



Australian Government
Department of Veterans' Affairs
OFFICE OF THE SECRETARY

Senator Claire Moore
Chair
Senate Community Affairs Committee
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Dear Senator Moore

Thank you for the opportunity for the Department to make a written submission to the Committee in relation to the provisions of the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008*.

The enclosed submission relates to the proposed amendments to partner service pension eligibility in Schedule 2 of the Bill. If you wish to clarify any aspect of this submission or require further information, please contact Mr Sean Farrelly, National Manager Compensation & Income Support Policy on 6289 6677.

Yours sincerely

Ian Campbell
Secretary
Department of Veterans' Affairs

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SENATE COMMUNITY AFFAIRS COMMITTEE

Submission for the inquiry into the provisions of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Bill 2008

Background

The *Veterans' Entitlements Act 1986* (VEA) provides benefits including income support to eligible veterans and their dependants. The age service pension and partner service pension, respectively, is available to veterans and their partners five years earlier than the general population can access the age pension.

Eligibility for a partner service pension relies, in part, on the person being the partner of a veteran who receives or, in some circumstances, is eligible to receive service pension but is not in payment (eg, registered for the Pension Bonus). A partner service pension can also be paid to the separated spouse or the widow/widower of a veteran in certain circumstances.

Generally, an age criteria applies in determining eligibility for the partner service pension except where the partner has a dependent child or is the partner of a veteran in receipt of either a special rate disability pension under the VEA or a Special Rate Disability Pension under the *Military Rehabilitation and Compensation Act 2004* (MRCA). Currently the VEA sets that age criteria at 58.5 years for females and 60 years for males.

Purpose and effect of the legislation

Schedule 2 Part 1

The proposed amendments to the VEA in Part 1 of this Schedule will set the eligible age at 50 years for partner service pension for the partner of a veteran who is in receipt of the certain categories of "above general rate" disability pension, or who has at least 80 impairment points under the MRCA. This measure will apply to the following "above general rate" disability pensions:

- ◆ general rate disability pension that is increased by an amount specified in any of the items 1 to 6 of the table in subsection 27(1);
- ◆ extreme disablement adjustment;
- ◆ intermediate rate disability pension; and
- ◆ temporary special rate disability pension.

This change is beneficial and aligns the eligible age of 50 for partners of seriously disabled veterans.

Schedule 2 Part 2

Under the existing legislation, a non-illness separated spouse retains eligibility for partner service pension upon separation from the veteran and only loses that eligibility if they enter into a new marriage-like relationship or legally divorce. Conversely, a person who is in a marriage-like relationship but not legally married to the veteran loses eligibility for partner service pension immediately upon separation from the veteran service pensioner.

The proposed amendments in Part 2 of this Schedule will give effect to the 2008-09 Budget measure to cease eligibility for partner service pension for those partners who are separated but not divorced from their veteran spouse, and who have not reached age pension age. Age pension age is currently 63.5 years for women and 65 years for men.

To give effect to this two additional criteria for loss of eligibility for partner service pension if the person is under age pension age are proposed:

- (i) if the partner and veteran separate, eligibility for partner service pension will cease 12 months after the date of separation; or,
- (ii) if the veteran enters into a marriage-like relationship, eligibility for partner service pension will cease from that date.

If the person reaches age pension age during the period of the 12 months of separation, the person will continue to be eligible for partner service pension. They will however, lose that eligibility if they enter into a new marriage-like relationship or legally divorce.

Rationale for the separation measure

There has been an accepted Government policy for general members of the community that a person of either sex should support her/himself by working, if possible, or by claiming an appropriate income support payment where work is not an option. This community standard is reflected in the Social Security Act 1991 and related legislation. Income support for couples under social security law has been restructured in recent years to base eligibility and entitlements more on the individual. Wife Pension, Widow B Pension and Partner Allowance which were based on presumed financial dependence of women on their husbands have been phased out progressively since 1995. These changes have recognised that many women are now labour market participants in their own right and sought to ensure that each partner in a couple has similar financial incentives to take up paid work.

The 2008 Budget measure was to more closely align eligibility for partner service pension with the community standard.

The proposed amendments will mean that generally partners will access benefits on the basis of their own current circumstances, rather than on the basis of a relationship that has ended. It will also address the existing provisions which allow partner service pension being paid to more than one partner (ie to the person in a marriage-like relationship with the veteran in addition to the former partner who is still legally married to the veteran) .

Partners who are separated but not divorced from their veteran spouse, and who have not reached age pension age will have a grace period of up to 12 months to reorganise their affairs.

Separation due to illness

The VEA already allows for separation for reasons other than the irretrievable breakdown of the relationship. Members of a couple who live in separate accommodation due to illness (including mental illness) are not affected by this measure. There is no requirement that one or other of the

couple live in a formal care environment. They must continue to be married or in marriage-like relationship.

In determining whether a marriage-like relationship continues to exist, a range of factors are taken into account, including the financial aspects of the relationship, the ownership of joint assets or any joint liabilities, the social aspects of the relationship and the nature of the couple's commitment to each other such as any companionship and any emotional or caring support provided to each other.

Summary

Partner service pension will continue to be granted and paid to those who are eligible (ie those who are of veteran pension age or older, or who are partnered to a special rate pensioner, or who have dependent children). It will also be paid for up to 12 months to a married partner who separates from a veteran.

The special status of members of the veteran community is maintained with partner service pension being available to partners of veterans five years earlier than age pension is available to the general community. For the period from separation up to the 12month afterwards, continuation of the partner service pension gives the partner time to reorganise their affairs. The changes will allow the provision of income support to be based on a person's current situation, rather than a relationship that has ended thus aligning entitlements with the general community.

Managing transition

The amendments in Part 2 of Schedule 2 of the Bill are proposed to come into effect on 1 January 2009. As such, if the Bill were enacted in its current form, the timeframe is extremely tight to communicate with and assist any partner service pensioners impacted by the new provisions, if passed. With these issues in mind, the Department wrote in September to all pensioners who would be possibly impacted by the proposed legislation. These pensioners were encouraged to contact the Department to discuss their individual circumstances.

The separated partners have been advised to consider options such as increasing their workforce participation or joining the workforce, or if necessary, accessing income support from Centrelink so that their financial situation is secure when the changes come into effect.

A special team has been established by the Department to provide advice and assistance to these partners to ensure their circumstances are properly considered and that they are fully informed of the options available to them. This includes referral to appropriate support through Centrelink for those unable to work or needing assistance to find work. Individual case management is being provided for separated partners who have been identified by the Department as special needs cases or especially vulnerable

The Department identified **580** separated partners will could be potentially affected by the passage of legislation as at 1 January 2009.

135 separated partners have contacted the Department of which **15** have reconciled, or intend to reconcile with their veteran service pensioner.

The remaining **120** are being assisted through the special team with:

- **60** seeking re-assessment as an illness separated couple;
- 50 will explore options for a Centrelink benefit, and includes some individuals who are also seeking illness separated status;
- the remainder still considering their options.

All assessments of illness separated status will expedited and made by the same experienced senior DVA officer.

The Department has established special arrangements with Centrelink to assist with this group:

- Any transfer involving new payments from Centrelink will be coordinated through one Centrelink office that specialises in dealing with the veteran community.
- In December, Centrelink staff will personally contact any person who has been identified as potentially affected by the measure and has not made contact with DVA or Centrelink.