

2022-2023-2024

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**VETERANS' ENTITLEMENTS, TREATMENT AND SUPPORT
(SIMPLIFICATION AND HARMONISATION) BILL 2024**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Requests for Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Minister for Veterans' Affairs and Minister for Defence
Personnel, the Honourable Matthew James Keogh MP)

GLOSSARY

In this Supplementary Explanatory Memorandum, the following abbreviations are used:

Abbreviation	Definition
DVA	Department of Veterans' Affairs
MRCA	<i>Military Rehabilitation and Compensation Act 2004</i>

VETERANS' ENTITLEMENTS, TREATMENT AND SUPPORT (SIMPLIFICATION AND HARMONISATION) BILL 2024

(Government)

GENERAL OUTLINE

1. These amendments to the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2023 (the Bill) and the Explanatory Memorandum to the Bill respond to suggestions raised through the parliamentary scrutiny process, including by veteran community stakeholders.
2. In particular, the amendments would:
 - insert a requirement for a Parliamentary review of the changes enacted by the Bill
 - recognise caring arrangements in the payment of additional compensation for children of severely impaired veteran; and

Review of operation of amendments

3. Amendment 2 will insert new clause 4, establishing a statutory obligation for a Parliamentary review to be carried out 12 months after commencement of the Act.
4. The review would consider the effectiveness of the transition to the single-Act arrangements, the enhancements to the MRCA, the operation of the reform in achieving its objectives, and any related matters.

Additional compensation for children of severely impaired veterans

5. The Bill provides for the additional compensation amount under MRCA section 80 to be attributed in line with care arrangements for the eligible young person or child.
6. Select members of the veteran community have advocated for a different approach to Schedule 2 Item 93, where there is more than one person providing care to the young dependant.
7. The revised provision recognises there are varying caring circumstances and allows for the funds to be directed and used to serve the interests of the young person.
8. Access to the compensation as set out in the revisions to section 80A will be consistent with the arrangements that already exist for government family assistance, and include the flexibility to apportion the amount, where there is more than one person providing care to the young dependant. An instrument-making power will be inserted for Commission to prescribe the criteria and requirements for determining the payees and their share of the section 80 amount.

FINANCIAL IMPACT

9. The amendments would not impact the existing financial impact of the Bill and associated legislation.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024

10. These amendments are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the amendments

11. The purpose of these amendments to the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024 (the Bill) and the Explanatory Memorandum to the Bill respond to suggestions raised through the parliamentary scrutiny process, including by veteran community stakeholders.

12. In particular, the amendments would:

- insert a requirement for a statutory review of the changes enacted by the Bill
- recognise caring arrangements in the payment of additional compensation for children of severely impaired veteran; and

Human rights implications

Right to social security and the right to an adequate standard of living

13. The amendments proposed to be made by Schedule 1 engage both Article 9 of the *International Covenant on Economic Social and Cultural Rights (ICESCR)*, specifically, the *right to social security*, and Article 11, the *right to an adequate standard of living*, of the ICESCR.

14. The *right to social security* and the *right to an adequate standard of living* requires, amongst other things, the right to a minimum essential level of benefits to all individuals and families that will enable them to acquire essential health care, basic shelter and housing, water and sanitation and the most basic forms of education.

15. The amendments relate to the additional lump sum payment under section 80 of the MRCA, for veterans severely disabled because of their service, to assist them with expenses associated with raising children.

16. The changes recognise there are varying caring responsibilities and arrangements that may apply in veteran families and allow for the financial support to be directed accordingly, to assist with meeting the needs of the child.

Conclusion

17. The amendments are compatible with the *right to social security* and the *right to an adequate standard of living*, by allowing for the section 80 payment to be attributed to veteran families, in line with the care arrangements for the young dependants.

NOTES ON AMENDMENTS

Amendment 1: Clause 2, page 2 (table item 1, column 1)

18. Clause 2 which sets out the commencement date of the provisions of the Act is updated to include reference to new clause 4 [Review of operation of amendments]. For convenience, the updated table item is replicated below.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	

Amendment 2: Page 3 (after line5), after clause 3, insert

Review of operation of amendments

19. Clause 4 is inserted to set out the requirement for a Senate Committee to initiate a review of the changes enacted by this Bill, to be conducted 12 months after the legislated changes commence.
20. Matters to be considered by the review are prescribed in subclause 4(2) but not limited to items listed. The broad scope will assess the effectiveness of the reform and the enhancements to the MRCA introduced by the Bill, in achieving recommendation 1 of the Interim Report of the Royal Commission into Defence and Veteran Suicide, and other relevant recommendations of the Final Report.

Amendment 3: Schedule 2, item 93, page 104 (line 24) to page 105 (line 2), omit section 80A, substitute

Division 7 - Additional compensation for children of severely impaired veterans

21. Section 80A is amended to avoid ambiguity regarding the criteria for determining the potential recipient of the additional compensation for children of severely impaired veterans. Access is improved by allowing the Commission to determine one or more persons as eligible recipients of the section 80 payment.
22. New subsection 80A(2) provides for the section 80 amount to be shared, recognising the varied nature of care arrangements for children.
23. A note to the subsection informs readers that the total amount paid under section 80A in respect of a particular eligible young person or child must not exceed the amount in section 80(2).
24. New subsection 80A(3) will authorise the Commission to make a legislative instrument to contain the criteria and other requirements for determining the payees and their share of the section 80 amount.

25. The Commission could set out in the instrument consideration of legal responsibility and care arrangements for the young person/child. Supporting documentation may include a written care agreement, a family law order, parenting plan, custody order, assessment of care arrangements for family assistance or child support purposes, and actual pattern of care.
26. Section 80A recognises there are varying family responsibilities and caring circumstances that may apply. It ensures that funds can be directed accordingly and be used to serve the interests of the young person as intended.