

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(Veterans' Affairs)

A BILL

FOR

An Act to amend the law relating to veterans' affairs, and for related purposes

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Veterans' Affairs Legislation Amendment Act (No. 3) 1994*.

5 Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Schedules

3.(1) The Acts specified in the Schedules to this Act are amended in accordance with the applicable items in the Schedules.

(2) Item 2 in Schedule 1 has effect according to its terms.

SCHEDULE 1

Section 3

AMENDMENT OF THE SOCIAL SECURITY AND REPATRIATION LEGISLATION AMENDMENT ACT (NO. 2) 1984

1. Part VI:

Repeal the Part.

2. Commission free to use or dispose of Anzac Hostel

(1) In this item:

“Commission” means the Repatriation Commission continued in existence by section 179 of the *Veterans' Entitlements Act 1986*;

“Hostel” means the premises known as Anzac Hostel, located at North Road, Brighton, Victoria.

(2) On and from the commencement of this Act, the Commission:

- (a)** ceases to hold the Hostel on trust for any of the purposes for which the Commission was holding it immediately before this Part commenced; and
- (b)** is the sole legal and beneficial owner of the Hostel; and
- (c)** may hold or dispose of the Hostel as it thinks fit.

SCHEDULE 2

Section 3

AMENDMENTS OF THE VETERANS' ENTITLEMENTS ACT 1986

PART 1—RECIPIENT OBLIGATIONS

1. After section 54A:

Insert:

Secretary may require recipient to give information, produce documents or appear before an officer

“54AA.(1) The Secretary may give to a person who is receiving a service pension, income support supplement, or benefits under Division 12 a notice requiring the person:

SCHEDULE 2—continued

- (a) to provide the Department, or an officer specified in the notice, with information; or
- (b) to produce to the Department, or an officer specified in the notice, documents in the custody or under the control of the person; or
- (c) to appear before an officer of the Department specified in the notice to answer questions;

relating to a matter that may affect the payment of the pension, supplement or the provision of the benefits.

“(2) A reference in subsection (1) to a person receiving a service pension or income support supplement includes a person to whom the whole or a part of the pension or supplement is being paid for the purpose of being applied for the benefit of the pensioner.

“(3) The Secretary may give to a person whose claim or application for a service pension or income support supplement is under consideration by the Commission or the Administrative Appeals Tribunal a notice requiring the person:

- (a) to provide the Department, or an officer specified in the notice, with information; or
- (b) to produce to the Department, or an officer specified in the notice, documents in the custody or under the control of the person; or
- (c) to appear before an officer of the Department specified in the notice to answer questions;

relating to the claim or application.

“(4) Subject to subsection (5), the notice:

- (a) must be in writing; and
- (b) may be given personally or by post; and
- (c) must specify:
 - (i) when and how the person is to provide the information or produce the documents; or
 - (ii) when and where the person is to appear before the officer.

“(5) The person must not be required to provide the information, produce the documents or appear to answer questions within a period of less than 14 days after the notice is given.

“(6) The Secretary may require the person to give or verify the information or answers:

- (a) on oath or affirmation; and
- (b) either orally or in writing.

SCHEDULE 2—continued

The Secretary or specified officer may administer an oath or affirmation to the person.

“(7) The person must not refuse or fail to comply with the notice to the extent that the person is capable of complying with it.

Penalty: Imprisonment for 6 months.

“(8) The person must not, in purporting to comply with the notice, knowingly give information that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.”.

2. Paragraph 56EA(1)(a):

After “54A” insert “or 54AA”.

3. Subsection 56H(4):

After “54A(6)” insert “, 54AA(7)”.

PART 2—TAX FILE NUMBERS

4. Subsections 128A(2), (2A), (3) and (3A):

Omit the subsections, substitute:

“(2) An income payment, or an allowance under a scheme within the meaning of Part VII, that a person (the ‘**eligible person**’) is eligible to receive is not to be paid to the person if the person fails to comply with the request in subsection (3) or (3A) (whichever applies).

“(3) If an eligible person is in Australia, the Secretary may request but not compel the person:

- (a) if the person has a tax file number—to give the Secretary a written statement of the person’s tax file number; or
- (b) if the person does not have a tax file number:
 - (i) to apply to the Commissioner of Taxation for a tax file number; and
 - (ii) to give the Secretary a written statement of the person’s tax file number after the Commissioner has issued it.

“(3A) If an eligible person has a partner or non-illness separated spouse and the partner or spouse is in Australia, the Secretary may request but not compel the person:

- (a) if the partner or spouse has a tax file number—to give the Secretary a written statement of the partner’s or spouse’s tax file number; or

SCHEDULE 2—continued

- (b) if the partner or spouse does not have a tax file number—to give the Secretary a written statement of the partner's or spouse's tax file number after the Commissioner of Taxation has issued it.”.

5. Subsection 128A(3B):

Omit “(2) or (3)” (wherever occurring), substitute “(3) or (3A)”.

6. Subsection 128A(3B):

Omit “requirement”, substitute “request”.

7. Subsection 128A(3C):

Omit “(2) or (3)” (wherever occurring), substitute “(3) or (3A)”.

8. Subsection 128A(4):

Omit “Subsection (2) or (3) is satisfied in relation to a person's tax file number”, substitute “The request in subsection (3) or (3A) (whichever applies) in relation to a person's tax file number is satisfied”.

9. Subparagraph 128A(4)(b)(ii):

Omit the subparagraph, substitute:

“(ii) that the person has applied for a tax file number; and”.

10. Paragraph 128A(4)(f):

Omit the paragraph, substitute:

“(f) if subparagraph (b)(ii) applies—the Commissioner of Taxation has not told the Secretary that:

- (i) the application for a tax file number has been withdrawn; or
- (ii) the person has not applied for a tax file number.”.

PART 3—DOCUMENTS AS EVIDENCE

11. After section 209:

Insert:

Judicial notice to be taken of certain matters

Judicial notice of signature

“210.(1) All courts must take judicial notice of a signature that purports to be attached or appended to any official document if it is the signature of a person who:

- (a) holds or has held the office of Secretary; or
- (b) is or was an officer of the Department.

SCHEDULE 2—continued

Judicial notice that person holds office

“(2) If the signature of a person referred to in subsection (1) purports to be attached or appended to any official document, all courts must take judicial notice of the fact that the person:

- (a) holds or has held the office of Secretary; or
- (b) is or was an officer of the Department.

Evidence

“210A.(1) If the signature of any person who:

- (a) holds or has held the office of Secretary; or
- (b) is or was an officer of the Department;

purports to be attached or appended to any official document, the document must be received in all courts as *prima facie* evidence of the facts and statements contained in it.

“(2) A statement in writing, signed by a person referred to in subsection (1), that a person is or was receiving a pension, allowance or other benefit under this Act on a certain date or at a certain rate must be received in all courts as *prima facie* evidence that the person is or was receiving the pension, allowance or benefit on the date or at the rate stated.”.

PART 4—CESSATION DATE FOR CAMBODIA AS AN OPERATIONAL AREA

12. Schedule 2 (item 12—column 2):

After “1991” insert “to and including 7 October 1993”.

PART 5—MISCELLANEOUS AMENDMENTS

13. Section 36JA (first occurring):

Re-number as section 36JE, reposition at the end of Subdivision B of Division 3 of Part III.

14. Section 37JA (first occurring):

Re-number as section 37JE, reposition at the end of Subdivision B of Division 4 of Part III.

15. Section 38JA (first occurring):

Re-number as section 38JE, reposition at the end of Subdivision B of Division 5 of Part III.

SCHEDULE 2—continued

16. Section 39JA (first occurring):

Renumber as section 39JE, reposition at the end of Subdivision B of Division 6 of Part III.

17. Paragraph 118A(c):

Omit:

“(whether the person’s eligibility arises under this Act or under the *Seamen’s War Pensions and Allowances Act 1940*)”.

