

ARTHUR ROBINSON & HEDDERWICKS
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Veterans' Affairs,
Senator the Hon John Faulkner)

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Veterans' Affairs Legislation Amendment Bill 1993

Outline and Financial Impact Statement

This portfolio Bill gives effect to the Government's election promise to reduce the assets test withdrawal rate from \$104 to \$78 per annum for each \$1,000 above the assets test threshold. This will increase the amount of assets a person will be able to have and still qualify for payment of some service pension.

The Bill also extends benefits under Veterans' Affairs legislation to members of the Australian Defence Force serving with United Nations Peacekeeping Forces in Somalia and in the area comprising the former Yugoslavia. In this respect the Bill will provide that such service will be regarded as "operational" and "qualifying service".

Finally, the Bill includes an amendment to extend operational service in Cambodia to areas in Laos and Thailand that are not more than fifty kilometres from the border with Cambodia.

As a result of the changes designating Somalia and the area comprising the former Yugoslavia as operational areas, the Bill contains consequential amendments to the *Income Tax Assessment Act 1936* and the *Public Service Act 1922*. These consequential amendments will ensure that income tax concessions on certain Commonwealth employees compensation payments and certain conditions of appointment and employment in the Australian Public service apply to members of the Australian Defence Force who served in these areas.

Financial Impact

The financial implications of the Government's promise to reduce the assets test withdrawal rate are \$ 6.5 million in 1993/94, \$8.4 million in 1994/95 and \$8.3 million in 1995/96. These figures represent the program costs only.

The costs of providing benefits for operational service in Somalia and Yugoslavia over the next three years are negligible. The financial impact of this decision will not be very significant for the compensation component of the benefit. This is because the total number of service personnel involved is relatively small. In relation to the provision of service pension benefits, virtually no costs will be incurred until these service personnel reach retirement age.

There are no additional costs associated with the proposal to extend the area of operational service in Cambodia.

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PART 1 - PRELIMINARY

Part 1 of the Bill sets out how the amending Act is to be cited (Clause 1), when the various Parts and Divisions of the Amending Act are to commence (Clause 2) and the application date for the operation of the consequential amendments to the *Income Tax Assessment Act 1936* (Clause 3).

PART 2 - AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

Division 2 - Assets test

Summary of proposed changes

The amendments in *Division 2* relating to the assets test will give effect to the Government's election promise to reduce the assets test withdrawal rate from \$104 to \$78 per annum for each \$1,000 above the assets test threshold.

The level of assets a person who is a homeowner will now be able to have before service pension ceases to be payable will increase by \$26,500 to \$218,500 for a single pensioner, and by \$22,000 to \$167,750 each for a pensioner couple. It is estimated that about 2,500 veterans and their spouses will become eligible for service pension as a result of the increase in the level of assets that a person may have. The increase in the level of assets will also provide for an average increase of approximately \$25.00 per fortnight for pensioners receiving less than the maximum rate service pension. The average pension payable for new pensioners who qualify as a result of this change to the assets test withdrawal rate is also approximately \$25.00 per fortnight.

Background

The Government's decision to change the assets test withdrawal rate is aimed at achieving greater equity for assets tested pensioners. Around 8,900 service pensioners currently receive pension at a reduced rate because of their assets.

Explanation of clauses

Clauses 5, 6 & 7 will provide for the necessary changes to be made to the rate calculators which determine the appropriate formula to be applied to the assessment of service pension in each case. The rate calculators apply to service pensioners where there are no dependent children (clause 5), where there are dependent children (clause 6), and to Widows, Widowers and Non-illness separated spouses (clause 7).

Clause 8 sets out the new assets test withdrawal rate formula in section 52Z of the Principal Act. This will ensure consistency with the assets test in the application of the financial hardship rules when assessing the rate of service pension payable under the financial hardship guidelines.

Commencement

These changes will commence on 20 September 1993 and will apply to payments of service pension that fall due on or after that date (subclause 2(2)).

Division 3 - Peacekeeping service in Cambodia

Summary of proposed changes

Following the deployment of members of the Australian Defence Force to serve with United Nations Forces in the area, Cambodia was declared an operational area with effect from 20 October 1991. In September 1992, the Chief of the Defence Force Staff advised that some Australian Defence Force Members in Cambodia have been engaged in United Nations operations across the Cambodian border in the countries of Laos and Thailand. This amendment would extend the operational area of Cambodia in item 12 of Schedule 2 to areas in Laos and Thailand that are not more than 50 kilometres from the border with Cambodia.

This amendment will ensure that any Australian Defence Force personnel who cross the Cambodian border into Laos or Thailand as part of their service with the United Nations in Cambodia, will continue to be regarded as being on operational service.

Commencement

This change will commence from 20 October 1991 (subclause 2(3)).

Division 4 - Peacekeeping service in the former Yugoslavia

Summary of proposed changes

This amendment will provide for the area that was formerly known as Yugoslavia to be designated as an operational area for the purposes of the Veterans' Entitlements Act with effect from 12 January 1992. It will provide compensation benefits for the small contingent of Australian Defence Force personnel serving with United Nations Forces in the area. This service will also be designated as "qualifying service" for service pension eligibility purposes.

Consequential amendments to the *Income Tax Assessment Act 1936* and the *Public Service Act 1922* in Parts 3 and 4 will ensure the flow-on of certain tax concessions and of provisions for appointment to, and conditions of service in, the Australian Public Service. Entitlement to these benefits extends to members of the Australian Defence Force who served on operational service.

Background

The significance of declaring the area comprising the former Yugoslavia as an operational area is that it will provide for entitlement in respect of incapacity or death arising out of that service to be determined on the more generous standard of proof. Persons on operational service in this area will also be regarded as rendering "qualifying service". Such service gives rise to entitlement to service pension, provided all the other conditions relating to the payment of service pension are met.

Explanation of clauses

Section 5B of the Principal Act contains definitions related to *War* and *operational areas*. One of these refers to a person who was "allotted for duty" and specifies the various conditions governing the allotment process for different types of service. **Clause 10** will insert in paragraph 5B(2)(b), a reference to the Schedule 2 item number designating the area comprising the former Yugoslavia as an operational area. The effect of this amendment is to provide that allotment for service in an operational area in these cases will be allotment for duty (whether retrospectively or otherwise) by written instrument signed by the Vice Chief of the Defence Force.

Clause 11 inserts in subparagraph (1)(a)(iii) of section 7A of the Principal Act, a reference to the appropriate item number in Schedule 2 for the operational area comprising the former Yugoslavia. This ensures that such service is regarded as "qualifying service" for service pension eligibility purposes.

Clause 12 provides for the insertion of Item 13 in Schedule 2 to the Principal Act to designate the area comprising the former Yugoslavia as an operational area for a period from and including 12 January 1992.

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A further amendment to Schedule 2 will be necessary to insert a concluding date for operational service in this area when that date is known.

Commencement

Each of these clauses commence from 12 January 1992 (subclause 2(4)).

Division 5 - Peacekeeping service in Somalia

Summary of proposed changes

This change will provide benefits under the Veterans' Entitlements Act to members of the Australian Defence Forces serving with the United Nations in Somalia as part of Australia's contribution to Operation Restore Hope and the United Nations Operation Somalia (UNOSOM). Somalia will be declared an operational area and service in Somalia will be regarded as "qualifying service" for service pension eligibility purposes.

Consequential amendments to the *Income Tax Assessment Act 1936* and the *Public Service Act 1922* in Parts 3 and 4 will ensure the flow-on of certain tax concessions and of provisions for appointment to, and conditions of service in, the Australian Public Service. Entitlement to these benefits extends to members of the Australian Defence Force who served on operational service.

Background

On 15 December 1992, the Government agreed to the deployment of a contingent of Australian Defence Force personnel to Somalia as part of the United Nations peacekeeping efforts in the region. The Government also decided that, for the period of Australia's contribution to the United Nations operations, Somalia would be designated as an operational area for the purposes of the Veterans' Entitlements Act and that operational service in Somalia would also be designated as "qualifying service".

The significance of declaring the area as an operational area is that it will provide for entitlement in respect of incapacity or death arising out of that service to be determined on the more generous standard of proof. "Qualifying service" gives rise to entitlement to service pension, provided all the other conditions relating to the payment of service pension are met.

Explanation of clauses

Section 5B of the Principal Act contains definitions related to *War* and *operational areas*. One of these refers to a person who was "allotted for duty" and specifies the various conditions governing the allotment process for different types of service.

Clause 13 will insert in paragraph 5B(2)(b), a reference to the Schedule 2 item number designating Somalia as an operational area. The effect of this amendment is to provide that allotment for service in an operational area in these cases will be allotment for duty (whether retrospectively or otherwise) by written instrument signed by the Vice Chief of the Defence Force.

Clause 14 inserts in subparagraph (1)(a)(iii) of section 7A of the Principal Act, a reference to the appropriate item number in Schedule 2 for the operational area of Somalia. This will ensure that service in Somalia is regarded as "qualifying service" for service pension eligibility purposes.

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Clause 15 provides for the insertion of Item 14 in Schedule 2 to the Principal Act designating Somalia as an operational area for a period from and including 20 October 1992.

A further amendment to Schedule 2 will be necessary to insert a concluding date for operational service in this area when that date is known.

Commencement

Each of the above clauses commence on 20 October 1992 (**subclause 2(5)**).

**PART 3 - AMENDMENTS OF THE *INCOME TAX ASSESSMENT ACT 1936* &
PART 4 - AMENDMENTS OF THE *PUBLIC SERVICE ACT 1922***

Summary of changes

Both these Parts contain consequential amendments to the *Income Tax Assessment Act 1936* and the *Public Service Act 1922* arising from the designation of the areas comprising the former Yugoslavia and Somalia as operational areas.

Background

Subsection 23AB(5) of the *Income Tax Assessment Act* provides for the exemption from income tax of certain compensation payments made under the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*.

The *Public Service Act* provides certain advantages in appointment and in conditions of employment to those who fall within the definition of "returned soldier" in section 7 of the *Public Service Act*.

Explanation of clauses

Clauses 17 and 19 will insert in the appropriate places in the *Income Tax Assessment Act* and the *Public Service Act*, references to the Item numbers in Schedule 2 relating to the operational areas of the former Yugoslavia and Somalia. This will ensure that the special provisions applying under each act are available in respect of operational service in these areas. **Clause 17** also includes a machinery amendment to insert some words that were inadvertently left out when this section was amended on a previous occasion for another purpose.

Commencement date

These changes are effective from 12 January 1992 in respect of the area formerly known as Yugoslavia, and from 20 October 1992 in respect of Somalia, (**subclauses 2(4) & 2(5)**).



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