow's pension, currently payable at \$228.20 per fortnight, will be frozen at the rate payable on 1 November 1986. Where service pension is granted to such a war widow at a later date the maximum rate of pension payable will be \$120.10 per fortnight.⁴

The measure was also made in the context of the then Government looking to limit 'unnecessary' expenditure and to rationalise welfare assistance. In speaking to the Bill, the then Minister for Veterans' Affairs, Senator the Hon Arthur Gietzelt said:

This Bill contains amendments to Social Security and Veterans' Affairs legislation to implement decisions affecting those portfolios in the 1986-87 Budget. Honourable senators will be aware that, as a result of international economic conditions, there have been significant reductions in Australia's national income. The Government believes that through the Budget and other policy changes, the problems which this creates can be faced squarely and remedial changes put in place quickly and decisively. These changes must be made so that our domestic economy and standard

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of living can be adjusted to our current circumstances. The Budget therefore incorporates very large reductions in spending, amongst other measures.⁵

In short, a lower and frozen rate of income support payment was considered appropriate, given the means test free WWP already paid, and given that income support payments, being means tested, are targeted at those in most need of support.

ISS introduced in March 1995

ISS was announced in the 1994-95 Budget⁶ and introduced in March 1995, replacing the various different 'frozen' rate income support payments previously payable to WWP recipients. Prior to the introduction of ISS, other income support payments that may otherwise be payable (at a 'frozen' ceiling rate) commonly would have been age pension, service pension, wife pension, disability support pension and carer payment.

ISS was basically a rationalisation and simplification of income support arrangements paid in addition to a WWP. Instead of a WWP recipient having to approach Social Security and seek and qualify for one of three or four different payments under the *Social Security Act 1991*, the person could claim ISS with Veterans' Affairs.

Government announces policy of removing the 'frozen' rate of ISS paid in addition to WWP

On 13 October 2001, the Government released a policy paper on veterans' assistance called *'Supporting Those Who Served'*. The paper announced that, if elected, the Government would abolish the 'frozen' ceiling rate of ISS.⁷ The policy platform stated:

The Coalition Government will reverse Labor's unfair decision and introduce twice yearly indexation of the ISS to increases in MTAWWE or the CPI, whichever is the greater.⁸

It should be noted that the current Bill does not restore ISS to the maximum or full rate otherwise applying to other income support payments. Rather, it is proposed to unfreeze the current 'frozen' ceiling rate of ISS rate and apply increases proportional to the MTAWWE or CPI indexation increases applied to other payments. Providing access to a full rate of income support would have significant cost implications. As at June 2001, there were a total of 110 656 WWP recipients of which 79 491 were also receiving some rate of ISS and of these 69 685 were receiving the maximum frozen rate of ISS.⁹

Government announces the unfreezing and indexation of the ISS rate in the 2002-03 Budget

The Government formally announced the unfreezing of the ceiling rate of ISS and its twice-yearly indexation in the 2002-03 Budget.¹⁰ It is proposed the first six monthly indexation increase is to apply from 20 September 2002 and to use the indexation increase factor applied to the single rate of service pension. Service pension, like age pension is indexed twice yearly to both the CPI and to 25% of MTAWWE, using the factor that realises the greater increase.

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Costs – Savings

This proposal is estimated to cost \$5.8m in 2002-03, \$15.7m in 2003-04, \$26.9m in 2004-05 and \$38.2m in 2005-06.¹¹

Numbers affected

As at June 2001, there were a total of 110 656 WWP recipients of which 79 491 were also receiving some rate of ISS and of these 69 685 were receiving the maximum frozen rate of ISS.¹² The Government claims this initiative will benefit some 81 000 WWP recipients.¹³

WWP - origins and purpose

The initial ex-servicemen repatriation scheme was introduced shortly after the commencement of World War One (WWI). The Government commissioned Major-General W. T. Bridges to raise 20 000 volunteers to be sent to Europe to serve with other Commonwealth forces. In the process of raising the force, Bridges advised the government on 8 August 1914:

*“that pensions should be guaranteed to enlisted men, and to their dependants in case of death, and compensation in case of disablement through wounds.”*¹⁴

First Commonwealth war widows' pension - the *War Pensions Act 1914*

A proposal for a war caused injury and loss scheme received Cabinet approval and was made public in September 1914 and subsequently the *War Pensions Act 1914* was introduced to the Parliament on 5 September 1914. There being no Australian precedent repatriation legislation or scheme, the *War Pensions Act 1914* largely mirrored the pre-existing United Kingdom legislation, which had previously covered Australians serving as members of Imperial Forces overseas. Prior to the *War Pensions Act 1914*, compensation for the small contingents sent by Colonial Governments, ie. the Sudan, the Boxer Rebellion, the Boer War, were provided for by the British Government.

The rate and adequacy of WWP

The *Defence Act 1903* provided compensation in case of death or wounds or injuries or disease contracted while on active service or on duty. The maximum rate of payment was for those cases where total disability prevented any capacity to earn a livelihood. The *Commonwealth Compensation Act 1912* provided for members of Defence Forces not on active service with the rate of payment for total or partial incapacity for work based on worker's average weekly earnings.

The *War Pensions Act 1914* provided for payment of war pensions to a wide range of dependants of incapacitated and deceased members of the defence force, including wives, children, widows and in certain circumstances, other dependants. The WWP was paid as compensation for war loss, not as income support or income maintenance, as is the case with the civilian Old Age and Invalids Pensions of 1908. This element of war

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compensation is manifest by the fact that the WWP (and war disability pension) have never been subject to an income or assets test.

The use of worker's average weekly earnings as benchmarking for payment rates was not used in the *War Pensions Act 1914*, largely due to the concerns about cost. Consequently, from the outset there was a tension created between a payment for compensation paid at a lower rate, and a rate of assistance sufficient to support persons, unable to support themselves from employment. In the debate on the Bill for the *War Pensions Act 1914*, there was little dispute or disagreement between the parties as to the need for the Commonwealth to provide for the needs of injured or disabled soldiers, or the dependants of deceased soldiers. However, there was considerable debate about the appropriate level and rate of assistance for soldiers with injuries and widows of those who were killed.

The then leader of the Opposition in the Senate, Senator E. D. Millen, moved an unsuccessful amendment to raise the rate of the proposed war pension to the rate of pay of lower ranked soldiers. Millen expressed several concerns about the adequacy and comparative relativities for the payment rates for soldiers, for widows and for children, as proposed in the Bill. In brief these concerns were:

- The rates of payment proposed to be paid to a widow, to a totally incapacitated soldier and to the wife of a totally incapacitated soldier. Millen not only considered the rates too low but also the rate differentials between the proposed widow pension and that for the incapacitated soldier were not appropriate, ie. £78 pounds a year for a widow and £50 pounds a year for the soldier. Millen commented that a widow would be able to access other forms of support (eg. employment), whereas this would not be the case for the totally incapacitated soldier. Millen referred to the Imperial Pension Scheme, in which the rate paid to a totally incapacitated soldier was almost double that paid to a war widow.
- Millen did not challenge the scheme in terms of having payment rates linked to rank but he did consider the rate proposed for the lower ranking incapacitated soldiers too low and not a rate a soldier could live on. He was not concerned with the rates proposed for higher-ranking soldiers. The rate then proposed for a private, the lowest ranking soldier, was £1 pound a week (ie. £52 pounds a year), which was more generous than the then age pension rate, which was then 10 shillings a week. The annual salary for a private was then £104 pounds a year in addition to which the army provided food, accommodation and clothing.

In the end the amendments proposed by Millen were not accepted, largely due to concerns about the potential cost to Government, rather than there being disagreement about the logic and merit for the rates proposed by Millen, or that they were too generous or were not appropriate.

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The rates of payment were prescribed in a Schedule attached to the *War Pensions Act 1914*, were proportionally linked to soldier pay rates. For example, pension for total incapacity of a private (paid 6 shillings a day) was set at £52 per year, and for an officer paid 50 shillings a day the rate was £156 a year. This First Schedule set the General Pension rate payable to a totally incapacitated veteran. Those with a lesser incapacity were paid a proportion of this total amount, eg. 50% or 10%, depending on each individual's assessed degree of total incapacity. This linking of the rate of WWP to the rank of the deceased soldier continued until 1952 when a very significant amendment to Schedule One of the Repatriation Act instigated changes to the long-standing practice of tying the rate of war pensions to the rank of the veteran. This practice was finally ended in 1972 with the introduction of standard rates for all regardless of rank and in 1973 this was extended to the rates of dependent's pension.

WWP – paid for compensation – not income support

It is commonly thought today that the WWP pension provides income support, like the age pension, sole parent pension etc. However, its origins are as compensation and this is still reflected by the fact that the WWP pension is income and assets test free and has higher payment rates than income support pensions. As at June 2001, the single fortnightly rate of age pension is \$402.00, whereas the WWP is \$446.80 per fortnight (pf). This \$446.80pf is made up of an indexed rate of \$421.80pf, plus a non-indexed amount of \$25.00pf, the latter being the vestiges of the old Domestic Allowance (DA).

Treatment of war pensions against income support

However, this confusion between the WWP and other income support payments, also more accurately called pensions, raises the issue of access to income support payment for war pension recipients (both WWP and the war disability pension). For example, currently war disability pension is disregarded as income under the income test for service pension but is regarded as income for the age pension.

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Current interactions between the service pension, age pension, war disability pension and war widows/ers pension

| PAYMENT | Service pension | Age pension | War disability pension | War widows/ers' pension |
|-------------------------|--|--|--|--|
| Service pension | X | Cannot be paid concurrently – can only be paid one OR the other | Can be paid at the same time – the war disability pension is not income for service pension | Can be paid additional to service pension. Service pension is paid in the form of Income Support Supplement at a frozen rate |
| Age pension | Cannot be paid concurrently – can only be paid one OR the other | X | War disability pension can be paid in addition to the age pension but is treated as income under the income test | Can be paid additional to age pension. Age pension is paid in the form of Income Support Supplement at a frozen rate |
| War disability pension | Can be paid at the same time – the war disability pension is not income for service pension | War disability pension can be paid in addition to the age pension but is treated as income under the income test | X | Can be paid at the same time with no impact on either payment |
| War widows/ers' pension | Can be paid additional to service pension. Service pension is paid in the form of Income Support Supplement at a frozen rate | Can be paid additional to age pension. Age pension is paid in the form of Income Support Supplement at a frozen rate | Can be paid at the same time with no impact on either payment | X |

Main Provisions

Schedule 1

Item 2 of Schedule 1 provides for the commencement of payment of ISS to be made from the same start date as the commencement of payment of WWP, even where WWP is backdated. This amendment is being proposed to amend some anomalies and unintended results of non-complimentary legislation between the *Veterans' Entitlements Act 1986* (VEA) and the *Social Security Act 1991* (SSA). This ensures that there is no gap in ISS payment where WWP is backdated, which can be up to three months and the person is transferring to ISS from an income support payment paid under the SSA. This is a beneficial amendment.

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Item 3 proposes to amend the VEA so that the rate of ISS paid in respect of WWP recipients is indexed, ie. is no longer frozen.

Item 4 proposes to amend the VEA so that the indexation factor applied to the rate of ISS is the same percentage increase that has been applied to the indexation of the single rate of service pension.

Item 5 specifies that the twice-yearly indexation of the ceiling rate of ISS is to occur at the same intervals as the indexation of service pension. Service pension, like age pension, is indexed twice yearly (20 March and 20 September) to the CPI and 25% of MTAW, whichever provides the greater increase.

Concluding Comments

This Bill will see the 'unfreezing' of the rate of ISS (and other income support payments) paid in addition to WWP that has been in place since 1986. It does not propose a restoration of access to the maximum rate of income support payments, rather indexation of the existing lower ceiling rate to the same indexation increases to be applied to the single rate of service pension. Service pension, like age pension, is indexed twice yearly to the CPI and 25% of MTAW.

The issue still remains as to appropriate access to income support pensions for war pension recipients, both WWP recipients and recipients of the war disability pension. Given the rates of assistance now provided under both the WWP (\$446.80pf for WWP) and up to \$730.70pf (for Totally and Permanently Incapacitated War Pension (T&PI)), what is the appropriate level of income support to provide in addition to these war compensation payments, if any? These rates of war pension compensation compare to the single age pension rate of \$421.80 per fortnight.

Endnotes

- 1 The current 'frozen' ceiling rate of ISS being \$124.90pf is higher than the 'frozen' ceiling rate set in 1986 (\$120.10pf) as a result of the one-off 4% increase provided as a part of the compensation for the introduction of the Goods and Services Tax from 1 July 2000.
- 2 1986-87 Budget Paper No. 1, 1986-87 Budget, p. 138.
- 3 Social Security and Veterans' Affairs (Miscellaneous Amendments) Bill 1986.
- 4 The Hon Mr Brian Howe, MP, House of Representatives, *Hansard*, 10 October 1986, Second Reading Speech, Social Security and Veterans' Affairs (Miscellaneous Amendments) Bill 1986, p. 1865.

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- 5 The Hon Mr Arthur Gietzelt, MP, House of Representatives, *Hansard*, 17 October 1986, Second Reading Speech, Social Security and Veterans' Affairs (Miscellaneous Amendments) Bill 1986, p. 1522.
- 6 Portfolio Budget Measures Statements, 1994-95 Budget Paper No. 4.3B, Veterans' Affairs Portfolio, p. 23–24.
- 7 *Supporting Those Who Served*, Liberal Party of Australia, 2001 Election, policy platform, 13 October 2001.
- 8 *ibid.*, p. 7.
- 9 *DVA Pensioner Summary - June 2001*, Department of Veterans' Affairs', Tables 14 & 15.
- 10 Portfolio Budget Statements, 2002-03 Budget Paper No. 1.4B, Veterans' Affairs Portfolio, p. 30.
- 11 *ibid.*
- 12 *DVA Pensioner Summary - June 2001.*, *op. cit.*
- 13 *Budget Delivers Key Commitments to Veterans, War Widows*, Media Release, 14 May 2002, the Hon Danna Vale, MP, Minister for Veterans' Affairs.
- 14 *Official History of Australia in the War 1914-18*, Volume XI, p. 206.

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