



Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008

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Social Policy Section

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Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008

Date introduced: 18 September 2008

House: House of Representatives

Portfolio: Families, Housing, Community Services and Indigenous Affairs

Commencement: The provisions of this Bill are to commence at a variety of times as set out in proposed section 2.

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 is at <http://www.comlaw.gov.au/>.

Purpose

- To provide for the payment of Maternity Immunisation Allowance (MIA) in two instalments as children progress through the National Immunisation Program.
- To provide for the payment of MIA to children adopted from overseas up until they turn 16 years of age.
- To end eligibility for Partner Service Pension (PSP) for people under age pension age who are separated from their veteran spouse.
- To set an eligibility age of 50 years for PSP for partners of veterans in receipt of a disability pension at less than the special rate but above the general rate.
- To make minor amendments to the child support legislation especially with regard to a formula that commenced in July 2008.

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Background

Committee consideration

Schedule 3 of the Bill has been referred to Senate Community affairs Committee for inquiry and report by 10 November 2008. The committee has decided to take submissions on Schedule 2 as well. Details of the inquiry are at the Committee's webpage.¹

Schedule 1 - Maternity Immunisation Allowance

Family Assistance Act 1999

The 1997 Budget included a package of measures under the label "Comprehensive National Immunisation Strategy" with the objective of significantly boosting child immunisation rates in Australia. Part of the strategy involved changes to Maternity Allowance.

From January 1998, a portion of Maternity Allowance was renamed Maternity Immunisation Allowance (MIA). It was paid in respect of children who had reached the age of 18 months and who had received age-appropriate immunisation (unless the child was exempt from that requirement). MIA was also paid in respect of children who were stillborn or died before reaching the age of 18 months. The rate of MIA at that time was \$200.

In July 2004 MIA was made income test free at the same time that Maternity Allowance was reformed and renamed Maternity Payment (later renamed Baby Bonus).

Certain of the changes provided for in this Bill were announced in the 2008 Budget. The media release issued at the time by Ministers Macklin and Roxon indicated that:²

"The object of the change is to bring the MIA in line with the National Immunisation Program and provide an incentive for parents to ensure their four-year-old children also receive recommended boosters before they start school," Ms Macklin said.

"From 2009, the MIA will be divided equally into two payments for around 270,000 families who receive the entitlement each year," Ms Roxon said. "Both instalments will be indexed twice yearly."

1. See generally the Committee's webpage at:
http://www.aph.gov.au/Senate/committee/clac_ctte/index.htm

2. The Hon. J Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, and the Hon. N Roxon MP, Minister for Health and Aging, "Maternity Immunisation Allowance – eligibility change", *Media Release*, 13 May 2008.

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"Under the change, the first MIA instalment will be made when the child is aged between 18 months and 2 years. The second will be paid when the child is aged between 4 years, 3 months, and 5 years."

Vaccinations for four-year-olds as recommended in the National Immunisation Program currently include:

- diphtheria, tetanus and whooping cough
- measles, mumps and German measles
- polio.

The Bill also includes changes to MIA to allow it to be paid to children adopted from overseas who arrive in Australia before turning 16 years of age.

Current Maternity Immunisation Allowance program

The rate of MIA as at October 2008 is a lump sum of \$243.30. In the 2007-08 year, MIA was paid in respect of 265 000 children to 260 000 families.³

In the 2007-08 year, the MIA is estimated to cost \$61 853 000 and in the 2008-09 year MIA is estimated to cost \$50 229 000.⁴

The changes to MIA will save \$81.9 million over four years due to the delay in the payment of part of the MIA.

Schedule 2—Partner service pension

Veterans' Entitlements Act 1986

The government announced changes to the qualification for the Partner Service Pension (PSP) in the 2008–09 Budget.⁵ The changes will cease eligibility for PSP for those partners who are separated but not divorced from their veteran partner and who have not

3. Department of Families, Housing, Community Services and Indigenous Affairs, *2007-08 Annual Report*, p. 211. <http://www.facs.gov.au/annualreport/2008/default.htm>, accessed October 2008.

4. Australian Government, 2008-09 Budget, Portfolio Budget Statement, Department of Families, Housing, Community Services and Indigenous Affairs, *Budget Related Paper No 1.7*, p 86. <http://www.budget.gov.au/2008-09/content/pbs/html/index.htm>, accessed October 2008.

5. Australian Government, Budget Paper No. 2: Budget Measures 2008–09, Commonwealth of Australia, Responsible Economic Management — Partner Service Pension — cease payment to married partners who are separated but not divorced, Canberra, 13 May 2008, p. 410, <http://www.budget.gov.au/2008-09/content/bp2/html/expense-11.htm>, accessed on 30 September 2008.

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reached Age Pension age⁶ or Age Service Pension age.⁷ Eligibility for PSP will cease 12 months after separation or immediately if the veteran enters into another marriage-like relationship.

The other change to PSP presented in the Bill is to set the eligible age for PSP at age 50 for the partner of a veteran who is in receipt of a relevant disability pension or who has at least 80 impairment points under the *Military Rehabilitation and Compensation Act 2004*. The two disability pension rates paid above the General rate and below the Special rate are the Intermediate rate⁸ and the Extreme Disablement Adjustment (EDA) rate.⁹

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6. The age pension age for a male is age 65. For a female, the age is being raised by six months every two years so that by 1 January 2014, female and male pension ages will be the same. The table below show when females qualify.

Date of Birth	Qualifying age
Before 1 July 1949	Eligible
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

7. For males, the age service pension age is 60. For female veterans with qualifying service and female ISS qualifying age, the age is being raised by six months every two years so that by 1 January 2014, female and male age service pension ages will be the same. The table below show when females qualify.

Date of Birth	Qualify at
Born before 31 December 1947	now
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

8. Intermediate rate disability pension is payable where the person has a 70% or more disability (using the assessment for the General Rate) and is unable to work for at least 20 hours a week.
9. The EDA rate disability pension is payable where a person is aged 65 or more and are not qualified to the T&PI rate or the Intermediate rate. As the person is not of working age, an inability to work test is not applied, rather an impact of disability on lifestyle test is applied, requiring 70 medical points or more and at least 6 out of 7 lifestyle points.

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Cost/savings

The Financial Impact Statement in the Explanatory Memorandum details there will be some savings attached to this proposed tightening of the qualification requirements for the Partner Service Pension. These savings are estimated to be \$4.0 million in 2008–09, \$10.6 million in 2009–10, \$12.1 million in 2010–11 and \$13.9 million in 2011–12.

The Budget papers said:

This measure is expected to provide savings of \$77.8 million over four years. Some affected partners will transfer to other income support payments, resulting in net savings of \$33.9 million over four years.¹⁰

Most of these savings will arise from lesser number of persons being able to access the PSP, which is paid at the higher pension rate¹¹ and also has the more generous pension means testing (income and assets tests). See ‘How will claimants be affected’ below.

Current Partner Service Pension qualification

A PSP can be paid to an eligible:

- partner of a veteran with qualifying service,
- former partner of a veteran with qualifying service, or
- widow or widower of a veteran who had qualifying service.

Eligibility to Partner Service Pension for current partners

A person is eligible for PSP if:

- they are legally married to and living with a veteran, or living in a marriage-like relationship with a veteran, and
 - the veteran is receiving, or is eligible to receive, an Age Service Pension, or
 - an Invalidity Service Pension,
 - or the veteran is registered as a member of the pension bonus scheme, and

the person meets the age and other eligibility requirements— see below.

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10. Australian Government, Budget Paper No. 2: Budget Measures 2008–09, Commonwealth of Australia, Responsible Economic Management — Partner Service Pension, op. cit.
 11. The single rate of pension as at October 2008 is \$562.10 per fortnight (pf), plus \$5.80pf Pharmaceutical Allowance.

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A person is also eligible if they are a member of a couple and their partner is a veteran who has rendered qualifying service and the person is eligible for an Age Pension – see age requirement for Age Pension below.

Eligibility to Partner Service Pension for former partners

PSP may be paid to former partners who are legally married to, but separated from a veteran. They are eligible if they:

- are the former partner of a veteran who is receiving or is eligible to receive the Service Pension; and
- meet the age and other eligibility requirements – see below.

Eligibility to Partner Service Pension for widows or widowers

If a person was receiving the PSP immediately before a veteran's death, they continue to be eligible for PSP. In certain circumstances, a person may also be eligible for the PSP if:

- immediately before the veteran's death they were receiving a Centrelink pension or were registered as a member of the pension bonus scheme with Centrelink or the Department of Veterans' Affairs (DVA), or
- before the veteran's death they had made a claim for PSP which had not been determined at the time of their veteran partner's death.

Eligibility to Partner Service Pension - age and other eligibility requirements

A person must also meet one of the following criteria for PSP. This does not apply if the person needs to be eligible for an Age Pension. The person:

- must be qualifying age,¹²
- must have a dependent child when the claim is made,
- their veteran partner is receiving the Special rate disability pension,¹³ or
- their veteran partner is receiving, or eligible to receive, a Special Rate Disability Pension (SRDP) under the *Military Rehabilitation and Compensation Act 2004*.

What is qualifying age for Partner Service Pension?

Qualifying age for PSP is equivalent to veteran Age Service Pension age.¹⁴ The qualifying age is 60 years for males and currently 58.5 years for females.

12. See footnote 7.

13. Special rate disability pension is more commonly known as the Totally and Permanently Incapacitated pension (T&PI) and is payable where the person has an impairment of 70% or more and is unable to work for at least 8 hours a week.

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Age requirement for age pension

Some PSP claimants need to be eligible for an Age Pension provided under the *Social Security Act 1991* (SSA). This applies to a person who is the partner of a person who has rendered qualifying war or warlike service. To be eligible for an Age Pension under the SSA a person must be of Age Pension age.¹⁵

What is a marriage-like relationship?

The changes presented in this Bill to PSP qualification will cease access to the PSP immediately where a person has separated from a veteran and the veteran enters into another marriage-like relationship. A marriage-like relationship is where a couple lives in a marriage-like situation but are not legally married. Some of the factors considered when deciding whether two people are living in a marriage-like relationship are whether they:

- think of themselves as a couple,
- share financial and household responsibilities,
- undertake joint social and leisure activities, and
- appear as a couple to the general community.

Changes to Partner Service Pension qualification proposed in this Bill

This Bill proposes to tighten the access to the PSP to cease eligibility for those partners who are separated but not divorced from their veteran partner and who have not reached Age Pension age or Age Service Pension age. See 'Eligibility to Partner Service Pension for former partners' above. Where the partner is aged less than Age Pension age and separated from the veteran, qualification to PSP will cease 12 months after separation or immediately if the veteran enters into another marriage-like relationship.

There have been recent changes to the qualification requirements for the PSP which took effect from 1 July 2008.¹⁶ Those changes saw the raising of the PSP qualification age from age 50 to Age Service Pension or Age Pension qualification age. This raised qualification age did not to apply where the person is a partner of a Special rate disability pensioner¹⁷ or has a dependent child. This Bill slightly undoes those changes and restores

14. See footnote 7.

15. For males – age 65 years. For females, the age is changing and depends on the date of birth, see footnote 6 for details.

16. Peter Yeend, Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest No. 150 2007-08*, Parliamentary Library, Canberra, 23 June 2008.
<http://www.aph.gov.au/library/pubs/bd/2007-08/08bd150.htm#Contact>, last accessed October 2008.

17. See footnote 13.

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the age 50 qualification age and access to PSP, where their partner is a veteran and is in receipt of:

- the Intermediate rate¹⁸ disability pension,
- the EDA rate disability pension,¹⁹ or
- who has at least 80 impairment points under the *Military Rehabilitation and Compensation Act 2004*.

There is no explanation provided in the Explanatory Memorandum or in the Minister's second reading speech, when presenting the Bill, as to why these changes to access to the PSP, that were made earlier this year, are being made when earlier this year different options were taken. Where the partner is providing full-time care to the disability pensioner they may be able to access Carer Payment²⁰ and this would obviate the need to access the PSP. Perhaps it was felt the restrictions to accessing PSP for partners of disability pensioners on higher rates of payment (which apply when their impairment is significant) had gone too far. Some partners may not be providing full-time care so they would not qualify for Carer Payment, but they may still be providing significant levels of care. Therefore their capacity to qualify for Newstart Allowance (NSA) and meet work search, work participation and Mutual Obligation requirements may be limited.

How will claimants be affected?

The persons who will not be able to access the PSP will be those who are married to a veterans' service pension recipient, are separated for more than 12 months but not divorced. Most of these persons not able to access the PSP will be required to access some other form of income support, mainly Newstart Allowance (NSA).²¹

NSA is paid at the lower allowance rate of payment²² and has tighter means testing than PSP, which is paid at the higher pension rate.²³ Also, on NSA a Health Care Card (HCC) is issued, which basically only provides access to concessional pharmaceuticals under the

18. See footnote 8.

19. See footnote 9.

20. A person may get Carer Payment (adult) if they provide constant care in the home of the person they care for and the caree is a person aged 16 or over with a severe disability or medical condition.

21. Newstart Allowance (NSA) is paid to unemployed jobseekers aged 21 to less than age pension age and is commonly known as the unemployment benefit.

22. The single rate of Newstart Allowance as at October 2008 is \$449.30 per fortnight (pf).

23. The single rate of pension as at October 2008 is \$562.10 per fortnight (pf), plus \$5.80pf Pharmaceutical Allowance.

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Pharmaceutical Benefits Scheme (PBS). This contrasts with the PSP which qualifies the recipient to the Pensioner Concession Card (PCC) and access to associated concessions.²⁴ NSA has activity test, work search and Mutual Obligation requirements. PSP has no Mutual Obligation requirements.

A few persons may be able to access a pension rate payment like the Carer Payment²⁵ or Parenting Payment–Single²⁶ but most will be required to access NSA.

Numbers affected

There is no detail provided in the Budget papers, the Explanatory Memorandum or in the Minister's second reading speech when presenting the Bill as to the numbers of PSP claimants and recipients estimated to be affected by the reduced access to the PSP for separated partners. In a submission to the Senate Community Affairs Committee by the Partners of Veterans Association of Australia Inc it was claimed there are 1 170 separated wives receiving the PSP – see below.

A total of 1170 Separated wives receive Partners Service Pension and 420 of these are the Partners of TPI veterans.

DVA has indicated that 590 who are of aged pension age (63 yrs) will be retained by DVA. The remaining 580 Separated wives are made up as follows:

265 wives are aged between 58.5yrs and 63yrs,

240 wives are aged between 50 yrs and 58.5yrs

75 wives are under 50 years of age.

24. Concessions from state and local government authorities may include:

- reductions in property and water rates,
- reductions in energy bills,
- a telephone allowance,
- reduced fares on public transport,
- reductions on motor vehicle registration, or
- one or more free rail journeys within the state each year.

PCC concessions vary from state to state and some of the extra concessions are also available to dependents.

25. Carer payment can be paid to a full-time carer caring for an adult with a disability requiring full-time care (caree) and the caree is on an income support payment, or, paid to a full-time carer, caring for a child with a severe/profound disability, requiring full-time care.
26. Parenting payment- single can be paid to a sole parent caring for a child aged up to age 7.

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Total 580

It is of great concern to PVA to note that 362 of these separated wives are married to veterans who have PTSD as an accepted disability by the Department of Veteran Affairs.²⁷

The source of this information is only indirectly indicated as being the Department of Veterans' Affairs (DVA), which is probable, being the only source that could provide this data. However, this information has not been published by the Government or DVA.

Partner Service Pension - a bit of an anachronism?

PSP is a pension rate income support payment that qualifies the person where they are the partner of a veteran. This is somewhat like the other partner based income support payments provided under the *Social Security Act 1991*, such as the Wife Pension²⁸ and the Widow Allowance.²⁹

There have been no more new grants of Wife Pension since 1 July 1995. The then government started to phase out the payment on the grounds that persons of working age should qualify for an income support payment in their own right, not just because they are partnered to a person who qualifies for an income support payment. Interestingly, there has never been a male counterpart of the wife pension, which is different to PSP where the male partner of a female veteran can qualify for PSP.

The then government contradicted the logic of the phase out of the Wife Pension a bit with the introduction of the Widow Allowance from January 1995. Widow Allowance was paid to women who were no longer partnered, who became separated, divorced or widowed after turning 50 years of age and who had little or no recent workforce experience. The Widow Allowance was paid under the same rates and conditions and under the same income and assets tests as NSA. Widow Allowance was not activity tested and no job searching was required. However, recipients were eligible for certain labour market assistance, employment entry payment and education entry payment.

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27. Partners of Veterans Association of Australia Inc, *Submission to the Senate Community Affairs Committee, Inquiry into Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008*, Canberra, 27 October 2008, p. 2. http://www.aph.gov.au/Senate/committee/clac_ctte/index.htm, accessed October 2008.
 28. Wife pension is paid to the female partner of an Age Pension or a Disability Support Pension recipient.
 29. Widow allowance is payable to a female person was born on or before 1 July 1955, is not a member of a couple, has become widowed, divorced or separated (including separated de facto) since turning 40 and has no recent workforce experience.

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The Widow Allowance was originally to be phased out from July 2005 by raising the age of eligibility by one year in each subsequent year. Widow Allowance arose from the then government concerns about asking older aged women, who had been dependent on a male partner for a prolonged period and had no recent attachment to the workforce, to claim NSA and satisfy the work search and work acceptance requirements. From March 1997, qualification was extended to women aged 50 years or more who had been widowed after turning 40 years of age rather than 50 years of age.

Most of the other formerly passive income support programs (that is, those having no Mutual Obligation) have been modified or curtailed in the past few years. There have been no more new grants for Widow Pension since 20 September 1997 and no more new grants of Partner Allowance or Mature Age Allowance since 20 September 2003. There have been no more new grants of Widow Allowance after 1 July 2005, unless the woman was born on or before 1 July 1955 and new claimants are now required to attend an annual interview.

As said above, the emphasis has been that persons of working age should qualify for an income support payment in their own right, not just because they are the partner of a person who qualifies for a payment. Also, the other emphasis has been for persons of working age to support themselves from their own employment where they can be reasonably expected to do so. This was an underlying emphasis in the Welfare to Work and the associated Mutual Obligation changes of 1 July 2006, which saw access to Parenting Payment – Partnered and Parenting Payment – Single modified. From July 2006, Parenting Payment – Partnered qualification ceases where the youngest child is aged 6 or more and also for Parenting Payment – Single, where the youngest child is aged 8 or more. Where the youngest child is above these ages, the person is provided with NSA, with its associated requirement to look for and accept work and Mutual Obligation requirements.

PSP, with its pension rate of payment and pension means test arrangements, is welfare assistance. In the context of the changes to other comparable welfare assistance payments, it now seems anomalous a person of working age can qualify for an income support payment in their own right, just because they are the partner, or former partner of a veteran.

Schedule 3 - Child Support

A major reworking of the Child Support Scheme was introduced from July 2007. This Bill includes a series of small amendments to the new scheme that address anomalies that have come to light since July 2007.

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Main provisions

Schedule 1 – Maternity Immunisation Allowance

Item 2 inserts **new subsection 39(2A)** into the *A New Tax System (Family Assistance) Act 1999* which allows for eligibility for MIA for children aged between four and five years of age.

Item 6 adds **new subsections 39(5) to 39(10)** which provide for the eligibility of children adopted from overseas for MIA up to the age of 16 years. Older adopted children must meet the immunisation requirements within two years of their arrival in Australia.

Item 8 adds **new subsections 67(2) to 67(5)** which provide for the rate of MIA to be divided into two payments or paid as one payment under various circumstances.

Schedule 2–Partner service pension

Part 1–Amendments commencing on Royal Assent

Veterans' Entitlements Act 1986

Items 1 and 2 make amendments to the basic qualification provisions in the VEA for PSP expanding access to partners of a disability pensioner aged 50 or more where the disability pensioner is:

- on the Intermediate rate,
- on the EDA rate, or
- is a recipient of a *Military Rehabilitation and Compensation Act 2004* Special rate pension with 80 impairment points or more.

Part 2– Amendments commencing on 1 January 2009

Item 5 inserts new provisions into section 38 to cease qualification to PSP where a PSP recipient is separated from the veteran and the veteran either enters into another marriage-like relationship or 12 months has elapsed after separation from the veteran. **Item 7** proposes to insert application provisions referring to the 12 month separation period. It essentially provides for the counting of the end of the 12 month separation period to apply in a manner that is not retrospective. The end of the 12 month period cannot be before the commencement of the application of these provisions which is 1 January 2009.

Schedule 3 – Child Support

The schedule makes minor amendments to the child support legislation that deal with anomalies in the reforms to the formula that commenced in July 2007.

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Concluding comments

The amendments to the Partner Service Pension (PSP) qualification allowing access to PSP for partners of disability pensioners with more significant levels of impairment is perhaps an indication that the changes to the PSP access rules went too far earlier this year. However, there is no actual explanation provided as to why this back-tracking is being done.

The changes to PSP qualification for separated partners of veterans where the veteran enters into a marriage-like relationship or 12 months after separation may be appropriate. However, these changes raise the whole issue of access to PSP for partners of veterans where the partner is of working age. The question which arises is whether there should still be such generous access to a passive income support payment for people merely because they are, or were, partnered with a veteran.

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