



Social Security and Veterans Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Bill 2007

Peter Yeend
Social Policy Section

Contents

Purpose.	3
Background.	3
The Bill passed by the Parliament shortly after the Budget.	3
Measures in the Bill	4
Schedule 1 – 2007 one-off payments to older Australians	7
Older Australians qualified for the \$500 payment	7
Purpose of the one-off payments	8
Cost of the one-off payment.	9
Other similar one-off cash payments by the government	9
All eligible older Australians are to be paid \$500	10
Schedule 2 – Administrative schemes for 2007 one-off payments to older Australians.	10
The need for the administrative scheme provisions in Schedule 2.	11
Schedule 3 – 2007 one-off payments to carers.	11
Purpose of the one-off payment to carers	12
Cost of the one-off payment.	12
What assistance do one-off cash payments provide?	12
Schedule 4 – Administrative schemes for 2007 one-off payments to carers	12
Schedule 5 – Compensation payments in respect of certain World War 2 internments	13
Purpose of the one-off \$25 000 payment.	13

Cost of the one-off payment to POW	13
Previous one-off payments to POW and widows	14
Schedule 6 – Amendments to increase funeral benefits	14
Funeral benefit	14
Cost of increasing the amount of funeral benefit payable	15
Schedule 7 – Increase in the rate of certain pensions	15
Cost of the one-off increase in rates	15
Rationale for the one-off increase in the Special and Intermediate rates of disability pension	16
Special rate disability pension	16
Intermediate rate disability pension	17
Indexation of the amount of disability pension paid above the general rate to average weekly earnings (AWE)	17
Comment	18
Schedule 8 – Backdating of war widow and widower pensions.	18
Cost of the longer backdating period for WWP	18
Main provisions.	19
Schedule 1 – 2007 one-off payments to older Australians	19
Schedule 2 – Administrative schemes for 2007 one-off payments to older Australians.	19
Schedule 3 – 2007 one-off payments to carers.	19
Schedule 4 – Administrative schemes for 2007 one-off payments to carers	20
Schedule 5 – Compensation payments in respect of certain World War 2 internments	20
Schedule 6 – Amendments to increase funeral benefits	20
Schedule 7 – Increase in the rate of certain pensions	20
Schedule 8 – Backdating of war widow and widower pensions.	20
Conclusion	20

Social Security and Veterans Affairs Legislation Amendment (One-off Payments and Other 2007 Budget Measures) Bill 2007

Date introduced: 9 May 2007

House: House of Representatives

Portfolio: Families, Community Services and Indigenous Affairs

Commencement: the Bill passed both Houses on the 10 May 2007 and received Royal Assent on 11 May 2007, Act No. 66 of 2007.

Links: The relevant links to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which can be found at <http://www.comlaw.gov.au/comlaw/comlaw.nsf/sh/homepage>

Purpose

To provide the legislative support necessary to give effect to several measures announced by the Government in the 2007–08 Budget, featuring:

- a one-off payment of \$500 to certain aged persons
- a one-off payment of \$1 000 or \$600 to certain carers
- a \$25 000 one-off payment to prisoners of war (POWs) in World War Two (WWII), and
- increases in the rates of certain disability pensions paid under the *Veterans' Entitlements Act 1986* (VEA).

Background

The Bill passed by the Parliament shortly after the Budget

This Bill was presented to the House of Representatives on 9 May 2007, being the day after the 2007–08 Budget was presented to the Parliament by the Treasurer and the Bill passed the House on 9 May 2007 and was then presented to the Senate on 10 May 2007 and passed the Senate on the same day. The Bill received Royal Assent on 11 May 2007.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Measures in the Bill

The measures in this Bill are:

- one-off payment of \$500 to:
 - certain older Australians, namely persons on an age pension or a veterans' service pension who are entitled to the utilities allowance¹
 - persons receiving income support supplement² who are entitled to the utilities allowance

1. A person may qualify for utilities allowance if they meet the age requirements to receive age pension and are receiving an income support payment, such as:

- Austudy
- Age Pension
- Disability Support Pension
- Carer Payment
- Wife Pension
- Widow B Pension
- Parenting Payment (Single)
- Special Benefit
- Widow Allowance
- Bereavement Allowance
- Partner Allowance
- Parenting Payment (Partnered)

For persons provided under the *Veterans' Entitlements Act 1986*, to be eligible for the utilities allowance a person needs to be of service pension age and receiving either:

- an invalidity, age or partner service pension, or
- an income support supplement.

2. To be eligible for income support supplement a person must be an Australian war widow or war widower or receive compensation as a wholly dependant partner under the *Military Rehabilitation and Compensation Act 2004* (MRCA) and also meet at least one of the following criteria:

- be of service pension age
- be permanently blind or permanently incapacitated and unable to work
- have a dependant child or children, or
- be the partner of a person who is receiving an income support pension from either the Department of Veterans' Affairs or Centrelink.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- persons not on any government income support payment but who are entitled to the seniors concession allowance³ and
- persons receiving widow allowance,⁴ mature age allowance⁵ or partner allowance.⁶

-
3. To qualify for the seniors concession allowance, a person must qualify for the Commonwealth seniors health card. To qualify for a Commonwealth seniors health card a person must:
 - be an Australian resident, living in Australia
 - not subject to a newly arrived residents waiting period
 - have reached age pension age but do not qualify for Age Pension (or do not receive certain other Social Security/Veteran Affairs pensions/benefits), and
 - have an annual adjusted taxable income of:
 - less than \$50 000 (single)
 - \$80 000 (couple combined), or
 - \$100 000 (couples combined who are separated due to ill health).
 4. A person may get widow allowance if they are a woman who:
 - was born on or before 1 July 1955 and is not a member of a couple
 - has become widowed, divorced or separated (including separated de facto) since turning 40
 - has no recent workforce experience - that is they haven't worked at least 20 hours a week for 13 weeks or more in the last year
 - is an Australian resident, in Australia and not subject to the two year newly arrived residents waiting period
 - satisfies one of the qualifying residence rules for Widow Allowance, and
 - has income and assets below a certain amount.
 5. A person may qualify for mature age allowance if they:
 - are 60 years of age or over but less than age pension age
 - have no recent workforce experience (recent workforce experience means work of at least 20 hours a week for a total of 13 weeks or more in the 12 months before claiming), and
 - have received an income support payment for at least nine months and are on Newstart Allowance when they claim, or
 - have received a payment of a social security pension from Centrelink or a Veterans Affairs Service Pension, or a Widow, Partner, Sickness or Parenting payment at any time within the 13 weeks immediately before claiming, or
 - have previously received Mature Age Allowance, and
 - meet residence requirements.
 6. A person may qualify for partner allowance if they:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- one-off payment of \$1 000 to certain carers, namely:
 - recipients of carer payment⁷ or carer service pension,⁸ or
 - recipients of wife pension or partner service pension who are also receiving carer allowance,⁹
-

- were born on or before 1 July 1955
- are the partner of a person aged at least 21 who is getting Newstart Allowance, Special Benefit, Rehabilitation Allowance, Age Pension, Disability Support Pension, Mature Age Allowance, a Veterans Affairs Service Pension, ABSTUDY or an Austudy
- do not qualify for Parenting Payment, (that is, they have no dependent children they can claim Parenting Payment for)
- are not engaged in industrial action
- are not serving a Newstart Allowance, Youth Allowance or Austudy waiting period
- are not serving a penalty non-payment period
- have no recent workforce experience (employment of at least 20 hours per week for a total of 13 weeks or more in the previous 12 months), and
- meet residence requirements.

7. A person may qualify for carer payment (adult) if they provide constant care in the home of the person they care for and that person is:

- a person aged 16 or over with a severe disability or medical condition, or
- an adult with moderate care needs and supervision of their dependent child if this child is under six years of age, or between six and 16 years of age and attracts payment of Carer Allowance.

A person may qualify for carer payment (child) if they provide constant care in the home of the person they care for and that person is:

- a child under the age of 16 with a profound disability or medical condition who has extremely high care needs, or
- two or more children under the age of 16 with severe disabilities or medical conditions who together require an extremely high level of care (this rule does not apply if the children have severe intellectual, psychiatric or behavioural medical/disability conditions).

8. Persons on Carer Service Pension are those who were saved when Carer Service Pension was removed from the VEA in 1997. Thereafter, only the carer payment payable under the SSA has been available for full-time carers.

9. A person may get Carer Allowance (child) if they look after a child with a disability or severe medical condition who requires a lot of additional care or attention in their own home. The carer must live in the same home as the child being cared for.

A person may get Carer Allowance (adult) if:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- a one-off payment of \$600 to recipients of carer allowance.
- a one-off payment of \$25 000 to prisoners of war (POWs) in Europe during WWII
- an increase in the amount of funeral benefit from \$1 000 to \$2 000
- an increase in the rate of Special rate disability pension and Intermediate rate disability pension paid under the VEA, and
- an extension in the allowable period in which a claim for war widows'/widowers' pension (WWP) can be lodged after the date of death of the veteran from three to six months.

Schedule 1 – 2007 one-off payments to older Australians

Older Australians qualified for the \$500 payment

The one-off payment of \$500 to certain older Australians was announced in the 2007-08 Budget.¹⁰ The main groups of older Australians who are eligible to receive the one-off payment are:

- those on an income support payment who are aged over age pension age¹¹ (or over service pension age¹² if on an income support payment provided under the VEA)

-
- they are looking after an adult with a severe disability or medical condition who needs a lot of additional care and attention, or
 - they provide care for an adult in either their home or the home of the person they care for.

10. Department of Treasury, Budget Paper No. 2 Budget Measures 2007-08, *Seniors bonus payment*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 193.

<http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

11. Age pension age for males is 65; for females, see the table below.

Date of Birth	Qualification Age
1 July 1935 to 31 December 1936	60.5
1 January 1937 to 30 June 1938	61
1 July 1938 to 31 December 1939	61.5
1 January 1940 to 30 June 1941	62
1 July 1941 to 31 December 1942	62.5
1 January 1943 to 30 June 1944	63
1 July 1944 to 31 December 1945	63.5

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- those receiving widow allowance, mature age allowance or partner allowance, or
- those not on a government income support payment but who were receiving the seniors concession allowance on 8 May 2007. A person is qualified for the seniors concession allowance if they are qualified for the Commonwealth seniors health card (SHC).¹³

Purpose of the one-off payments

The government has said the purpose of the one-off payments to older Australians is to allow them:

1 January 1946 to 30 June 1947	64
1 July 1947 to 31 December 1948	64.5
1 January 1949 and later	65

12. The age service pension qualifying age for males is 60; for females, see the table below.

Table 1 - Female veterans with qualifying service and female ISS recipients	
Date of Birth	Qualify at
1 January 1948 to 30 June 1949	58
1 July 1949 to 31 December 1950	58.5
1 January 1951 to 30 June 1952	59
1 July 1952 to 31 December 1953	59.5
1 January 1954 and later	60

Table 2 - Females not covered by Table 1	
Date of Birth	Qualify at
1 January 1943 to 30 June 1944	63
1 July 1944 to 31 December 1945	63.5
1 January 1946 to 30 June 1947	64
1 July 1947 to 31 December 1948	64.5
1 January 1949 and later	65

13. To qualify for the seniors concession allowance, a person must qualify for the Commonwealth seniors health card, op. cit.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

to share in the economic prosperity that they've helped to create. The bonus ensures that the people of Australia directly benefit from the Howard Governments record budget surpluses.¹⁴

Cost of the one-off payment

The Financial impact statement in the Explanatory Memorandum states that the one-off \$500 payments to older Australians are estimated to cost \$1.32 billion in 2006-07 and \$11.3 million in 2007-08.¹⁵

Other similar one-off cash payments by the government

The one-off cash payments presented in this 2007-08 Budget are like other one-off cash payments the government has made in the past. These payments have been:

- an aged persons savings bonus of up to \$1 000 and a self-funded retirees supplementary bonus of up to \$2 000. These bonuses were paid as a part of the compensation measures for the introduction of the Goods and Services Tax (GST)¹⁶
- 2001-02 Budget. A one-off aged persons bonus of \$300 to all persons who were over age pension age and on an income support payment¹⁷
- 2004-05 Budget. A one-off lump sum payment of \$600 to families for each qualifying child for the Family Tax Benefit Part A (FTB-A) and for each child aged up to 18 years to whom youth allowance was paid¹⁸
- 2004-05 Budget. A one-off carer bonus payment of \$1 000 to each person in receipt of carer payment and \$600 to each recipient of carer allowance¹⁹

14. The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Howard Government \$1.4 billion package for Older Australians*, media release, Canberra, 8 May 2007. http://www.facs.gov.au/Internet/Minister3.nsf/content/budget07_older_australians.htm

15. Explanatory Memorandum, Financial impact statement.

16. Lesley Lang, *A New Tax System (Bonuses for Older Australians) Bill 1998*, *Bills Digest No. 93 1998-99*, Department of the Parliamentary Library, Canberra. <http://www.aph.gov.au/library/pubs/bd/1998-99/99bd093.htm>

17. Department of Treasury, 2001-02 Budget papers, Portfolio Budget Statement, Department of Family and Community Services Portfolio, *Budget Related Paper No. 1.8*, Canberra, 14 May 2001, p. 176. <http://www.budget.gov.au/2001-02/>

18. Department of Treasury, 2004-05 Budget papers, Portfolio Budget Statement, Department of Family and Community Service Portfolio, *Budget Related Paper No. 1.8*, Canberra, 11 May 2004, p. 51. <http://www.facs.gov.au/internet/facsinternet.nsf/aboutfacs/budget/budget2004-pbs.htm#budget>

19. *ibid.*, p. 57.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- 2005-06 Budget. A one-off carer bonus payment of \$1 000 to each person in receipt of carer payment and \$600 to each recipient of carer allowance for each person in their care²⁰
- 2006-07 Budget. A one-off carer bonus payment of \$1 000 to each person in receipt of carer payment and \$600 to each recipient of carer allowance for each person in their care.²¹

All eligible older Australians are to be paid \$500

The \$500 one-off payment is to be paid to all those older Australians who are eligible. This generally refers to those on an income support payment and who are over age or service pension age and also those on widow allowance, mature age allowance and partner allowance. It also includes older Australians not eligible to an income support payment due to income or assets but who qualify for an SHC, as their adjusted taxable income²² is less than \$50 000 a year – single or \$80 000 a year partnered (combined).

All qualified persons receive the \$500. There is no different amount for those who qualify for a SHC and who therefore have higher levels of income or assets than for those who are on an income support payment.

Schedule 2 – Administrative schemes for 2007 one-off payments to older Australians

Schedule 2 proposes to insert into the *Social Security Act 1991* (SSA) and the VEA provisions to empower the Minister to set up an administrative scheme under which one-off payments could be made to older Australians in particular circumstances. The Minister would be able, by way of a Legislative Instrument,²³ to prescribe who should be paid and how much they should be paid, rather than have this done by way of legislation

-
20. Department of Treasury, 2005-06 Budget papers, *Budget Paper No. 2 - Budget Measures*, Canberra, Australia, 10 May 2005, p. 160. <http://www.budget.gov.au/2005-06/bp2/html/index.htm>
 21. Department of Treasury, 2006-07 Budget papers, *Budget Paper No. 2 - Budget Measures*, Canberra, Australia, 9 May 2006, p. 209. <http://www.budget.gov.au/2006-07/bp2/html/index.htm>
 22. For the SHC, adjusted taxable income is made up of the sum of:
 - taxable income
 - employer provided fringe benefits
 - target foreign income, and
 - net rental property loss
 23. Moira Coombs, Acts Interpretation Amendment (Legislative Instruments) Bill 2005, *Bills Digest No. 11 2005-06*, Parliamentary Library, Canberra, 8 August 2005. <http://www.aph.gov.au/library/pubs/bd/2005-06/06bd011.pdf>

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

as is done in **Schedule 1** of this Bill. Being implemented by a Legislative Instrument, future proposed schemes would be disallowable by Parliament in the usual way.²⁴

The need for the administrative scheme provisions in Schedule 2

Provisions like those presented in **Schedule 2** have been presented in other one-off payment Bills in the past.²⁵ The *Social Security Legislation Amendment (One-off Payments for Carers) Act 2005* contained a Schedule very much like **Schedule 2** in this Bill, empowering the Minister to use a Legislative Instrument to create an administrative scheme to provide payments to persons the Minister considered missed out but who should have got the same payment. **Schedule 2** is basically an insurance policy empowering the Minister to provide a payment to persons by way of a Legislative Instrument, that it is considered should get a one-off payment, but without having to come back to the Parliament with another Bill to provide for the payment.

Schedule 3 – 2007 one-off payments to carers

The one-off payments of \$1 000 or \$600 to carers were announced in the 2007-08 Budget.²⁶ Carers will be entitled to either \$1 000 or \$600 as described below:

- a one-off payment of \$1 000 is to be paid to carers who are:
 - recipients of carer payment or carer service pension, or
 - recipients of wife pension or partner service pension who are also receiving carer allowance.
- a one-off payment of \$600 is to be paid to recipients of carer allowance.

24. *ibid.*

25. Dale Daniels, *Social Security Legislation Amendment (One-off Payments for Carers) Bill 2005*, *Bills Digest No. 43 2005-06*, Parliamentary Library, Canberra, 9 September 2005.

<http://www.aph.gov.au/library/pubs/bd/2005-06/06bd043.pdf>

Ian Ireland, *Family and Community Services Legislation Amendment (One-off Payment to the Aged) Bill 2001*, *Bills Digest No. 134 2000-01*, Parliamentary Library, Canberra, 24 May 2001.

<http://www.aph.gov.au/library/pubs/bd/2000-01/01BD134.htm>

Peter Yeend, *Social Security and Veterans' Entitlements Legislation Amendment (One-off Payments to Increase Assistance for Older Australians and Carers and Other Measures) Bill 2006*, *Bills Digest No. 18 2006-07*, Parliamentary Library, Canberra, 4 September 2006.

<http://www.aph.gov.au/library/pubs/bd/bd06-07.htm>

26. Department of Treasury, *Budget Paper No. 2 Budget Measures 2007-08, Carer bonus*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 180.

<http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose of the one-off payment to carers

The government has described the purpose of the one-off payments to carers:

the payments would provide additional assistance to people who care for relatives or friends and recognise their commitment and dedication to this important role.

The Howard Government respects that carers are faced with a range of care needs, differing care situations and long-term care commitments. This is just another way the Howard Government is supporting the extraordinary efforts of Australia's carers.²⁷

Cost of the one-off payment

The Financial impact statement in the Explanatory Memorandum states that the one-off payments to carers is estimated to cost \$390.3 million in 2006-07 and \$3.9 million in 2007-08.²⁸

What assistance do one-off cash payments provide?

The provision of a one-off tax free payment, that is also not included as income under the income test applied under the SSA or the VEA, provides financial assistance. There is now an emerging pattern of one-off payments being provided by the government, especially to carers on carer payment and also those on carer allowance. They have been a feature of the last three Budgets. The benefits of one-off payments are temporary. Once the money has been expended there is no more benefit. If recipients of carer payment and carer allowance are considered by the government to require this consistent financial assistance, perhaps an increase in the on-going rate of payments provided might be a better way of providing assistance.

Schedule 4 – Administrative schemes for 2007 one-off payments to carers

Schedule 4 provides for the one-off payments to carers being provided for in **Schedule 3** of the Bill. The comments provided about **Schedule 2** above referring to an administrative scheme also apply to **Schedule 4** of the Bill.

27. The Hon. Mal Brough, MP, Minister for Families, Community Services and Indigenous Affairs, *Carers to Receive \$394 million Budget Bonus*, media release, Canberra, 8 May 2007.

http://www.facs.gov.au/internet/Minister3.nsf/content/budget07_carers_394million.htm

28. Explanatory Memorandum, Financial impact statement.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Schedule 5 – Compensation payments in respect of certain World War 2 internments

The Government announced a one-off \$25 000 payment to POW in Europe in WWII or to surviving widows/widowers in the 2007-08 Budget.²⁹

Purpose of the one-off \$25 000 payment

In announcing the one-off payment to POWs of WWII in Europe or their surviving widows/widowers the government said:

There is significant evidence that the treatment of PoWs in Europe during their captivity was extremely harsh, Mr Billson said.

They experienced brutality, starvation and some of the same diseases as prisoners of the Japanese. Most PoW quarters were overcrowded, with bedding and replacement clothing limited.

Mr Billson said while the International Red Cross issued some medical supplies and food parcels at some stages of the war that alleviated the threat of starvation, the Germans always reduced rations when this occurred.

Food containers were either opened or tampered with to prevent PoWs either hoarding them or using them during escape attempts, Mr Billson said.

Accounts of the privations by some by our former Prisoners of War evoke deep feelings and this measure recognises the extreme hardships experienced by Australian prisoners in Europe while serving their country.³⁰

Cost of the one-off payment to POW

The Financial impact statement in the Explanatory Memorandum states that the one-off payment to POWs is estimated to cost \$41.3 million in 2006–07 and \$15.9 million in 2007–08.³¹

29. Department of Treasury, Budget Paper No. 2 Budget Measures 2007-08, *Ex-Prisoners of War (Europe) – one-off payment to former prisoners of war or surviving widows*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 314. <http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

30. The Hon. Bruce Billson, MP, Minister for Veterans' Affairs, *Ex gratia payment for Australia's European prisoners of war*, media release, Canberra, 8 May 2007. http://minister.dva.gov.au/media_releases/2007/05_may/media_release_budget12.htm

31. Explanatory Memorandum, Financial impact statement.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Previous one-off payments to POW and widows

There have been two similar one-off \$25 000 payments to former POW and their widows/widowers. The first one was to POWs of the Japanese in WWII.³² The second payment was to Korean War POWs.³³

The payment of \$25 000 to POWs of WWII in Europe will address concerns by this group that they have been unfairly treated compared to POWs of the Japanese and POWs of the Korean War.³⁴

Schedule 6 – Amendments to increase funeral benefits

The government announced the proposed increase in the amount of funeral benefit paid under the VEA in the 2007-08 Budget.³⁵

Funeral benefit

Currently, funeral benefit is a one-off payment of up to \$1 000 that is intended to help with the expenses incurred in respect of:

- the funeral of a deceased eligible veteran
- the funeral of the deceased eligible dependant of a deceased veteran, and
- the cost of transporting the body from the place of death to the normal place of residence.

A funeral benefit is also paid automatically to the estate of a deceased veteran who was receiving one of the following payments at the time of their death:

- Special (T&PI) rate disability pension
- Extreme Disablement Adjustment (EDA)
- disability pension plus an allowance as a multiple amputee, or

32. Peter Yeend, Bills Compensation (Japanese Internment) Bill 2001, *Bills Digest No. 6 2001-02*, Parliamentary Library, Canberra, 31 July 2001. <http://www.aph.gov.au/library/pubs/bd/2001-02/02bd006.htm#Contact>

33. Peter Yeend, Veterans' Entitlements (Clarke Review) Bill 2004, *Bills Digest No. 134 2003-04*, Parliamentary Library, Canberra, 28 May 2004. <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd134.htm#Contact>

34. Gemma Jones, *POWs fight for fairness*, The Daily Telegraph, 18 June 2003, p. 24.

35. Department of Treasury, Budget Paper No. 2 Budget Measures 2007-08, *Veterans – increase in funeral benefits*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 316. <http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- if the veteran was a POW.

A funeral benefit may also be payable in respect of the funeral of a dependant (war widow/widower, wholly dependent partner, child under 16 or full-time student under 25) of a deceased member where the dependant died in severe financial need.

Cost of increasing the amount of funeral benefit payable

The Financial impact statement in the Explanatory Memorandum states that the increase in the amount of funeral benefit to \$2 000 is estimated to cost \$10.1 million in 2007-08, \$9.9 million in 2008-09, \$10.1 million in 2009-10 and \$9.8 million in 2010-11.³⁶

The last time the rate of funeral benefit was increased was from 1 January 2005, with the passage of the *Veterans Entitlements (Clarke Review) Act 2004*,³⁷ when the amount payable was increased from \$572 to \$1 000.

Schedule 7 – Increase in the rate of certain pensions

The amendments to the VEA presented in **Schedule 7** are to provide a one-off increase in the rate of Special rate and Intermediate rate disability pensions. The Special rate disability pension is more commonly known as the Totally and Permanently Incapacitated Pension (T&PI) and is proposed to be raised by a one-off \$50 per fortnight. The Intermediate rate disability pension is proposed to be raised by a one-off \$25 per fortnight. These proposed rate increases were announced by the Government in the 2007–08 Budget.³⁸

Cost of the one-off increase in rates

The Financial impact statement in the Explanatory Memorandum states that the increase in the rate of Special and Intermediate rate disability pensions is estimated to cost \$37.9 million in 2007–08, \$39.6 million in 2008–09, \$40.6 million in 2009–10 and \$41.4 million in 2010–11.³⁹

36. Explanatory Memorandum, Financial impact statement.

37. Peter Yeend, *Veterans' Entitlements (Clarke Review) Bill 2004*, op. cit.

38. Department of Treasury, Budget Paper No. 2 Budget Measures 2007-08, *Above General Rate component of Disability Pension – increases to the Special and Intermediate rates*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 311.
<http://www.aph.gov.au/budget/2007-08/bp2/html/index.htm>

39. Explanatory Memorandum, Financial impact statement.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Rationale for the one-off increase in the Special and Intermediate rates of disability pension

The government, in announcing the one-off increase in the rate of Special and Intermediate rate disability pensions in the Budget gave the reason for the increase:

the pension increase would provide a substantial boost to the ability of disability pension recipients to manage their day-to-day challenges. These payments are further acknowledgement of the level of sacrifice and service that these veterans so selflessly gave, during Australia's greatest time of need, Mr Billson said. Employment options are limited for disability pension recipients, Mr Billson said.

Veterans with a disability, and their families, are especially deserving of our continued support and this increase in financial assistance will help to ensure their living standards are enhanced. The Special Rate takes into account incapacity from war or defence-caused disabilities that alone are so great that a veteran cannot undertake any employment totalling more than eight hours per week. The Intermediate Rate takes into account incapacity from war or defence-caused disabilities that alone are so great that a veteran cannot undertake any employment other than on a part-time or intermittent basis.⁴⁰

Special rate disability pension

The Special rate is potentially payable where the veteran is assessed as having a 70 per cent or more disability (using the assessment used for the general rate disability pension). Where the 70 per cent or more is attained, and it is also assessed that the veteran is unable to work for at least 8 hours a week, then the Special rate is payable.

Separate to the 8 hours a week test there are a few other situations where the Special rate can be paid, for example where the veteran has pulmonary tuberculosis (TB). Where the veteran has TB, it is assumed that the disability and inability to work requirements are met and the Special rate is paid.

The Special rate,⁴¹ which pays a higher rate than the 100 per cent general rate disability pension,⁴² recognises the resultant work inability of the veteran arising from their war/service caused/related illness/injury, so has a component for income support. Where a veteran has reached 65 years of age or more, additional criteria apply to qualify for the Special rate. The last paid work, which is precluded by the incapacity, must have

40. The Hon. Bruce Billson, MP, Minister for Veterans' Affairs, Federal Budget delivers increase for disability pension recipients, *media release*, Canberra, 8 May 2007.

http://minister.dva.gov.au/media_releases/2007/05_may/media_release_budget2.htm

41. The rate of Special rate pension as at June 2007 is \$869.40 per fortnight.

42. The rate of 100 per cent general rate disability pension as at June 2007 is \$318.70 per fortnight.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

commenced prior to 65 and the veteran must have been employed in it for at least 10 years.

Retired veterans aged 65 or more with very severe disabilities might be entitled to an Extreme Disablement Adjustment (EDA) rate disability pension.⁴³

Intermediate rate disability pension

The Intermediate rate disability pension is potentially payable where the veteran is assessed as having a 70 per cent or more disability (using the assessment for the general rate) and is unable to work for at least 20 hours a week.

The Intermediate rate and the Special rate are not always payable where the disability assessment is 70 per cent or more. For example, a veteran may be assessed as having an 80 per cent disability but may also be able to work for more than 20 hours a week. In this case the Special or Intermediate rate is not payable, only the 80 per cent general rate disability pension is payable.

The Intermediate rate, paying a higher rate than the 100 per cent general rate, recognises the resultant work inability of the veteran arising from their war caused/related illness/injury, so has a component for income support. Separate to the 20 hours a week test there are a few other situations where the Intermediate rate can be paid, for example suffering from TB.

Neither the Special rate nor the Intermediate rate disability pension, being compensation payments are income or asset tested.

Indexation of the amount of disability pension paid above the general rate to average weekly earnings (AWE)

The amounts of the disability pension that are paid above 100 per cent general rate disability pension (Special rate, Disability rate and EDA rate) have been indexed to movements in Male Total Average Weekly Earnings (MTAWE) since March 2004. This was provided for with the passage of the *Veterans Entitlements (Clarke Review) Act 2004*.⁴⁴ However, there have been urgings for the Government to index the whole amount of disability pensions paid to AWE, not just the amount paid above 100 per cent of the

43. The EDA rate can only be considered for veterans who have reached 65 years of age who are not eligible to receive a Special or Intermediate Rate of pension. As the name suggests, the degree of incapacity from war or defence caused conditions must be extreme. The assessment only takes into account the medical impairment and lifestyle effects of a disability. It does not have regard to whether or not a veteran is employed nor any regard to income or assets.

44. Peter Yeend, *Veterans' Entitlements (Clarke Review) Bill 2004*, op. cit.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

general rate.⁴⁵ These urgings have their origins in the fact that income support pensions (for example, age and service pension) have been indexed to 25 per cent of MTAW from September 1997. Prior to this, income support pensions were only indexed to the Consumer Price Index (CPI). However, it should be noted that previous governments had maintained the pension rate at least 25 per cent of AWE from 1989 to 1996.

Comment

This one-off increase in the rate of Special rate and Intermediate rate pensions will placate some of the urgings for the whole of the pension rate paid in respect of Special rate, Intermediate rate and EDA rate to be indexed to movements in MTAW.

It is interesting to note that one of the disability pensions paid above 100 per cent of the general rate, namely the EDA rate, does not receive a one-off increase in the rate in this proposal. It is probable that this did not receive the increase because the EDA rate pension is not paid to a person of working age.

Schedule 8 – Backdating of war widow and widower pensions

The amendments to the VEA presented in **Schedule 8** of the Bill propose to allow the backdating of the grant of WWP up to six months. This proposal was announced by the government in the 2007-08 Budget.⁴⁶

Currently, a person must claim WWP within three months of the date of death of the veteran to receive payment of WWP back to the date of death. Where the claim is lodged more than three months after the date of death, payment commencement can only be backdated up to three months.

Cost of the longer backdating period for WWP

The Financial impact statement in the Explanatory Memorandum states that the longer backdating period for WWP is estimated to cost \$1.6 million in 2007-08, \$1.4 million in 2008-09, \$1.4 million in 2009-10 and \$1.4 million in 2010-11.⁴⁷

45. Mr John Ryan, National President of The Australian Federation of Totally and Permanently Incapacitated Ex-Servicemen and Women Ltd, 2007 Budget media release, *media release*, Adelaide, Australia, 20 May 2007. <http://www.tpifed.org.au/index.asp?ID=245>

46. Department of Treasury, Budget Paper No. 2 Budget Measures 2007-08, *War Widows pension – longer backdating period*, Commonwealth Government, Department of Treasury, Canberra, 8 May 2007, p. 316. <http://www.apf.gov.au/budget/2007-08/bp2/html/index.htm>

47. Explanatory Memorandum, Financial impact statement.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Main provisions

Schedule 1 – 2007 one-off payments to older Australians

Item 1 of Schedule 1 inserts a new **Part 2.2D** into the SSA setting out the qualification requirements to be paid the one-off payment of \$500 that was announced in the 2007-08 Budget. The new **93ZB** in this **Part 2.2D** sets out that the amount of the payment is to be \$500. **Item 15** inserts a new part VIII E into the VEA to set out the qualification requirements to qualify for the one-off \$500 payment for recipients of payments provided under the VEA.

Part 2 of Schedule 1 contains amendments to the *Income Tax Assessment Act 1936* (ITAA1936) and also to the *Income Tax Assessment Act 1997* (ITAA1997) to provide for the exemption of the one-off \$500 payments as income for the purposes of the income tax assessment acts. **Item 27** inserts provisions into the SSA to exempt the one-off payment as income for the purposes of the income tests applied under the SSA. **Item 28** does likewise, inserting provisions into the VEA for the income tests applied under the VEA.

Schedule 2 – Administrative schemes for 2007 one-off payments to older Australians

Item 1 of Schedule 2 allows the Minister to use a Legislative Instrument to determine a scheme whereby one-off payments of \$500 may be made to older Australians in circumstances as set out in the scheme. As described in the background comments above, there may be a few cases where it is considered that individuals should get the benefit of the payment but are not qualified as set out in the provisions contained in **Schedule 1** and the Minister can make the payment under a scheme without the need to come back to the Parliament with more amending legislation. The scheme would need to be set out in a Legislative Instrument which does require Parliamentary scrutiny.⁴⁸ **Item 2** does the same but for persons who would have been otherwise qualified under the VEA.

Schedule 3 – 2007 one-off payments to carers

Item 1 of Schedule 3 inserts new sections into the SSA to set out the qualification requirements for persons to qualify for the one-off \$1 000 payment to certain carers, who are accessing carers payments. **Item 2** is very similar to **Item 1** but it inserts new sections into the SSA to set out the qualification requirements for persons to qualify for the one-off \$600 payment to recipients of carer allowance.

Part 2 of Schedule 3 is very similar to **Part 2 of Schedule 1** of the Bill as it amends the ITAA1936 and the ITAA1997 to provide that the one-off payments to carers are not

48. Moira Coombs, *Acts Interpretation Amendment (Legislative Instruments) Bill 2005, Bills Digest No 11, 2005-06*, op. cit.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

taxable income. Likewise it also amends the SSA and the VEA to ensure that the one-off payments to carers are not income for the income tests applied under both acts.

Schedule 4 – Administrative schemes for 2007 one-off payments to carers

Schedule 4 is very similar to **Schedule 2** but in regards to the one-off payments to carers allowing the Minister to use a Legislative Instrument to determine a scheme whereby one-off payments of \$1 000 may be made to carers in certain circumstances.

Schedule 5 – Compensation payments in respect of certain World War 2 internments

Item 2 of Schedule 5 contains descriptions of the different classes of person to be entitled to the one-off \$25 000 payment, including military persons or civilians who were POWs. **Item 3** specifies that the one-off payment is \$25 000. **Item 10** specifies that the value of a recipient's assets, for the purposes of the assets tests, will be reduced by the value of \$25 000, thereby neutralising the impact of the payment under the assets tests.

Schedule 6 – Amendments to increase funeral benefits

Items 1, 2 and 3 of Schedule 6 amend provisions in the VEA to change the amount of funeral benefit payable to \$2 000. **Item 4** applies the \$2 000 funeral benefit payment to deaths on or after 1 July 2007.

Schedule 7 – Increase in the rate of certain pensions

Item 1 of Schedule 7 alters the amount in section 23(4) of the VEA from \$394.50 to \$619.80, thereby altering the fortnightly rate of Intermediate rate pension. **Item 2** does likewise but in respect of section 24(4) altering the amount to \$919.40, thereby altering the fortnightly rate of Special rate disability pension. **Item 3** applies these altered rates of pension to pension periods that start after 1 July 2007.

Schedule 8 – Backdating of war widow and widower pensions

Item 5 of Schedule 8 inserts new provisions into the VEA to allow the backdating of WWP of up to 6 months, where the claim for WWP was lodged within 6 months of the date of death of the veteran or service person. **Item 6** applies the six month backdating provisions to the death of a veteran or service person on or after 1 July 2007.

Conclusion

The provisions contained within this Bill provide beneficial results for qualified recipients. The one-off payments to older Australians and to carers mirror previous one-off payments made by the Government in recent years. In particular, this is the third successive Budget in which payments have been made. This now raises the question as to whether, if it is

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

considered necessary to provide this assistance to this group, the assistance should be ongoing.

The one-off \$25 000 payment to POWs of Europe in WWII will address their concerns that they have been unfairly treated compared to previous POW groups, who have received similar lump-sum payments in the recent past.

The one-off increases in the rate of Special rate pension and Intermediate rate pension will address concerns that the value of war disability pensions has been eroded in the past. However, there will still be pressings for the whole of the amount of these pensions to be indexed to both the CPI and to MTAWA.

© Copyright Commonwealth of Australia

This work is copyright. Except to the extent of uses permitted by the *Copyright Act 1968*, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2413.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.