

1996 - 97

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**VETERANS' AFFAIRS LEGISLATION  
AMENDMENT (1996-97 BUDGET AND  
OTHER MEASURES) BILL 1996**

**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

Amendments to be moved on behalf of the Government

(Circulated by authority of the Minister for Veterans' Affairs,  
The Honourable Bruce Scott MP)

## OUTLINE

### ***OUTLINE AND FINANCIAL IMPACT***

These amendments affect the *Veterans' Entitlements Act 1986*.

The Veterans' Affairs Legislation Amendment (1996-97 Budget and Other Measures) Bill 1996 was introduced into the House of Representatives on 11 December 1996. The Government has decided to amend the Bill to add some additional measures to Veterans' Affairs legislation that were announced as part of the Government's 1996-97 Budget. The amendments also contain minor policy and technical changes to Veterans' Affairs legislation.

Unless otherwise indicated, the amendments to the measures in this Bill have no or negligible financial impact.

### ***OVERVIEW***

#### ***Amendments to the Veterans' Entitlements Act 1986 relating to rent assistance for single people sharing accommodation***

This amendment to Schedule 1 of the Veterans' Affairs Legislation Amendment (1996-97 Budget and Other Measures) Bill 1996 will prevent the new arrangements applying to a person who receives service pension or income support supplement on the ground of permanent incapacity for work.

***Date of effect:*** 1 July 1997.

|                                 |           |            |
|---------------------------------|-----------|------------|
| <b><i>Financial impact:</i></b> | 1996-97   | (\$0.068m) |
|                                 | 1997-98   | \$0.046m   |
| (net outlays)                   | 1998-99   | \$0.046m   |
|                                 | 1999-2000 | \$0.043m   |

#### ***Amendments to the Veterans' Entitlements Act 1986 to remove the means test exemption for superannuation assets in certain cases***

These amendments remove the exemption from the income and assets tests that apply to the superannuation and rollover fund assets of certain service pensioners and income support supplement recipients. Recipients of service pension or income support supplement who receive the service pension and/or other income support payments for a cumulative period of at least 39 weeks after reaching 55 years of age, will have their superannuation and roll-over fund assets subject to the income and assets tests.

***Date of effect:*** 1 July 1997.

***Amendments to the Veterans' Entitlements Act 1986 relating to rehabilitation***

These amendments provide the legislative authority to establish a permanent Veterans' Vocational Rehabilitation Scheme in the form of a disallowable legislative instrument. The voluntary Scheme will assist veterans to find and continue in employment.

The amendments insert a new part in the *Veterans' Entitlements Act 1986* that:

sets out how to determine the pension rates of veterans participating in the Scheme;  
provides a safety net that ensures that veterans on intermediate rate or special rate disability pensions will not receive an amount of work and pension income, while participating in the Scheme, that is less than the amount of pension they received when beginning the Scheme.

|                                 |              |           |
|---------------------------------|--------------|-----------|
| <b><i>Date of effect:</i></b>   | 1 July 1997. |           |
| <b><i>Financial impact:</i></b> | 1997-98      | \$516,000 |
| (net outlays)                   | 1998-99      | \$712,000 |
|                                 | 1999-2000    | \$904,000 |
|                                 | 2000-2001    | \$904,000 |

***Amendments of the National Health Act 1953 relating to the abolition of the modified income test***

These amendments will remove provisions of the *National Health Act 1953* that currently allow for pharmaceutical benefits to be provided at the concessional rate to those people who have a 'saved' entitlement to fringe benefits despite having had their service pension cancelled when deeming was introduced into the *Veterans' Entitlements Act 1986*.

***Date of effect:*** 1 July 1997.

***Minor Technical Amendments***

A number of minor technical amendments to the *Veterans' Entitlements Act 1986* are necessary. These amendments correct previous misdescribed amendments, incorrect legislative references, redundancies, omissions, and other typographical errors.

***Date of effect:*** The amendments will commence on the dates specified in the amendments.

## **EXPLANATION OF THE AMENDMENTS**

### **Commencement**

**Amendment (1)** amends clause 2. This amendment inserts the various dates on which each of the new measures and technical amendments to be included in the Veterans' Affairs Legislation Amendment (1996-97 Budget and Other Measures) Bill 1996 will commence.

### **Amendments to Schedule 1**

**Amendment (2)** corrects Item 34 of Schedule 1. Item 34 amends the references to certain assets that will be disregarded when calculating a person's assets under subsection 52(1). This amendment is related to Item 1E in **Amendment (18)** which corrects a misdescribed amendment to subsection 52(1) by item 13 of Schedule 17 of the *Social Security and Veterans' Affairs Legislation Amendment Act 1995*.

**Amendment (3)** corrects a typographical error in Item 57 of Schedule 1. Item 57 removes redundant words from section 56K.

**Amendment (4)** inserts a provision in Item 77 of Schedule 1 that restricts the Commission's power to make a determination relating to a single person sharing accommodation under section 5MD.

### **Amendments to Schedule 4**

**Amendments (5) to (13)** relate to Schedule 4 of the bill. That schedule amends the *Social Security Act 1991* allowing the Department of Veterans' Affairs (DVA), acting as an agent of the Department of Social Security, to pay and administer the age pension, and in certain circumstances the wife pension, of certain disability pensioners and their partners.

**Amendment (5)** amends item 2 of Schedule 4. The replacement paragraph 57(3)(b) ensures that a partner cannot transfer to the DVA agency unless the veteran disability pensioner member of the couple is also an age pensioner and therefore free to transfer to the DVA agency arrangement. The initiative is directed primarily to disability pensioners. It would be inappropriate if the partner could transfer but the disability pensioner could not transfer because he or she is not an age pensioner.

**Amendment (6)** also amends item 2 of Schedule 4. The reference to the definition of *disability pension* in section 5Q of the *Veterans' Entitlements Act 1986* is amended so that only part of the definition is referred to. By referring only to paragraphs (a), (b) and (c) of the definition of *disability pension*, only those veterans receiving certain pensions under veterans' entitlements legislation will be included. The initiative is directed to providing the agency arrangement to those age pensioners already receiving a pension from DVA. Veterans receiving similar payments from other sources would not be included.

**Amendment (7)** amends item 3 of Schedule 4. It provides that new subsection 59A(2) will be subject to new subsection 59A(4) being inserted by amendment (10).

**Amendment (8)** also amends item 3 of Schedule 4. The half pay instalment formula in new subsection 59A(3) will now apply to the first pension payday after the determination to change paydays has been revoked. The half instalment will therefore now be paid by the Department of Social Security on the first pension payday after the pensioner has elected to cease dealing with DVA on an agency basis. Half instalments are applied each way on transfer between the Departments to prevent the windfall gains that would be associated with payment of two full fortnightly instalments only one week apart.

**Amendment (9)** also amends item 3 of Schedule 4. It amends the definition of *normal age pension instalment* to reflect the change in amendment (8). The instalment to be used in the formula in new subsection 59A(3) is the instalment that would have been paid on the payday if there was no half instalment provision.

**Amendment (10)** also amends item 3 of Schedule 4. It inserts new subsection 59A(4) which prevents the operation of new subsection 59A(2) where the pension has just been granted. Where a pension has just been granted, a full instalment will be paid on the next veterans' affairs payday.

**Amendment (11)** amends item 5 of Schedule 4. The reference to the definition of *disability pension* in section 5Q of the *Veterans' Entitlements Act 1986* is amended so that only part of the definition is referred to. By referring only to paragraphs (a), (b) and (c) of the definition of *disability pension*, only those veterans receiving certain pensions under veterans' entitlements legislation will be included. The initiative is directed to providing the agency arrangement to those age pensioners already receiving a pension from DVA. Veterans receiving similar payments from other sources would not be included.

**Amendment (12)** amends item 6 of Schedule 4. The half pay instalment formula in new subsection 163A(3) will now apply to the first pension payday after the determination to change paydays has been revoked. The half instalment will therefore now be paid by the Department of Social Security on the first pension payday after the pensioner has elected to cease dealing with DVA on an agency basis. Half instalments are applied each way on transfer between the Departments to prevent the windfall gains that would be associated with payment of two full fortnightly instalments only one week apart.

**Amendment (13)** also amends item 6 of Schedule 4. It amends the definition of *normal wife pension instalment* to reflect the change in amendment (12). The instalment to be used in the formula in new subsection 163A(3) is the instalment that would have been paid on the payday if there was no half instalment provision.

#### **Insertion of extra schedules After Schedule 4**

**Amendment (14)** inserts the following schedules after Schedule 4:

Schedule 4A amendments to the *Veterans' Entitlements Act 1986* to remove the means test exemption for superannuation assets in certain cases (for details see page 5 below);

Schedule 4B amendments to the *Veterans' Entitlements Act 1986* relating to rehabilitation (for details see page 8 below); and

- Schedule 4C amendments of the *National Health Act 1953* relating to the abolition of the modified income test (for details see page 13 below).

## **Amendments to Schedule 5**

**Amendment (15)** inserts new Part 1 into Schedule 5 and adds a Part 2 heading to the provisions already in the Bill.

New Part 1 inserts a new item into the Bill. That item inserts new clause 7A into Schedule 5 of the *Veterans' Entitlements Act 1986* (VEA).

New clause 7A is a transitional provision related to the repeal of the carer provisions and the transfer of all carers to the Department of Social Security dealt with in Part 1 of Schedule 1 of the Bill.

Because the DSS and DVA paydays are offset by one week, a windfall gain would accrue to the carers being transferred if they were to receive two fortnightly instalments only one week apart. The transitional provision allows the payment of a half instalment during the transfer.

The repeal of the carer provisions in the VEA commences on 1 July 1997. The timing of the payment of instalments either side of the transfer are set out in the following table:

| Which Department's Pay Day: | DVA Pay Day  | DSS Pay Day  | DVA Pay Day | DSS Pay Day  |
|-----------------------------|--------------|--------------|-------------|--------------|
| Date:                       | 19 June 1997 | 26 June 1997 | 3 July 1997 | 10 July 1997 |
| Payment:                    | Normal       | Half         | Nil         | Normal       |

The table highlights that the half instalment will be paid before the repeal and will therefore be paid by the Department of Veterans' Affairs (DVA) on a Department of Social Security payday on 26 June 1997.

The transitional provision applies only to pensioners being transferred and not to those who are being saved, because those saved pensioners will continue receiving instalments on DVA paydays.

## **Amendments to Schedule 6**

**Amendments (16) and (18)** insert the following technical amendments in Schedule 6:

Part 1, **Item 1A** amends paragraph (a) of Schedule 1 of the *Veterans' Affairs Legislation Amendment Act 1987*. This minor amendments will correct the reference and return all references of "161 kilometres" in Item 8 of Schedule 2 of the *Veterans' Entitlements Act 1986* to 185.2 kilometres.

Part 2, **Item 1B** amends a typographical error in paragraph 18(g) of the *Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Act (No 2) 1994*. This amendment renumbers paragraph 45V(2)(c) second occurring as paragraph 45V(2)(e).

Part 3, **Item 1C** amends item 4 of Schedule 1 of the *Veterans' Affairs Legislation Amendment and Repeal Act 1995*. A repeated reference to "in Point 43-A1" is omitted.

Part 3, **Item 1D** amends item 107 of Schedule 1 of the *Veterans' Affairs Legislation Amendment and Repeal Act 1995*. This minor amendment ensures that the term "annual rate" is used consistently throughout the *Veterans' Entitlements Act 1986*.

Part 4, **Item 1F** amends item 8 of Schedule 4 of *Veterans' Affairs (1995-96 Budget Measures) Legislation Amendment Act 1995*. The amendment overcomes an omission whereby non-illness separated spouses were not included as eligible for a partner service pension when the veteran dies.

Part 6, **Item 1E** is dealt with at **Amendment (2)** above.

Part 7, **Item 3** repeals a list of redundant payments already covered by other paragraphs in subsection 5H(8).

Part 7, **Item 4**, makes a minor amendments to wrong numbering in subsection 5H(8)

Part 7, **Items 5, 6, 7, 9, 11, 12,13**, insert references to income support supplement which were not inserted in the *Veterans' Entitlements Act 1986* when income support supplement was inserted in the Act in March 1995.

Part 7, **Items 8 and 10**, insert notes alerting the reader to the definition of social security pension contained in subsection 5Q(1)

Part 7, **Item 14**, corrects a legislative reference to the *Crimes Act 1914* in subsection 93B(4).

Part 7, **Items 15 and 16**, correct references to other paragraphs of the *Veterans' Entitlements Act 1986*.

Part 7, **Item 17**, provides that the Crown in the right of the Australian Capital Territory may also be bound by Section 128.

Part 8, **Item 18**, renumbers the items in Schedule 5 of the *Veterans' Entitlements Act 1986*.

**Amendment (17)** renumbers the heading in Schedule 6.

## **SCHEDULE 4A**

### **AMENDMENTS TO THE *VETERANS' ENTITLEMENTS ACT 1986* TO REMOVE THE MEANS TEST EXEMPTION FOR SUPERANNUATION ASSETS IN CERTAIN CASES**

#### ***OVERVIEW***

Schedule 4A will amend the *Veterans' Entitlements Act 1986* to remove the exemption from the income and assets tests that applies to the superannuation and rollover fund assets of certain service pensioners and income support supplement recipients.

Only the following recipients of service pension or income support supplement will have their superannuation and roll-over fund assets subject to the income and assets tests:

- (a) those aged 55 years and over; and
- (b) who have received one or a combination of the following:
  - a social security pension;
  - a social security benefit;
  - a service pension;
  - an income support supplement,

for a cumulative period of at least 39 weeks after reaching 55 years of age.

#### ***BACKGROUND***

Assets held in superannuation and rollover funds are currently disregarded under the VEA for persons below pension age. Pension age for veterans and income support recipients is presently 55.5 years for females and 60 years for males. Once pension age is reached, under the income and assets tests amounts held in funds are assessed as assets and the deemed income rules are applied.

Many people aged between 55 years and pension age do not work and have poor labour market prospects. In effect, they have retired from work. Given that the preservation age for most superannuation funds is 55 years, it is reasonable to expect that their superannuation savings be taken into account when assessing how much income support they are to receive.

## **EXPLANATION OF THE CHANGES**

Under the new rules, from 20 September 1997 a person below pension age will have their superannuation and rollover assets assessed under the income and assets tests only after they have received income support for a total period of 39 weeks after reaching 55 years of age. Their superannuation and rollover assets will be added to the total value of their other financial assets and assessed under the extended deeming rules.

The total period of receipt of income support will be cumulative. This means, for example, that if a service pensioner aged 55 or over received income support for 24 weeks after turning age 55, then stopped receiving it for a period of time, and then recommenced receiving it, once the service pensioner has received it for 15 weeks the "qualifying period" of 39 weeks will have been served.

It should be noted that any of the qualifying period can have been served before 20 September 1997. Also, once a person has accumulated the qualifying period, any superannuation and rollover assets of the person will be assessed when the person returns to income support payments.

The income and asset "free" areas in the income and assets tests will mean that service pension and income support supplement recipients who have only small amounts of superannuation and income and assets may not be affected.

If service pensioners or income support recipients genuinely cannot access their superannuation assets because of superannuation regulations, section 46L of the *Veterans' Entitlements Act* could be used to allow those assets to be exempted from the extended deeming rules.

## **EXPLANATION OF THE ITEMS**

**Item 1** inserts the definition "prescribed pre-pension age person" into the index of definitions used mainly in Part III of the Act that is contained in section 5.

This definition is central to these amendments. Item 12 will insert a definition of a "prescribed pre-pension age person" as meaning someone who:

- (a) reaches (or has reached) age 55 (but has not reached pension age); and
- (b) since reaching age 55 has received any, or any combination of, specified forms of income support, either for a continuous period of 39 weeks or for separate periods adding up to 39 weeks.

**Item 2** inserts into the definition of "income" in subsection 5H(1) a reference to new subsection 5H(7A).

**Item 3** inserts new subsection 5H(7A) and 5H(7B). These subsections make clear that a return on a persons' investment in a superannuation fund, an approved deposit fund or a

deferred annuity will not be an excluded amount under the income test if the person is a "prescribed pre-pension age person".

**Item 4** repeals paragraph 5H(8)(i) and related notes.

**Items 5 - 7** remove the words "before pension age is reached" from the notes to paragraphs 5J(1B)(d), 5J(1B)(e) and 5J(1B)(f) and replaces them with the words "by persons who are neither prescribed pre-pension age persons nor persons who have reached pension age".

**Items 8 - 10** insert the words "is not a prescribed pre-pension age person and" into paragraphs 5J(1C)(a), 5J(1C)(b) and 5J(1C)(c).

**Item 11** replaces the first note to subsection 5J(1C) with a new note.

**Item 12** inserts the definition of "prescribed pre-pension age person" into subsection 5Q(1).

**Item 13** repeals section 46Q which sets out how superannuation fund investments are currently treated if the person has not yet reached pension age.

**Item 14** omits the words "before the person reaches pension age" from paragraph 46R(a) which sets out how an early withdrawal from a superannuation fund may be made.

**Item 15** inserts a new paragraph 46R(aa).

**Item 16** inserts an extra note in section 46R referring the reader to the new definitions of "pension age" and "prescribed pre-pension age person" in subsection 5Q(1).

**Item 17** repeals paragraph 52(1)(f) as the provisions inserted elsewhere in Schedule 4A now deal with the exemption of superannuation assets from means testing.

**Item 18** inserts a new section 52AA which provides that the value of a person's investment in a superannuation fund, approved deposit fund or deferred annuity can be disregarded when calculating a person's assets in the specified circumstances.

## **COMMENCEMENT**

**Subclause 2(3)** provides that this Part commences on 20 September 1997.

## **SCHEDULE 4B**

### **AMENDMENTS TO THE VETERANS' ENTITLEMENTS ACT 1986 RELATING TO REHABILITATION**

#### ***OVERVIEW***

Schedule 4B inserts a new Part into the VEA relating to rehabilitation. New Part VIA provides the legislative authority for the establishment of a permanent Veterans' Vocational Rehabilitation Scheme ("the Scheme"). The aim of the Scheme is to assist veterans to find employment and continue in employment.

The new Part sets out how the pension rates of veterans participating in the Scheme are to be calculated. Participation in the Scheme will be voluntary. In particular, the new Part provides for a safety net that ensures that veterans on intermediate rate or special rate disability pensions will not receive an amount of work and pension income, while participating in the Scheme, that is less than the amount of pension they received when beginning the Scheme.

The amendments provide for the Repatriation Commission to make the Scheme in the form of a disallowable legislative instrument.

#### ***BACKGROUND***

These amendments replace the pilot Vocational Rehabilitation Scheme currently operated by the Repatriation Commission under Regulations with the Veterans' Vocational Rehabilitation Scheme to be operated under the VEA.

The new Scheme will be easier to administer and understand than the temporary Scheme. Rehabilitation allowance no longer has to be paid to veterans who participate in the Scheme, as was the case under the pilot Scheme when amendments could not be made to the VEA due to the temporary nature of that Scheme. Instead, the Act will operate to slowly reduce the rate of pension payable to veterans participating in the Scheme as their work income increases. It will also set out eligibility criteria for participation in the Scheme.

Under the Scheme the Repatriation Commission will provide a range of services, including assistance to veterans who wish to obtain or retain civilian employment following separation from the Australian Defence Force, vocational rehabilitation programs and certain types of financial assistance. Pensioners who receive disability pension at the special or intermediate rate will retain all their ancillary benefits, such as treatment, whilst participating in the Scheme. This means that they will retain these benefits whilst undertaking a vocational rehabilitation program and afterwards during the period when the pension reduction amount is applied to their pension.

Recipients of invalidity service pension who participate in the Scheme will remain subject to the normal income and assets tests, but only 50% of their wages from remunerative work will be taken into account for the purposes of the income test in the two year period after they commence remunerative work as the result of undertaking the program. Whilst on the program itself they will retain the amount of pension they would have received if they were not on the program.

Following the two year period after the commencement of remunerative work as a result of undertaking their program, the amount of their income from remunerative work that will be taken into account under the income test will be increased by 5% every six months. This means that the amount of their pension will slowly be reduced as the amount they earn from the work they obtained, or retained, as a result of their participation in the Scheme, increases. The eligibility of invalidity service pension recipients for ancillary benefits will continue to be linked to their satisfying the normal income and assets tests.

### ***EXPLANATION OF THE CHANGES***

The amendments provide that all veterans will be eligible to participate in the Scheme except those Commonwealth and allied veterans or mariners who have not lived in Australia for a continuous ten year period. Members of the Forces and members of the Peacekeeping Forces can also access the Scheme. Only pensioners in receipt of disability pension at the Special or intermediate rate, or Invalidity Service Pension, will have their pension affected if they participate in the Scheme.

The amendments provide the Commission with the power to make, and vary, a disallowable legislative instrument that will set out the Scheme. They set out the matters for which the Scheme may make provision, for example, the provision of rehabilitation programs and certain financial assistance to participants. They also set out how the "pension reduction amount" (for disability pension) and the "excluded income amount" (for invalidity service pension) is to be calculated for the purposes of determining the amount of pension of veterans on these pensions who participate in the Scheme.

Finally, the amendments provide that the Commonwealth will be able to be reimbursed the cost of any rehabilitation it has provided to a participant under the Scheme where the participant is entitled to claim compensation or damages for rehabilitation from any other person (for example, an insurer). These provisions mirror the provisions set out in section 93 of the Act in relation to reimbursement of the cost of treatment. Because that provision is in another Part of the Act, and because it relates to 'treatment' and not 'rehabilitation', a similar provision has been inserted into the new Part. It has been included to ensure that taxpayers do not have to bear the cost of rehabilitating veterans under the Scheme if another party is responsible for that cost.

## **EXPLANATION OF THE ITEMS**

**Item 1** inserts a reference to an amount worked out under new section 115G into subsection 5H(8). This means that the amount worked out under subsection 115G will be excluded as income for the purposes of the income test under the Act.

**Item 2** makes clear that participants in the Scheme who receive disability pension at the intermediate rate may not get the normal intermediate rate of pension payable under subsection 23(4) due to the application of the income reduction amount calculated under section 115D.

**Item 3** inserts a new sub-section (5) into section 23. The new sub-section provides that a pensioner in receipt of intermediate rate will have his or her rate of pension reduced by the pension reduction amount worked out under section 115D.

**Items 4 and 5** make the same amendment as **Items 2 and 3** except in relation to participants who receive disability pension at the special rate.

**Items 6 and 7** operate together to exempt participants who receive disability pension at the Intermediate or special rate from having to comply with the work tests for those pensions when on the Scheme. Normally only those veterans who are unable to work more than 20 hours per week are eligible for intermediate rate pension whilst only those veterans who cannot work more than 8 hours a week can obtain special rate disability pension. People who participate in the Scheme may well not satisfy these tests whilst on a vocational rehabilitation program and once they commence work or substantially increase their hours of work. They are therefore exempted from complying with them while on the Scheme.

**Item 8** makes a similar amendments exempting pensioners who receive disability support pension from having to comply with the work test for that pension while on the Scheme.

**Item 9** inserts a new Part VIA concerning rehabilitation after Part VI (Allowances and Other Benefits). Part VIA will comprise 11 sections from 115A - 115L.

**Section 115A** sets out the definitions that will apply in new Part VIA. In particular, the definition of 'veteran' explains who can participate in the Scheme (see above).

New **section 115B** provides the Commission with the power to make the Veterans' Vocational Rehabilitation Scheme by instrument in writing. The Commission will be able to vary or revoke the Scheme by instrument in writing. The Commission must consult with organisations representing the interests of the veteran community before making, varying or revoking the Scheme. All instruments must be approved by the Minister and they will be disallowable instruments for the purposes of the *Acts Interpretation Act 1901*. This means that they must all be tabled in Parliament and either House of Parliament can disallow any instrument, or part of an instrument, if it wishes.

Section 115B also sets out the matters for which the Commission can make provision under the Scheme. In particular, it can provide for "rehabilitation programs". This means it can provide for rehabilitation programs other than vocational rehabilitation programs if it

wishes. The Commission can also make provision in the Scheme for appeals from decisions made under the Scheme. This is because sub-section 115B(5) provides that the Commission can make provision "in relation to" the matters it prescribes.

New **section 115C** makes clear that veterans undertaking vocational rehabilitation programs will retain the rates of pension they would otherwise have received if they were not undertaking those programs. It ensures that their rate of pension is not affected, unless new sections 115D or 115G have begun to apply.

New **section 115D** explains how the pension reduction amount is to be calculated in relation to disability pensions payable at the intermediate rate or special rate. The first formula explains how it is to be calculated in the two year period immediately after the veteran first commenced remunerative work as a result of undertaking the vocational rehabilitation program. The second formula explains how it is to be calculated in the five years following that two year period.

In the first period the veteran's rate of pension on commencement will be reduced by half the difference between that rate and the General rate. In the second period the veteran's rate of pension will be reduced gradually every CPI payday so that at the end of the five year period the veteran will be on the General Rate of pension.

This means, for example, that a veteran on special rate disability pension who undertook a one year vocational rehabilitation program under the Scheme will, in the majority of circumstances, only have his rate of pension reduced to the General Rate at least eight years after commencing the program. At the same time, the veteran's earnings from his work should substantially increase his total income. In the unlikely event that this does not occur, the veteran will have the benefit of the 'safety net' (see new **sections 115E** and **115F** below).

New **section 115E** provides the safety net. It allows veterans on special rate or intermediate rate disability pension who have participated in the Scheme to apply to the Repatriation Commission to have their pension reduction amounts reduced (thus increasing their rate of pension) if they think that their combined income from their work and pension is less than the rate of pension they would have received if they had not undertaken a vocational rehabilitation program under the Scheme.

New **section 115F** provides that the Repatriation Commission shall consider and determine an application under section 115E.

New **section 115G** explains how the amount in new paragraph 5H(8)(zm) is to be an excluded income amount for the purposes of the income test. This amount is to be calculated only in relation to invalidity service pensions.

In the two year period immediately following commencement of remunerative work as a result of undertaking the vocational rehabilitation program only half of an invalidity service pensioner's earnings are to be taken into account under the income test. The other half of those earnings shall be the 'excluded income amount'.

In the five year period immediately after that two year period this 'excluded income amount' shall be increased (and therefore the veteran's pension shall be slowly reduced) by 5% of the earnings every six months.

New **section 115H** relates to the recovery of the cost of, and incidental to, rehabilitation provided by the Commission to a veteran who is, or may become, entitled to receive compensation from another party (for example, an insurer) for a condition for which the rehabilitation program is being undertaken. In these circumstances the Commission can give to the veteran a notice requiring the veteran to pay for the rehabilitation program undertaken.

Once the Commission gives this notice, it can then give a notice to the other person who is liable for the cost of the veterans' compensation that explains that the veteran is now liable for the cost of the rehabilitation program. That person then becomes liable to pay either the veteran, or the Commonwealth, either an amount equal to the cost of the program, or the amount of compensation for which the person is liable, whichever is the lesser. If the veteran receives the money, it must then be paid to the Commonwealth.

New **section 115K** allows the Commonwealth to go to Court to recover this amount if necessary.

New **section 115L** allow the Commission to make a determination as to the amount of the cost of, or incidental to, a vocational rehabilitation program. This determination will operate as prima facie evidence that this was the recoverable cost.

## ***COMMENCEMENT***

**Subclause 2(2)** provides that this Part commences on 1 July 1997.

## **SCHEDULE 4C**

### **AMENDMENTS OF THE *NATIONAL HEALTH ACT 1953* RELATING TO THE ABOLITION OF THE MODIFIED INCOME TEST**

#### ***OVERVIEW***

Schedule 4C will amend the *National Health Act 1953* to remove provisions of that Act that currently allow for pharmaceutical benefits to be provided at the concessional rate to those people who have a 'saved' entitlement to fringe benefits despite having had their service pension cancelled when deeming was introduced into the *Veterans' Entitlements Act 1986*.

#### ***BACKGROUND***

This amendment relates to the amendments in Schedule 3. The Schedule 3 amendments abolish the entitlement of people who currently receive fringe benefits, but who do not receive service pension any more due to the introduction of deeming, from receiving those benefits from 1 July 1997. These people have income and assets above the financial limits and their receipt of fringe benefits places them at an advantage over others in a similar financial situation.

#### ***EXPLANATION OF THE CHANGES***

The amendment removes these people from the list of 'concessional beneficiaries' for pharmaceutical benefits that is in the *National Health Act 1953*. The amendment is necessary because concessional pharmaceuticals are fringe benefits, to which they are no longer entitled.

#### ***EXPLANATION OF THE ITEMS***

**Item 1** repeals paragraphs (ba) and (bb) of the definition of "concessional beneficiary" in subsection 84(1) of the *National Health Act 1953*.

#### ***COMMENCEMENT***

**Subclause 2(2)** provides that this Schedule commences on 1 July 1997.

