

# **Chapter 3 Income Support Benefits**

## **Introduction**

The objectives of the DVA Income Support are:

- to compensate veterans and their dependants for the premature ageing and loss of earning power which could result from the intangible effects of qualifying service; and
- to allow veterans and their dependants to enjoy a standard of living which is at least equal to that provided by other Government income support programs and whenever practicable, consistent with the veterans' special standing in the community.

Income support benefits provided are:

- Service Pension;
- Partner Service Pension
- Income Support Supplement (ISS); and
- associated allowances including Rent Assistance, Pension Supplement and Remote Area Allowance.

These income support payments are in addition to numerous health and fringe benefits.

These benefits are payable, subject to income and assets tests, to veterans and their dependants. In respect of income support, an eligible veteran is a person who has qualifying service. Additional criteria may apply depending upon the type of pension.

## Part A Qualifying Service

### A.1 Overview

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Information about Qualifying Service can be found in the following Fact Sheet:

**Qualifying Service Overview ..... IS 56**

*This fact sheet is about qualifying service for veterans. It explains: who is a veteran; what is qualifying service; what is incurred danger; what does allotment mean; and what forms do I need to fill in.*

#### A1.1 What is Qualifying Service?

Qualifying service generally means that a veteran must have incurred danger from hostile enemy forces. Qualifying service covers service in various conflicts in which Australia has been involved. However, special requirements apply for specified areas during particular periods.

#### A1.2 Qualifying Service for Service Pension

This Chapter reflects the *Veterans' Entitlements Act 1986* and the Repatriation Commission's policy on qualifying service. Qualifying service is one of the criteria used to determine if you are eligible for service pension.

When service pension was introduced, it was intended to compensate those veterans who actually served in a theatre of war, in recognition of the indefinable and intangible effects of such service. It recognises the dangerous conditions and deprivation that existed for those who served in operations against enemy forces.

Qualifying service is defined in section 7A of the VEA. Once a person's eligibility as a veteran has been established, it will be necessary to establish whether the person had qualifying service. The service requirements for the different types of veterans are detailed under the following headings:

- Veterans (including Australian mariners);
- Commonwealth veterans;
- Allied veterans; and
- Allied mariners.

The term 'veteran' refers to an 'Australian' veteran. The word 'Australian' is not used, because nationality is not an issue in relation to qualifying service.

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## A.2 Definition of a Veteran

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The term veteran is defined in subsection 5C(1) of the VEA. The definition of a veteran is specific. A veteran is a person who:

- has eligible war service; or
- to whom a pension is payable in respect of injury or death resulting from an occurrence after 31 July 1962 as a result of action by hostile forces or warlike operations against hostile forces, outside Australia, as a member of the Australian Defence Force (ADF).

For service pension purposes this definition includes a Commonwealth veteran, an allied veteran and an allied mariner.

It includes a person who:

- had continuous full-time service during WWI or WWII; or
- was allotted for duty, or a member of a unit that was allotted for duty in an operational area; or
- has warlike or non-warlike service; or
- is a Commonwealth or Allied veteran who, as a member of the defence force of a Commonwealth or Allied country, rendered continuous full-time service during a period of hostilities; or
- is an eligible civilian; or
- was employed by the Commonwealth on a special mission outside Australia; or
- was an Australian mariner.

Commonwealth or allied veterans and mariners are eligible for service pension if they have qualifying service.

**Note:** Being a veteran alone does not confer eligibility for Age or Invalidity Service Pension. A person who is a veteran must also have qualifying service and then meet the age or invalidity eligibility criteria.

### A2.1 Australian Veterans

To have qualifying service, a veteran of either of the two world wars must have been engaged in operations against the enemy and incurred danger from hostile forces of the enemy.

Qualifying service for the period immediately after WWII, which is after 29 October 1945, requires that a person has been awarded certain bomb or mine clearance medals.

For conflicts after WWII, qualifying service requires that a person be allotted for duty in an operational area described in Schedule 2 of the VEA, during the prescribed period, and to have served in the area to which allotted.

Service declared 'warlike' service is also qualifying service.

Allotment is an administrative process handled by the Department of Defence, whereby specific units or individuals are allotted for duty. Warlike service is service determined to be warlike by the Minister for Defence. Both allotment and the determination of warlike service are formal processes. Any questions relating to these determinations should be addressed to the Department of Defence.

## **A2.2 Commonwealth Veterans**

A Commonwealth veteran is a person who has continuous full-time service as a member of:

- the naval, military or air forces;
- the nursing or auxiliary services of the naval, military or air forces; or
- the women's branch of the naval, military or air forces

of a country (other than Australia) that is, or was at the time of service, part of the British Commonwealth.

## **A2.3 Allied Veterans**

An allied veteran is a person:

- who has been appointed or enlisted as a member of the defence force of an allied country; and
- who has continuous full-time service against hostile forces in the same area and during the same period as Australian forces engaged the enemy.

## **A2.4 Verification**

Several forms have been designed to assist decision makers to determine whether a claimant has rendered qualifying service. The forms ask all claimants to give details of specific incidents where he or she incurred danger from hostile forces of the enemy. The forms are numbered D506–D510 in the following manner:

- 1) D506—Australian Veteran.
- 2) D507—Commonwealth or Allied Veteran.
- 3) D508—Australian, Commonwealth or Allied Mariner.
- 4) D509—Australian Veteran. Service in Darwin area for less than 3 months.
- 5) D510—Service with Forces in Yugoslavia.

Where more detailed information is required, or if the person's service documents have been misplaced, the claimant may be asked to make a written statement detailing:

- full particulars of history of service;
- specific incidents where he or she incurred danger from hostile forces of the enemy, including places and dates;
- names and contact addresses of any witnesses who can verify his or her service record; and, if applicable,
- what documents were held (if any) and how they were lost.

### **A2.5 Verification Where the Claimant is not the Veteran**

An application for determining qualifying service can be lodged by a claimant other than the veteran. The claimant may be:

- a partner who reaches pension age before the veteran is eligible for Service Pension. If the veteran's qualifying service has not been determined the veteran will give the claimant, as part of a claim package, a qualifying service form D2673 for completion. If the veteran is unable to complete the form, the veteran's partner may apply for qualifying service to be determined by completing form D502 Qualifying Service Details: Partner/Widow of Non-Pensioner Veteran; or
- the widow(er) of a veteran who died when not in receipt of Service Pension. If the veteran's qualifying service has not been determined the widow(er) may apply for qualifying service to be determined by completing form D502 Qualifying Service Details: Partner/Widow of Non Pensioner Veteran.

Where details of specific incidents are required to determine qualifying service, the form D506–D510 can be used. If the veteran is deceased or unable to complete the appropriate form the partner or widow(er) can answer the questions in respect of the veteran. Normal verification requirements apply for determining qualifying service.

## **A.3 Incurred Danger**

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The accepted interpretation of the term 'incurred danger' is that made by the Full Federal Court in the case of *Repatriation Commission v Walter Harold Thompson* (G205 of 1988):

The words 'incurred danger' provide an objective, not a subjective, test. A serviceman incurs danger when he encounters danger, is in danger or is endangered. He incurs danger from hostile forces when he is at risk or in peril of harm from hostile forces. A serviceman does not incur danger by merely perceiving or fearing that he may be in danger. The words 'incurred danger' do not encompass a situation where there is a mere liability to danger that is to say, that there is a mere risk of danger. Danger is not incurred unless the serviceman is exposed, at risk of, or in peril of harm or injury.

This means that decision makers have to make an objective assessment of the military realities of the person's circumstances and be reasonable satisfied that the veterans was exposed, at risk of, or in peril of harm or injury from hostile forces of the enemy. The person's perceptions or fears of danger are not relevant to the assessment.

#### **A.4 Australian Veterans—Qualifying Service**

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In order for an Australian to render qualifying service, he or she must have satisfied one of the following criteria:

- must have served as a veteran in World War II, on operations against the enemy, and incurred danger from hostile forces of the enemy;
- be a person who performed special missions for the Australian Commonwealth during World War II and incurred danger from hostile forces of the enemy;
- be an eligible civilian (see 'Civilian Veterans—Eligible Civilians' below);
- have served in the post-war period (after 29 October 1945) and have received, or become eligible to receive, either the Naval General Service Medal or the General Service Medal (Army and Air Force) with Minesweeping or Bomb and Mine Clearance clasps;
- have served outside Australia in an area described in Schedule 2 of the VEA during the specified period, as a member of a unit of the Defence Force that was allotted for duty, or as a person who was allotted for duty, in that area. The areas include:
 

a) Korea	27 June 1950 – 19 April 1956
b) Malaya	29 June 1950 – 31 August 1957
c) Federation of Malaya & Singapore	1 September 1957 – 31 July 1960
d) Malay/Thai Border	1 August 1960 – 16 August 1964
e) Borneo	8 December 1962 – 16 August 1964
f) Malaysia, Singapore & Brunei	17 August 1964 – 30 September 1967
g) Vietnam	31 July 1962 – 11 January 1973
h) Namibia	18 February 1989 – 10 April 1990
i) Gulf	2 August 1990 – 9 June 1991
j) Cambodia	20 October 1991 – 7 October 1993
k) Yugoslavia	12 January 1992 – 24 January 1997
l) Somalia	20 October 1992 – 30 November 1994
- have rendered warlike service as a member of the Defence Force in the following areas:
 

a) Vietnam	12 January 1973 – 29 April 1975
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b)	North East Thailand (incl. Ubon)	25 June 1965 – 31 August 1968
c)	East Timor	
	(Operation Tanager)	16 September 1999 – 19 May 2002
	(Operations Faber and Stabilise)	16 September – 23 February 2000
	(Operation Warden)	16 September – 10 April 2000
	(Operation Citadel)	20 May 2002 – 17 August 2003
d)	War on Terrorism	
	(Operation Slipper)	11 October 2001 – ongoing
	(Operation Palate)	18 April – ongoing
e)	War in Iraq	
	(Operation Falconer)	18 March 2003 – 22 July 2003
	(Operation Catalyst)	16 July 2003 – ongoing

#### **A4.1 Australian Veterans of the 1939–1945 War (World War II)**

Information concerning qualifying service for Australian Veterans involved in World War II can be found in the following Fact Sheet:

##### **Australian World War II Veterans .....IS 57**

*This fact sheet explains what qualifying service is, and what particular service during World War II satisfies the criteria for qualifying service. It also explains how to find out if you have qualifying service and what forms to fill in.*

##### **A4.1.1 Eligibility Provisions**

An Australian veteran who served:

- during 3 September 1939 to 29 October 1945, inclusive; or
- after the formal cessation of hostilities in 1945, in a role in which that person became eligible to receive certain awards.

May have rendered qualifying service in accordance with one of the following provisions:

- subparagraph 7A(1)(a)(i) in respect of veterans who served between 3 September 1939 and 29 October 1945 (inclusive);
- subparagraph 7A(1)(a)(ii) in respect of veterans who rendered service after 29 October 1945 and were awarded, or have become eligible to be awarded the Naval General Service Medal or the General Service Medal (Army and Royal Air Force) with one of the following medals or clasps:
  - a) the Mine-Sweeping 1945-51 Clasp;
  - b) the Bomb-Mine Clearance 1945-53 Clasp;
  - c) the Bomb and Mine Clearance 1945-49 Clasp; or

- d) the Bomb and Mine Clearance 1945-56 Clasp.
- subparagraph 7A(1)(d) in respect of a person who was, between 3 September 1939 and 29 October 1945 (inclusive), on a special mission;
- subparagraph 7A(1)(e) in respect of an eligible civilian who was, between 3 September 1939 and 29 October 1945 (inclusive), detained by the enemy; or
- paragraph 7A(1)(g) if the person was an Australian mariner.

The related terms of:

- period of hostilities; and
- World War II,

are defined in subsection 5B(1) of the VEA.

#### ***A4.1.2 Civilian Veterans—Special Mission***

During World War II certain civilians who served outside Australia and performed special missions may have rendered qualifying service. These people must still have incurred danger from hostile forces of the enemy. A special mission is one that was of special assistance to Australia in the prosecution of the war.

#### ***A4.1.3 Civilian Veterans—Eligible Civilians***

Certain civilians may have rendered qualifying service during World War II in accordance with subparagraph 7A(1)(e). There is no eligibility for the other conflicts. In order to qualify, the person must have been:

- detained by the enemy;
- a British subject (this includes Australian Civilians); and
- a resident, but not an indigenous inhabitant, of the then-Territory of Papua or the then-Territory of New Guinea.

#### ***A4.1.4 Persons to be regarded as Member of the Defence Force***

The Minister has by notice in writing published in the *Gazette*, made determinations under 5R(1) that a person or class of persons, is to be treated as if they were a member or members of the Defence Force. Included are:

- a) representatives of philanthropic organisations who were attached to the Australian forces and accredited by the relevant Service Department. The organisations were:
  - 1) the Australian Red Cross Society;
  - 2) the Young Men's Christian Association;
  - 3) the Young Women's Christian Association;

- 4) the Salvation Army; and
  - 5) the Australian Comforts Fund.
- b) Commonwealth employees who were attached to the Australian Forces and accredited by the relevant Service Department. The Commonwealth employers were mainly:
- 1) the Australian Broadcasting Commission (in respect of personnel of field broadcasting units);
  - 2) the Department of Home Security (camofleurs attached to the RAAF); and
  - 3) the Department of Information (official war correspondents and photographers).
- c) Civil aviation personnel (RAAF Reserve) who were employed in forward areas;
- d) Telegraphist employees of Amalgamated Wireless Australasia Ltd (AWA) who were attached to the RAN; and
- e) Canteen staff employed by contractors on HMA Ships.

#### ***A4.1.5 Policy Regarding Assumed Incurred Danger (Australian Veterans)***

A veteran who served during World War II is regarded (without need for further investigation) as having incurred danger and thus qualifying service if the veteran served in one of the areas as detailed in the following paragraphs.

- *Service outside Australia—Outside Australia*
  - a) The European theatre, between 3 September 1939 and 5 May 1945 (inclusive);
  - b) in the Indian/Pacific areas (other than in Papua or New Guinea, including New Britain, before 7 December 1941), between 3 September 1939 and 15 August 1945;
  - c) in Papua or New Guinea, including New Britain, between 7 December 1941 and 15 August 1945; or
  - d) in an aircraft engaged in operations against hostile forces of the enemy or on reconnaissance or patrol duty over land occupied by hostile forces of the enemy.

**Note:**

- 1) Where a veteran's only service outside Australia was in the South-West Pacific area on or after 15 August 1945, or in the European-North African area, on or after 6 May 1945, full details of such service, including dates and method of travel to and from the area and details of

the danger incurred by the person, should be obtained and submitted to a Delegate of the Repatriation Commission for decision.

- 2) Norfolk Island was not a 'theatre of war' at any time for Australian troops. However, troops from the mainland who travelled to Norfolk Island for service, and any locally enlisted personnel who may have served at sea more than three miles from the coast of the island, are regarded as having qualifying service.

In any other case where a veteran claims he or she incurred danger from hostile forces of the enemy during service outside Australia prior to 30 October 1945, details of the veteran's service, and of the danger incurred, should be submitted to Delegate of the Repatriation Commission for decision.

- *Determination of qualifying service*

The Courts and Tribunals have indicated that any determination about qualifying service, including the so called 'coastal waters policy' must be in accordance with the law. The law requires there to be danger to the person from the enemy while that person was involved in operations against the enemy.

- *Service within Australia—Service in Coastal Waters*

Where a veteran served at sea between the following dates (which are inclusive), and in the Australian coastal waters shown below, the veteran *may* have qualifying service if the two-part requirement of the legislation is met. That is, the veteran incurred danger from hostile forces of the enemy while involved in operations against the enemy:

- a) between 3 September 1939 and 6 May 1944—south-west coast of Western Australia (Exmouth Gulf to Albany);
- b) between 3 September 1939 and 26 March 1945—south and south-east coast Australia (Albany to Sydney);
- c) between 3 September 1939 and 16 September 1943—east and north-east coast of Australia (Sydney to Thursday Island); or
- d) between 19 February 1942 and midnight on 12 November 1943—north and northwest coast of Australia (Exmouth Gulf to Thursday Island).

- *Service within Australia—Travel between Tasmania and the Mainland*

In March 1940 the RAAF established a recruiting station in Hobart. RAAF and WAAF personnel who travelled across Bass Strait from Tasmania to Victoria usually went by sea. As a result of heavy security at the time, the names of the vessels were not usually recorded in the person's service documents. Therefore, unless otherwise indicated in the service documents, it can be assumed that these personnel travelled to the mainland by sea.

Veterans, who travelled in this manner, during the period of hostilities associated with World War II, while not on leave, may have qualifying service if the two part

requirement of the legislation is met. That is, the veteran incurred danger from hostile forces of the enemy while involved in operations against the enemy.

Prior to the establishment of the RAAF recruiting station in Hobart in March 1940, persons who applied for enlistment (or enrolment in the case of RAAF personnel) in Tasmania were required to take their oath of enlistment or enrolment elsewhere, usually Victoria. If a claim is received and the person was required to travel from Tasmania to the mainland to take their oath or enlistment, the case should be referred to DVA for a decision.

- *Service within Australia—Service in the Northern Territory*

A veteran is considered to have rendered ‘qualifying service’ in accordance with subparagraph 7A(1)(a)(i) if he or she served:

- a) as a member of the Defence Force;
- b) on continuous full-time service for a continuous period of not less than 3 months in that part of the Northern Territory that is north of parallel 14.5 degrees south latitude (including any of the islands adjoining the Northern Territory) during the period from and including 19 February 1942 to and including 12 November 1943.

**Note:** Between these dates, there was no period exceeding three months between air raids by the Japanese. Qualifying service is thus accepted in these circumstances without the need for further evidence of incurred danger.

If the period of service were less than three consecutive months, the veteran would need to satisfy the Commission that he or she incurred danger from hostile forces of the enemy. Refer to ‘Locations in Relation to 14 Degree 30’ South’, this chapter page 3-31 for the locations of various places in the Northern Territory in relation to latitude 14.5 degrees south. Details of ‘Enemy Raids on Australia’, are contained in chapter 2 page 2-58 ff.

- *Service within Australia—Torres Strait Islands (including Horn Island)*

The Torres Strait and Horn Islands are located in the Torres Strait between Cape York, Queensland and Papua. Thursday Island is one of the Torres Strait Islands. Where a veteran had the following service (dates inclusive), the veteran may have qualifying service if the two-part requirement of the legislation is met. That is, the veteran incurred danger from hostile forces of the enemy while involved in operations against the enemy:

- a) enlisted in Australia at a place other than the Torres Strait Islands between 3 September 1939 and 16 September 1943; or
- b) served outside the three-mile limit of the island of enlistment between 3 September 1939 and 16 September 1943; or
- c) served only on the island of enlistment between 14 March 1942 and 18 June 1943.

- *Service within Australia—Rottnest Island*

Rottnest Island is located off the Perth coastline of Western Australia. A veteran who served on Rottnest Island between September 1939 and 6 May 1944 inclusive, may be regarded as having qualifying service. If the two-part requirement of the legislation is met. That is, the veteran incurred danger from hostile forces of the enemy while involved in operations against the enemy.

- *Qualifying Service while on Leave*

A veteran, who visited or travelled through an area that normally concedes qualifying service, while on leave, may not have rendered qualifying service. However if, while proceeding on leave, the veteran travelled through an area and was officially on duty (e.g. on submarine watch), the veteran may be regarded as rendering qualifying service.

This service can be confirmed by the veteran's service records indicating his or her mode of travel to and from leave.

- *Other Cases Involving Qualifying Service in or Around Australia*

In any other case, where a veteran claims he or she incurred danger from hostile forces of the enemy in respect of service within Australia, including islands adjacent to Australia, full details of the veteran's service and of the danger incurred should be referred to a Delegate of the Repatriation Commission to determine whether the veteran rendered qualifying service. Such cases will include service:

- a) in the north-west or north-east of Australia (e.g. Broome and Townsville), only in the area of, and during, enemy air attacks;
- b) in the Northern Territory north of parallel 14.5 degrees south latitude for a period of less than three consecutive months between 19 February 1942 and 12 November 1943 (inclusive).

- *Service in the Northern Territory—Less Than 3 Consecutive Months Service*

A veteran who served north of parallel 14.5 degrees south latitude for:

- a) a period of less than 3 months; or
- b) broken periods totalling more than 3 months without a single continuous period of service in excess of 3 months.

Must satisfy the Commission that he or she incurred danger from hostile forces of the enemy.

**EXAMPLE:** A veteran based at Alice Springs (South of 14.5 degrees south latitude), between March 1942 and August 1943 was required to drive supplies by truck between Alice Springs and Darwin twice a week for the period of his posting. This veteran would need to demonstrate that he or she incurred danger from hostile forces, as his or her period of service, although in excess of 12 months between February 1942 and November 1943, was split between daily periods spent north and south of parallel 14.5 degrees south latitude.

**Refer to:** Locations in Relation to 14 Degree 30' South, this chapter page 3-31 for the locations of various places in the Northern Territory in relation to latitude 14.5 degrees south; and Enemy Raids on Australia, chapter 2 page 2-58 ff for information regarding Japanese air raids on Darwin.

#### **A4.2 Australian Mariner—Qualifying Service**

Information concerning qualifying service for Australian Mariners can be found in the following Fact Sheet:

##### **Australian Mariners.....IS 61**

*This fact sheet explains qualifying service for Australian mariners. It also explains what forms you need to fill in.*

##### ***A4.2.1 Eligibility Provisions***

Qualifying service for an Australian mariner is determined under paragraph 7A(1)(g). Australian mariners may have rendered qualifying service if:

- a) they served during World War II at some time between 3 September 1939 and 29 October 1945 inclusive;
- b) they were in a specific category of employment; and
- c) they incurred danger from hostile forces of the enemy.

In addition, they must have served in one of the following classes of ships:

- a) an Australian registered ship engaged in trading between a port in a State or Territory and any other port;
- b) a ship registered outside Australia, but the mariner or his dependents must have resided in Australia for 12 months prior to commencing service on that ship;
- c) a lighthouse tender or pilot ship;
- d) a hospital ship, troop transport, supply ship, tug, cable ship, salvage ship, dredge, fishing vessel or fisheries investigation vessel which was owned in Australia and operated from an Australian port; or
- e) a ship registered in New Zealand, but the mariner must have been engaged in Australia and not be eligible for compensation for war-caused incapacity under a law of a Commonwealth country.

Pilots employed or licensed in Australia and members or employees of the Commonwealth Salvage Board engaged in sea-going service may also be eligible.

##### ***A4.2.2 Evidence of Qualifying Service***

When a claim is received from an Australian mariner for Service Pension, it is expected that the person will provide any available documentary evidence of that

service in his possession. Some mariners may possess a record of their service that could assist in establishing identity and eligibility. The types of documents that could be produced by mariners may include:

- a) Discharge Certificates;
- b) Certificate of Qualifications;
- c) Accounts of Wages; and
- d) Certificate of Service.

You can obtain copies of these from the Department of Transport and Regional Services.

#### ***A4.2.3 Statement of Service***

At the time of claiming a Service Pension, the mariner will be asked to make a statement including, as much detail of his or her war service as the person is able to provide. Form D508 (Qualifying Service Details Australian, Commonwealth or Allied Mariner) has been designed for this purpose. This form is also used to assist decision makers to determine whether a mariner incurred danger from hostile forces of the enemy.

#### **A4.3 Australian Veterans of the Korean War (1950–1956)**

Qualifying service for an Australian veteran who served in Korea is determined under subparagraph 7A(1)(a)(iii). A person must have been allotted for duty to and served in Korea or waters within 185km of Korea between 27 June 1950 and 19 April 1956 inclusive (Item 1 of Schedule 2).

#### **A4.4 Australian Veterans of the Malayan Emergency and Indonesian Confrontation (1950–1967)**

Qualifying service for an Australian veteran who served in Malaya is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of service in the area of Malaya, Malaysia, Borneo and the territory of Singapore, as described in Items 2, 3, 5, 6 and 7 of Schedule 2 of the VEA.
  - 1) Item 2 of Schedule 2 relates to service from 29 June 1950 to 31 August 1957 (inclusive) in the area of Malaya, including the waters surrounding the coast of Malaya for a distance of 18.5km seaward from the coast.
  - 2) Item 3 of Schedule 2 relates to service from 1 September 1957 to and including 31 July 1960 in the area comprising the territories of the Federation of Malaya and the Colony of Singapore.
  - 3) Item 5 of Schedule 2 relates to service from 1 August 1960 to 16 August 1964 (inclusive) along the Malay/Thai border. The relevant part of Malaya is described in detail in the Schedule.

- 4) Item 6 of Schedule 2 relates to service in Borneo from 8 December 1962 to 16 August 1964 (inclusive).
- 5) Item 7 of Schedule 2 relates to service from 17 August 1964 to 30 September 1967 (inclusive) in the areas of Malaysia, Singapore and Brunei.

#### **A4.5 Australian Veterans of the Vietnam War (1962–1975)**

Qualifying service for an Australian veteran who served in Vietnam is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of a person who served in an area described in Items 4 or 8 of Schedule 2 during the period from 31 July 1962 to 11 January 1973 inclusive. Item 4 of Schedule 2 relates to service in Vietnam (Southern Zone) from 31 July 1962 to 11 January 1973 inclusive. Item 8 of Schedule 2 relates to service in the coastal waters of Vietnam and for a distance of 161km from the shore of Vietnam.

Service in Vietnam during the period 12 January 1973 to 29 April 1975 inclusive has been determined by the Minister for Defence Industry, Science and Personnel, in an Instrument dated 23 December 1997, to be 'warlike service' and is equivalent to 'qualifying service' with eligibility for Service Pension.

#### **A4.6 Australian Veterans—Namibia**

Qualifying service for an Australian veteran who served in Namibia is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of service between 18 February 1989 and 10 April 1990 inclusive in the area described in item 9 of Schedule 2.

#### **A4.7 Australian Veterans—Gulf War**

Qualifying service for an Australian veteran who served in the Gulf War is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of a person who served in an area described in Items 10 or 11 of Schedule 2. Item 10 of Schedule 2 relates to service in the Persian Gulf, excluding Iraq and Kuwait, from 2 August 1990 to 9 June 1991 inclusive. Item 11 of Schedule 2 relates to service in the area comprising Iraq and Kuwait from 23 February 1991 to 9 June 1991.

#### **A4.8 Australian Veterans—Cambodia**

Qualifying service for an Australian veteran who served in the area comprising Cambodia is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of a person who served in an area described in Item 12 of Schedule 2 during the period 20 October 1991 to 7 October 1993 inclusive. Item 12 of Schedule 2 relates to service in the area

comprising Cambodia and the areas in Laos and Thailand that are not more than 50 kilometres from the border with Cambodia.

#### **A4.9 Australian Veterans—Former Yugoslavia**

Qualifying service for an Australian veteran who served in the area comprising the former Yugoslavia is determined under:

- a) subparagraph 7A(1)(a)(iii) in respect of a person who served in an area described in Item 13 of Schedule 2 from 12 January 1992. Item 13 of Schedule 2 relates to service in the area comprising the former Yugoslavia.

#### **A4.10 Australian Veterans—Somalia**

Qualifying service for Somalia is determined under:

subparagraph 7A(1)(a)(iii) in respect of a person who served in an area described in Item 14 of Schedule 2 from 20 October 1992 to 30 November 1994 inclusive. Item 14 of Schedule 2 relates to service in the area comprising Somalia.

#### **A4.11 Australian Veterans — Gulf War II**

Qualifying service for Iraq is determined under subparagraph 7A(1)(a)(iv) in respect of a person who has rendered warlike service in one or more of the following operations:

Operation Bolton:

- the area of operations comprising Iraq during the period 31/8/2003 to 12/1/2003; or
- the area of operations comprising Saudi Arabia, Kuwait and the Incirlik airbase in Turkey during the period from 13/5/1999 to 12/1/2003.

Operation Catalyst:

- in the specified area comprising the total land areas, territorial waters, internal waterways and superjacent airspace boundaries of Iraq, Kuwait, Bahrain, Qatar, United Arab Emirates, Saudi Arabia north of 23 degrees North latitude, the Persian Gulf and the Straits of Hormuz on or after 16 July 2003.

Operation Falconer:

- in the specified area bounded by the following geographical coordinates during the period 18/3/2003 to 22/7/2003 :
  - 38 00N            68 00E
  - 38 00N            32 00E
  - 10 00N            32 00E
  - 10 00N            68 00E

Operation Jural:

- the area of operations comprising Iraq during the period 30/6/1991 to 12/1/2003

Operation Northern Watch:

- the area of operations comprising Iraq during the period 1/1/1997 to 12/1/2003

Operation Provide Comfort:

- the area of operations comprising Iraq during the period 11/8/1991 to 15/12/1996

## Operation Slipper:

- in the following specified areas from 11/10/2001:
  - Bounded by the following geographical coordinates:
    - 48 00N            81 00E
    - 48 00N            35 00E
    - 12 00N            35 00E
    - 12 00N            81 00E
  - the Diego Garcia land mass and territorial waters, plus airspace of Diego Garcia out to 250nm radius (from Reference Point 07 18.6S 072 24.6E).

## Operation Southern Watch:

- the area of operations comprising Iraq during the period 31/8/1992 to 12/1/2003

**A4.12 Australian Veterans—East Timor**

Qualifying service for East Timor is determined under subparagraph 7A(1)(a)(iv) in respect of a person who has rendered warlike service in one or more of the following operations:

## Operation Warden:

- the area of operations comprising East Timor and the sea area that on 16 September 1999 was the territorial sea of Indonesia adjacent to East Timor during the period 16/9/1999 to 10/4/2000

## Operation Tanager:

- the area of operations comprising East Timor and the territorial sea of East Timor during the period 20/2/2000 to 19/5/2002

## Operation Stabilise:

- the area of operations comprising East Timor and the sea area that on the 16 September 1999 was the territorial sea of Indonesia adjacent to East Timor during the period 16/9/1999 to 23/2/2000

## Operation Faber:

- the area of operations comprising East Timor and the sea area that on the 16 September 1999 was the territorial sea of Indonesia adjacent to East Timor during the period 16/9/1999 to 23/2/2000

## Operation Citadel:

- the area of operations comprising East Timor and the territorial sea of East Timor during the period 20/5/2002 to 17/8/2003

**A4.13 Australian Veterans—Afghanistan**

Qualifying service for Afghanistan is determined under subparagraph 7A(1)(a)(iv) in respect of a person who has rendered warlike service in one or more of the following operations:

## Operation Palate:

- the area of operations comprising Afghanistan during the period 18/4/2003 to 30/6/2004

## Operation Palate II:

- the area of operations comprising Afghanistan, including Afghanistan's land territory, internal waters and superjacent airspace on or after 27/6/2005.

#### A4.14 Non-Qualifying Service Areas

The following service is classified as ‘operational service’ but does not have eligibility for Service Pension:

- a) service in Japan 28 April 1952 to 19 April 1956;
- b) ADF personnel who served in Singapore only, in support of the Malayan Emergency operations over the period 29 June 1950 to 31 August 1957 inclusive;
- c) service in the demilitarised zone between North and South Korea from 19 April 1956;
- d) Service in Singapore & the Federation of Malaya from and including 1 August 1960 to and including 27 May 1963;
- e) RAAF service at Ubon Air Base in Thailand during the period 31 May 1962 to 24 June 1965 inclusive; ADF personnel who were deployed to north-eastern Thailand over the period 31 May 1962 to 24 June 1965 inclusive, primarily engaged on duties associated with Australia’s commitment to SEATO;
- f) the visit of HMA Ships *Vampire* and *Quickmatch*, to Vietnam in January 1962.

### A.5 Commonwealth Veterans

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Information concerning qualifying service for Commonwealth Veterans can be found in the following Fact Sheet:

**Commonwealth Veterans.....IS 62**

*This fact sheet explains who is a Commonwealth veteran. It also explains how to find out if you are eligible for an Australian service pension.*

#### ***Eligibility Provisions***

Qualifying service for a Commonwealth veteran is determined under paragraph 7A(1)(b) VEA. A Commonwealth veteran has rendered qualifying service under paragraph 7A(1)(b) VEA if, during a period of hostilities, he or she has, as a member of the defence force established by a Commonwealth country, rendered in connection with war or war-like operations in which Australian Defence Forces were engaged:

- a) service during a period of hostilities in an area and at a time when you incurred danger from hostile forces of the enemy outside the country in whose defence force you served; or
- b) service within that country for which you received, or were eligible to receive, a campaign medal.

In each case the Naval, Military or Air Forces of Australia must have been engaged in those operations.

### ***Periods of Eligibility***

As defined in paragraph 7A(1)(b) VEA, service needs to be during a period of hostilities. 'Period of hostilities' is defined in subsection 5B(1) VEA as:

- a) World War I—4 August 1914 to 11 November 1918 (both included);
- b) World War II—3 September 1939 to 29 October 1945 (both included);
- c) the period of hostilities in respect of Korea from 27 June 1950 to 19 April 1956 (both included);
- d) the period of hostilities in respect of Malaya from 29 June 1950 to 31 August 1957 (both included); or
- e) the periods of hostilities in respect of war-like operations in operational areas (see Schedule 2 of the VEA) from 31 July 1962 to 11 January 1973 (both included). Operational areas cover Malaya, Singapore, Borneo, Malaysia and Vietnam.

### ***Campaign Medals***

Commonwealth veterans who served within their country of enlistment must have been awarded, or become eligible to be awarded, a campaign medal. Subsection 7A(2) lists the following campaign medals in relation to service during the period of World War II from its commencement to and including 29 October 1945:

- a) 1939–45 Star;
- b) Atlantic Star;
- c) Air Crew Europe Star;
- d) Africa Star;
- e) Pacific Star;
- f) Burma Star;
- g) Italy Star; and
- h) France and Germany Star; or
- i) any other medal declared by the regulations to be a campaign medal in relation to service during that period.

### ***Conflicts in Which Australian Forces Were Engaged***

Commonwealth veterans can only render qualifying service for the purposes of paragraph 7A(1)(b) in during a period of hostilities in conflicts in which Australian forces were engaged. Australian forces were engaged in the following conflicts covered by a period of hostilities:

a)	World War I	4 August 1914 – 11 November 1918
b)	World War II	3 September 1939 – 29 October 1945
c)	Korea	27 June 1950 – 19 April 1956
d)	Malaya	29 June 1950 – 31 August 1957
e)	Malay/Thai Border	3 July 1962 – 16 August 1964
f)	Borneo	8 December 1962 – 16 August 1964
g)	Malaysia, Singapore and Brunei	17 August 1964 – 30 September 1967
h)	Vietnam	31 July 1962 – 11 January 1973

After Vietnam there are no further wars, conflicts, or engagements where Qualifying Service is relevant to Allied or Commonwealth forces.

**EXAMPLE:** A British ex-serviceman who only fought at the Suez in the 1960s could not have rendered qualifying service as no Australian Forces were engaged in that conflict.

## **A5.1 Evidence of Qualifying Service**

### ***A5.1.1 General***

When a claim is received from a Commonwealth veteran for a Service Pension, it is expected that the person will provide any available documentary evidence of that service in his or her possession. Most Commonwealth veterans will have some documentary evidence and these records may be useful in assisting decision makers determine the veteran's qualifying service.

- Danger test outside country of enlistment.
- Medal within country of enlistment.

### ***A5.1.2 Statement of Service***

At the time of claiming a Service Pension, the veteran will be asked to make a statement that includes full details of his or her war service. Form D507 ('Qualifying Service Details Commonwealth or Allied Veteran') has been designed for this purpose. This form is also used to assist decision makers to determine whether a Commonwealth veteran incurred danger from hostile forces of the enemy.

### ***A5.1.3 Obtaining Service Records***

Commonwealth veterans can confirm records of their service details by contacting the relevant authority in their country of service.

Former members of the British Forces and Polish Forces under British command and the Polish Resettlement Corps can obtain up to date addresses on the following web site: [www.mod.uk/contacts](http://www.mod.uk/contacts)

Former members of the New Zealand Defence Forces can obtain contact addresses from the following: [www.nzdf.mil.nz/personnel-records](http://www.nzdf.mil.nz/personnel-records)

## A.6 Allied Veterans—Qualifying Service

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Information concerning qualifying service for Allied Veterans can be found in the following Fact Sheet:

**Allied Veterans .....IS 63**

*This fact sheet explains who is an allied veteran. It also explains how to find out if you are eligible for an Australian service pension.*

### ***Eligibility Provisions***

Qualifying service for an allied veteran is determined under paragraph 7A(1)(c). To have rendered qualifying service in accordance with paragraph 7A(1)(c), an allied veteran must have served:

- a) during a period of hostilities;
- b) have been a member of the Defence Force established by an allied country; and
- c) rendered in connection with a war or war-like operation, in which the Defence Forces of Australia were engaged, service in an area within or outside the country in which the person enlisted in those forces, being service in respect of which the person incurred danger from hostile forces of the enemy.

An Allied veteran must not have served in:

- a) enemy or enemy allied forces of Australia; or
- b) forces that assisted an enemy of Australia and her allies.

It is vital that a claimant for Service Pension was a member of a defence force established by an allied country as defined in the VEA. The term defence force established by an allied country is defined in paragraph 5(C)(1)(b).

### ***Periods of Eligibility***

Service needs to be during a period of hostilities (s. 7A(1)(c)) as defined in subsection 5B(1). The periods of hostilities are for the same areas and times that Australian Defence Forces were engaged.

- a) World War I—4 August 1914 to 11 November 1918 (both included);
- b) World War II—3 September 1939 to 29 October 1945 (both included);
- c) the period of hostilities in respect of Korea from 27 June 1950 to 19 April 1956 (both included);

- d) the period of hostilities in respect of Malaya from 29 June 1950 to 31 August 1957 (both included); or
- e) the periods of hostilities in respect of war-like operations in operational areas (see Schedule 2 of the VEA) from 31 July 1962 to 11 January 1973 (both included). Operational areas cover Malaya, Singapore, Borneo, Malaysia and Vietnam.

### ***Conflicts in Which Australian Forces Were Engaged***

Allied veterans can only render qualifying service for the purposes of paragraph 7A(1)(c) VEA in conflicts in which Australian forces was engaged (see under Commonwealth Veterans). Australian forces were engaged in the following conflicts covered by a period of hostilities.

a)	World War I	4 August 1914 – 11 November 1918
b)	World War II	3 September 1939 – 29 October 1945
c)	Korea	27 June 1950 – 19 April 1956
d)	Malaya	29 June 1950 – 31 August 1957
e)	Federation of Malaya & Singapore	1 September 1957 – 31 July 1960
f)	Malay/Thai Border	1 August 1960 – 16 August 1964
g)	Borneo	8 December 1962 – 16 August 1964
h)	Malaysia, Singapore and Brunei	17 August 1964 – 30 September 1967
i)	Vietnam	31 July 1962 – 11 January 1973

After Vietnam there are no further wars, conflicts, or engagements where Qualifying Service is relevant to Allied or Commonwealth forces.

## **A6.1 Evidence of Qualifying Service**

### ***A6.1.1 General***

When a claim is received from an allied veteran for a Service Pension, it is expected that the person will provide any available documentary evidence of that service in his or her possession. Allied veterans may hold sufficient records of their service to establish eligibility as a veteran. When an inquiry is received about eligibility for a Service Pension as an allied veteran, the person should be advised that it would be necessary to establish eligibility and qualifying service. Documentary evidence may be in the form of discharge certificates, paybooks, campaign medals or stars, citations, statutory declarations etc.

### ***A6.1.2 Statement of Service***

At the time of claiming a Service Pension, the veteran should be asked to make a statement that includes full details of his or her war service. Form D507 (Qualifying Service Details Commonwealth or Allied Veteran') has been designed for this

purpose. This form is also used to assist decision makers to determine whether an allied veteran incurred danger from hostile forces of the enemy.

#### ***A6.1.3 Declaration by Veteran***

Where an allied veteran states that he or she has no service documentation available or that service documents have been misplaced, a statutory declaration will be taken from that veteran which includes:

- a) full particulars and history of service;
- b) names and contact addresses of any witnesses who can corroborate the service record;
- c) what documents (if any) were held and how they were lost; and
- d) details of the danger incurred by the person from hostile forces of the enemy.

If there is doubt in regards to a claim, corroborative evidence either by declarations or records of service from colleagues may be sought to compare the veteran's history with known facts.

## **A.7 Allied Mariner—Qualifying Service**

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Information concerning qualifying service for Allied Mariner can be found in the following Fact Sheet:

**Allied Mariners .....IS 64**

*This fact sheet explains qualifying service for Allied Mariners. It also explains what forms you need to fill in.*

#### ***Eligibility Provisions***

Qualifying service for an allied mariner is determined under paragraph 7A(1)(h). Allied mariners may have rendered qualifying service if:

- a) detained by enemy; or
- b) was in an area service in which would, if the person had been a member of the Defence Force, have entitled the person to the award of a campaign medal and incurred, while he or she was in that area, danger from hostile forces of the enemy.

The ship on which the allied mariner served must have been:

- a) operating from a port in either Australia, an allied country or a Commonwealth country;
- b) engaged in trading with Australia, an allied country or a Commonwealth country;

- c) engaged in providing assistance or support (either supplying food, munitions, clothing, transporting personnel or coal, oil etc.) to Australian, allied or Commonwealth forces; or
- d) engaged in providing some sort of assistance or support (either supplying food, munitions, clothing, transporting personnel or coal, oil etc.) to Australia, or allied country or Commonwealth country.

### ***Employment by Enemy Country***

Even though a mariner was not actively fighting the Australian forces, if a foreign country that was at war with Australia employed him, he is not an allied mariner.

### ***Employment on Ships Supporting the Enemy***

Employment on a ship that:

- a) operated to or from a port in an enemy country;
- b) was engaged in trading with an enemy country; or
- c) was providing assistance or support to an enemy country.

Disqualifies a mariner from allied mariner status.

### ***Detention by the Enemy***

If the enemy detained an allied mariner he will have rendered qualifying service. This detention requires more than being held up for a period of hours. It requires the mariner to be physically detained so that his movements are restricted and he is under guard.

### ***Campaign Medals***

Service in certain areas, as well as incurring danger from hostile forces of the enemy, means that an allied mariner has rendered qualifying service. These areas are those which, if the mariner had been a member of the defence force, would have entitled that mariner to the award of a campaign medal.

## **A7.1 Evidence of Qualifying Service**

### ***A7.1.1 General***

Allied mariners are likely to produce similar types of documents to those held by Australian mariners. Documents possessed or obtainable by mariners of the United Kingdom are quite comprehensive. Allied mariners of Scandinavian countries and the United States should possess, or be able to obtain, adequate records of service.

### ***A7.1.2 Statement of Service***

At the time of claiming a Service Pension, a mariner should be asked to make a statement that includes, as much detail of his or her war service as the person is able to provide. Form D508 ('Qualifying Service Details Australian, or Allied Mariner')

has been designed for this purpose. This form is also used to verify whether an allied mariner incurred danger from hostile forces of the enemy.

## A.8 Residency

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Information concerning residency for application for Service Pension can be found in the following Fact Sheet:

**Residency** ..... **IS 50**

*This fact sheet explains the residency requirements for claiming service pension or income support supplement.*

### A8.1 Overview

A person must be resident and physically present in Australia in order to be eligible to lodge an application for Service Pension or ISS. An additional requirement to have been an Australian resident for a continuous period of ten years applies to Commonwealth and Allied veterans and Allied mariners. However, if such a person is a refugee, former refugee (refugees must have proven refugee status and acceptable qualifying service), or became permanently incapacitated while an Australian resident, the ten-year requirement does not apply. A person not residing in Australia, who is already in receipt of certain types of pension, may be eligible to transfer to ISS or a service pension.

## A.9 Relationship Status

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Information concerning relationship status can be found in the following Fact Sheet:

**Personal Circumstances** ..... **IS 09**

*This fact sheet explains how personal circumstances can affect service pension and income support supplement.*

The terms ‘member of a couple’ and ‘not a member of a couple’ are used to clearly define a person’s relationship status for Service Pension and ISS purposes, and to remove confusion in the community as a result of the old terminology.

### A9.1 Member of a Couple

A ‘member of a couple’ is defined in subsections 5E (2), (3) and (4) of the VEA. An eligible veteran and their partner are considered to be a member of a couple if:

- they are married and living together in a married relationship; or
- they are in a prescribed registered relationship and living together; or
- a delegate of the Repatriation Commission has determined that:
  - a de facto relationship exists which is not a prohibited relationship; or

- the two people are members of an illness separated couple under subsection 5R(5) of the VEA; or
- the two people are members of a respite care couple under subsection 5R(6) of the VEA.

### **A9.2 Not a Member of a Couple**

A person is considered to be 'not a member of a couple' if that person is:

- single (i.e. not married); or
- widowed; or
- divorced; or
- separated on the grounds of a breakdown of a de facto relationship or marriage and living apart; or
- maritally separated, but sharing the same principal home; or
- considered by the Commission, for any special reason, to be regarded as not a member of a couple under subsection 5R(3) of the VEA.

### **A9.3 Partner**

A 'partner', in relation to a person who is a member of a couple, is the other member of the couple. A series of family situation categories have been developed and are defined in subsection 5E(5) of the VEA. They are as follows:

- partnered (partner getting neither pension nor benefit);
- partnered (partner getting pension or benefit);
- partnered (partner getting pension); and
- partnered (partner getting benefit).

These terms describe the status of a member of a couple, depending on whether his or her partner is receiving any one of a prescribed range of pensions or benefits.

The term partner generally replaces 'spouse' in the VEA. However, the term 'non illness-separated spouse' exists in the VEA. Where it appears 'spouse' has the dictionary meaning of 'a partner in marriage; one's husband or wife'.

### **A9.4 De facto (Marriage-like) relationship**

A person is considered to be in a de facto relationship if the relationship is registered under certain prescribed State and Territory laws.

If the relationship is not a prescribed registered relationship, then a delegate of the Repatriation Commission must form an opinion that a de facto relationship does or does not exist. The combination of all aspects of the relationship, its nature, the history, the personal and financial circumstances of each person, expectations for the

future and whether children are in the relationship, are assessed in arriving at a decision to consider two people as living in a de facto relationship.

Section 11A of the VEA states that ‘regard is to be had to all the circumstances of the relationship’ and in particular the following matters:

- a) the financial aspects of the relationship, including:
  - i) any joint ownership of real estate or other major assets and any joint liabilities;
  - ii) any significant pooling of financial resources especially in relation to major financial commitments;
  - iii) any legal obligations owed by one person in respect of the other person; and
  - iv) the basis of any sharing of day-to-day household expenses.
- b) the nature of the household, including:
  - i) any joint responsibility for providing care or support of children;
  - ii) the living arrangements of the people; and
  - iii) the basis on which responsibility for housework is distributed.
- c) the social aspects of the relationship, including:
  - i) whether they hold themselves out as being in a de facto relationship with each other;
  - ii) the assessment of friends and regular associates about the nature of their relationship; and
  - iii) the basis on which they make plans for, or engage in, joint social activities;
- d) any sexual relationship between them;
- e) the nature of the commitment to each other, including:
  - i) the length of the relationship;
  - ii) the nature of any companionship and emotional support that they provide to each other;
  - iii) whether they consider that the relationship is likely to continue indefinitely; and
  - iv) whether they see their relationship as a de facto relationship.

The order in which the factors are set out above does not imply an order of importance and does not place a limit on the factors that may be considered in a particular case.

**A9.5 Widow**

A widow is a woman who was:

- a) the partner of a person immediately before the person died; or
- b) legally married to the man but living apart from him on a permanent basis prior to his death. (s. 5E(1)).

**A9.6 Widower**

A widower is a man who was:

- a) the partner of a person immediately before the person died; or
- b) legally married to the woman but living apart from her on a permanent basis prior to her death. (s. 5E(1)).

**A9.7 Illness-Separated Couple**

Each member of a couple may be paid an income support pension as a member of an illness-separated couple if:

- a) the couple is unable, due to the illness or infirmity of either or both of them, to live together in their home; and
- b) the inability is likely to continue indefinitely; and
- c) the Commission is satisfied their living expenses are, or are likely to be, greater than they otherwise would be.

If both members of a couple receive Service Pension and are an illness-separated couple, they are each eligible to receive pension at the higher single rate. Where an ISS recipient is a member of an illness separated couple the 'member of an illness separated couple' rate would be used in their rate calculation, but the ISS ceiling rate would still apply.

**A9.8 Non-Illness Separated Couples*****A9.8.1 Service Pension***

The partner of a veteran receives Partner Service pension only as a result of his or her relationship with that veteran. Any temporary absence of either person will not affect eligibility (s. 5E(3)(a)).

If a married couple claim to be separated they must establish that they are living separately and apart permanently, and there has been an estrangement or breakdown in their marriage. If separation is established, both the veteran and the non-illness separated spouse are entitled to the single rate of pension. Eligibility as a former partner will cease after a 12 month period starting from the date of separation unless:

- the non-illness separated spouse is age pension age at the end of the 12 month period; or
- special domestic circumstances apply (See topic B4.5).

The non-illness separated spouse will lose eligibility for Partner Service Pension if:

- a) the veteran loses eligibility for Age Service Pension or Invalidity Service Pension; or
- b) the spouse remarries following death of the veteran or divorce from the veteran; or
- c) the spouse commences to live in a de facto relationship with someone else; or
- d) the marriage between the veteran and spouse is ended by divorce.

In the case of a couple where the veteran and the de facto partner both receive Service Pension, the partnered rate of pension is paid to both members of the couple only while they are living together in a de facto relationship. If they separate permanently for reasons other than that of illness or infirmity, the former de facto partner of the veteran immediately loses his or her eligibility for Partner Service Pension, and the veteran's pension is recalculated at the single rate.

#### ***A9.8.2 Income Support Supplement***

If the couple separate for reasons other than that of illness or infirmity (i.e. they become a non-illness separated couple), or divorce, the ISS is calculated by using the 'not a member of a couple' assessment under the income or asset tests, and the ceiling rate rule will continue to apply.

### **A.10 Locations in Relation to 14 Degrees 30' South**

<b>North of 14.5 degrees (or 14 degrees 30' South)</b>		<b>South of 14.5 degrees (or 14 degrees 30' South)</b>	
Adelaide River (Town)	13° 15'	Aileron	22° 40'
Batchelor	13° 05'	Alice Springs Aerodrome	23° 45'
Bonrook	13° 55'	Alice Springs (Town)	23° 40'
Booklera	13° 35'	Banka Banka	18° 50'
Brocks Creek	13° 25'	Barrow Creek Tel Stn	21° 30'
Burrundie	13° 35'	Birdum	15° 40'
Cullen	14° 00'	Bond Springs Aerodrome	23° 30'
Darwin (Town)	12° 30'	Churchill's Head	18° 55'
Darwin (River)	12° 50'	Daly Waters	16° 15'
Edith River	14° 10'	Devil's Marbles	20° 35'
Ferguson River	14° 05'	Dunmarra	16° 40'
Fountain Head	13° 30'	Elliott	17° 35'
Goodilla	13° 25'	Gorrie	15° 28'
Grove Hill	13° 30'	Greenwood	20° 20'
Horseshoe Creek	14° 05'	Helen Springs	18° 25'
Howard Springs	12° 25'	Katherine (River)	14° 40'
Howley	13° 25'	Larrimah	15° 35'
Hughes	12° 40'	Maranboy Rly Siding	14° 40'
Kanyaka	12° 55'	Mataranka Aerodrome	14° 55'
Katherine Aerodrome	14° 25'	Mataranka (Homestead)	14° 55'
Katherine (Town)	14° 30'	Mataranka (Township)	14° 55'
Knuckey's Lagoon	12° 25'	Newcastle Waters	17° 25'

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Maranboy Police Station	14° 30'	North Newcastle Waters	17° 15'
McMinns Lagoon	12° 35'	Old Elsey	15° 05'
Noonamah	12° 35'	Powell Creek Tel Stn	18° 05'
Pine Creek	13° 50'	Tea Tree Well	22° 10'
Rum Jungle	13° 00'	Tennants Creek	19° 40'
Southport	12° 45'	Wauchope	20° 40'
Stapleton	13° 10'		
Union Reef	13° 45'		

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## Part B Benefits Available

### B.1 Service Pension

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Information concerning service pension can be found in the following Fact Sheets:

**Service Pension Overview .....IS 01**

*This fact sheet explains what a service pension is, what the eligibility criteria are, and provides information on associated benefits. For more information on specific topics contact your nearest DVA Office.*

**How to Claim Service Pension .....IS 02**

*This fact sheet explains how to claim a service pension.*

#### B1.1 Overview

Service Pensions are income support payments intended to provide a regular income for people with limited means and are broadly equivalent to the Centrelink age and disability support pensions. Although similar, a Service Pension has certain advantages over the equivalent Centrelink. These include:

- Service Pension is payable 5 years earlier than age pension;
- Disability Pension and similar war compensation payments are disregarded in calculating the basic rate of Service Pension; and
- Some Australian veterans in receipt of Service Pension have a greater health care entitlement.

A service pension is payable to eligible veterans, their partners, and widows and widowers. For service pension purposes, a veteran is a person who has qualifying service. Eligible veterans include:

- Australian Veterans;
- Commonwealth Veterans;
- Allied Veterans;
- Australian Mariners;
- Allied Mariners; and
- Members, former members and declared members covered by MRCA.

To be eligible for Service Pension, you:

- Are a veteran; and
- Have rendered qualifying service; and

- Meet the residency requirements; and
- Are of service pension age; or
- Are permanently blind or permanently unable to work.

A service pension may not be payable because of income or assets testing, even if a person is otherwise eligible.

There are three different forms of Service Pension, as follows:

- Age Service Pension which is payable to veterans over pension age;
- Invalidity Service Pension which is payable to veterans who are under pension age but are permanently incapacitated for work; and
- Partner Service Pension which is payable to the partner of a veteran.

Centrelink administers carer payment and all other matters relating to carers.

## B.2 Age Service Pension

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Information concerning age service pension can be found in the following Fact Sheet:

**Age/Invalidity Service Pension ..... IS 44**

*This fact sheet explains the eligibility criteria for the service pension when granted on the basis of age or invalidity.*

### B2.1 Overview

Eligibility for Age Service Pension is contained in section 36 of the VEA. To be eligible for an age service pension, you must be a veteran with qualifying service and be service pension age, which is 60 years for males.

The eligibility for female veterans is gradually being increased to 60 years. Every two years the eligibility age for female veterans is increased by six months. By 1 January 2014 female and male pension ages will be the same, that is 60 years. The table below sets out the age a female veteran must be to qualify for pension.

Date of birth	Age
Born before 1 Jan 1951	eligible
1 Jan 1951 – 30 Jun 1952	59
1 Jul 1952 – 31 Dec 1953	59.5
1 Jan 1954 and later	60

Age service pension is granted 5 years earlier than the age pension paid by Centrelink.

## B.3 Invalidity Service Pension

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Information concerning invalidity service pension can be found in the following Fact Sheet:

**Age/Invalidity Service Pension .....IS 44**

*This fact sheet explains the eligibility criteria for the service pension when granted on the basis of age or invalidity.*

### B3.1 Overview

Eligibility for Invalidity Service Pension is contained in section 37 of the VEA. If you are a veteran with qualifying service, you may be eligible for invalidity service pension if you are permanently incapacitated for work.

Your claim for invalidity service pension must be based on your permanent incapacity for medical reasons. Your medical condition does not need to be related to your war service. The medical condition stopping you from working may be physical, mental or a combination of conditions. When assessing claims for invalidity service pension, any type of work you may realistically be able to perform will be taken into account.

There is no prescribed minimum age for a person to be eligible for Invalidity Service Pension. However, only a veteran who is under Centrelink pension age can lodge a claim for Invalidity Service Pension (s. 37E). Invalidity Service Pension is not income for taxation purposes until the veteran reaches the Centrelink age pension age, when Age Service Pension eligibility criteria applies and the tax-exempt status of the pension is lost.

### B3.2 Permanently Incapacitated

#### *B3.2.1 Definition of Permanently Incapacitated*

For invalidity service pension (ISP) purposes a person is permanently incapacitated for work if:

- the person is permanently blind in both eyes; or
- the person receives the Special Rate of disability pension (T&PI); or
- the person has an impairment that would result in a combined impairment rating of 40 or more under Table 18.1 in the Guide to the Assessment of Rates of Veterans' Pension (GARP); and
- solely because of the impairment, the person is unable to work for periods adding up to more than 8 hours per week; and
- the Commission is satisfied that the impairment is permanent.

For invalidity income support supplement (I-ISS) purposes a person is permanently incapacitated for work if:

- the person is permanently blind in both eyes; or
- the person has an impairment that results in 20 points or more under the Impairment Tables in Schedule 1B of the Social Security Act 1991; and
- the Commission is satisfied that solely because of the impairment, the person cannot work for the following 2 years.

### ***B3.2.2 Assessment of Permanent Incapacity for Work***

For ISP purposes, if the person is not permanently blind or receiving Special Rate disability pension, the first thing to be considered is whether the person has a disability or disabilities that will result in at least 40 impairment points under GARP.

The next question considered when dealing with a claim for pension due to permanent incapacity for work is whether the person has effectively lost the ability to obtain and undertake employment because of their impairment.

For I-ISS purposes, if the person is not permanently blind, the first thing to be considered is whether the person has a disability or disabilities that will result in at least 20 impairment points under the Impairment tables in Schedule 1B of the Social Security Act 1991.

Secondly, it is necessary to consider if the person has effectively lost the ability to undertake employment for the next two years, because of their impairment.

### ***B3.2.3 Ability to Obtain Employment***

In deciding whether a medical condition affects a person's capacity for work, factors such as the following are taken into account:

- the work that the person might reasonably be expected to undertake possibly with retraining, given their skills, qualifications and experience;
- whether the work is actually undertaken and is not uncommon in the Australian workforce;
- whether the work is of a kind for which award wages are, or could reasonably be expected to be, paid.

Work in this context is not necessarily limited to:

- the particular type of job that the person has previously undertaken; or
- work readily available to the person at this time or in the person's local area.

### ***B3.2.4 Duration of Incapacity***

ISP and I-ISS are not granted as a short term or interim measure to assist the person where they have a short-term loss of work or inability to work. Such people are able to apply for assistance under other more appropriate Commonwealth assistance schemes.

### ***B3.2.5 Factors to be Taken into Account***

Incapacity for work is established when a person's actual ability to engage in employment is reduced by their medical impairment alone. Non-medical factors such as the state of the labour market or the person's education are not taken into account.

### ***B3.2.6 Investigation of Medical Condition***

Permanent incapacity for work can arise from any medical condition (whether accepted disabilities or not). Entitlement to ISP or I-ISS on the basis of permanent incapacity must arise from a person's medical condition. A medical condition can be physical and/or mental. It is important that evidence be made available to identify the medical impairment causing the incapacity for work. Where there is more than one disability, the combined effect of all disabilities is considered.

In some cases, for example blindness or where Special Rate disability pension is received, it is not necessary to further investigate the medical condition in order to make a decision about permanent incapacity.

### ***B3.2.7 Role of the Medical Officer***

Where a medical examination is necessary, the treating doctor is normally the appropriate person to evaluate and advise on the effects of medical factors on the person's permanent incapacity. For ISP purposes, where a medical report is required, the treating doctor is requested to complete form D569 Invalidation Details and any relevant medical impairment forms that allow the calculation of the GARP impairment points. For example, if a psychiatric condition is being investigated, the Emotional Behavioural GARP form would require completion. Form D570 Work Test Questionnaire should also be completed by the treating doctor. For I-ISS purposes, where a medical report is required, an independent medical officer is requested to complete form D571 Medical and Work Details. The examining medical officer is asked to comment in detail on the following:

- the extent of the mental or physical impairment;
- the likely effect of the impairment on employability.

Specialist reports are sought when necessary to make an assessment of the effect of the medical impairment on the person's permanent incapacity for work.

### ***B3.2.8 Receipt of Centrelink Disability Support Pension***

Generally, eligibility for I-ISS invalidity is taken to exist without further medical examination where research shows that the person is in receipt of DSP because Centrelink has assessed them to:

- be a manifest disability case; or
- have an impairment level of greater than 20 points and a continuing inability to work.

Whilst receipt of a Centrelink Disability Support Pension (DSP) by a person should be taken into account in assessing a person's permanent incapacity for ISP purposes, it is important to realise that eligibility for DSP is based on completely different criteria and methodology to ISP. As such, factors which have led to the person being in receipt of DSP are considered in determining eligibility for ISP, but the mere receipt of DSP does not necessarily imply automatic eligibility for ISP.

### ***B3.2.9 Persons Considered Permanently Incapacitated Without Investigation***

- *Blindness*

Persons who are permanently blind in both eyes are automatically eligible and are accepted as permanently incapacitated without further investigation. Such persons may be engaged in casual or full-time work without affecting their eligibility for ISP or I-ISS.

Persons in receipt of ISP or I-ISS because they are permanently blind in both eyes are not subject to the income or assets tests for pension purposes and special rules apply to the assessment of other payments they receive.

- *Special (Totally And Permanently Incapacitated) Rate Pensioners*

Veterans in receipt of the Special Rate of Disability Pension are automatically regarded as permanently incapacitated for ISP purposes. Although not regarded as automatically eligible for I-ISS purposes, in most cases receipt of Special Rate would be sufficient to meet the permanent incapacity criteria for I-ISS without further investigation.

- *Centrelink Disability Support Pensioners*

Under certain circumstances persons in receipt of DSP may also be considered to be permanently incapacitated for ISP and I-ISS purposes. However, being in receipt of DSP does not confer automatic eligibility.

- *Manifestly Disabled*

In order to prevent people being sent to medical examinations that are clearly unnecessary, a person is automatically considered permanently incapacitated for ISP or I-ISS purposes if they clearly and obviously meet the criteria for permanent incapacity, based on the medical evidence available to the Department. In other words, no additional medical assessment or work capacity test is required for the decision maker to form an opinion regarding 'permanently incapacitated'.

## **B.4 Partner Service Pension**

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Information concerning partner service pension can be found in the following Fact Sheet:

**Partner Service Pension..... IS 45**

*This fact sheet explains what the partner service pension is, who is eligible and how to apply.*

#### **B4.1 Overview**

A partner is a legally married spouse or a person who is living with a veteran in a prescribed registered relationship or de facto relationship which is not prohibited under the *Marriage Act 1961*. A partner of a deceased veteran or a married partner of a veteran who is separated from the veteran may also be eligible for Partner Service Pension (see the brochure 'Service Pension and Couples Separated by Illness'). A separated partner's eligibility will cease immediately if they form a new relationship or divorce, or after a 12 month period starting from the date of separation (unless they are age pension age or special domestic circumstances apply).

#### **B4.2 Eligibility**

The partner of a veteran may be eligible to receive a Partner Service Pension as a result of his or her relationship with that veteran. Eligibility for Partner Service Pension is contained in section 38 of the VEA. A person is eligible for Partner Service Pension if the person is:

- a member of a couple, whose partner is a veteran receiving Age or Invalidity Service Pension or who would be receiving such a pension if it were not for the operation of a disqualifying provision; or
- a member of a couple, whose partner is a veteran with qualifying service, and who is qualified for an age pension from Centrelink; or
- a non-illness separated spouse of a veteran who is receiving Age or Invalidity Service Pension or would be receiving such a pension if not for the operation of a disqualifying provision; or
- the widow(er) of a veteran who was, immediately before his or her death, receiving Age or Invalidity Service Pension or would be receiving such a pension if not for the operation of a disqualifying provision, and the widow(er) was receiving Partner Service Pension or a Centrelink pension immediately before the veteran's death; or
- a widow(er) of a veteran who had made a claim for Partner Service Pension which had not been determined before the veteran died, and the veteran had made claim for Age or Invalidity Service Pension which had not been determined before he or she died, but which the Commission determines would have been granted; or
- the widow(er) of a veteran with qualifying service, who is qualified to receive an age pension from Centrelink.

A disqualifying provision has the effect that an Age or Invalidity Service Pension that would otherwise be payable to the veteran is not, or ceases to be, payable (s. 38(1A)).

It can thus be seen that a partner or widow(er) may be eligible for Partner Service Pension, or continue to be eligible for Partner Service Pension, even where:

- the veteran dies before lodging a claim for Service Pension; or

- the veteran is not receiving Service Pension because of the operation of a disqualifying provision.

A war widow(er) cannot be paid Partner Service Pension. This is specifically barred under subsection 38C(2). However, the person may be eligible for ISS.

If a veteran service pensioner marries while overseas, the spouse does not qualify for a Partner Service Pension unless that spouse returns to Australia, becomes a permanent resident and satisfies all other criteria.

#### **B4.3 Age Requirement and exemptions for partners**

To be granted partner service pension, the partner must, in addition to meeting the eligibility criteria, be one of the following:

- qualifying age, which is 60 years for males and subject to age equalisation for females (See table B2.1); or
- have a dependent child at the time of claim; or
- the partner of a veteran entitled to the special rate of disability pension; or
- the partner of a veteran who is receiving or eligible to receive a special rate disability pension (SRDP) under the *Military Rehabilitation and Compensation Act 2004* (MRCA); or
- 50 years of age or over and the partner of a veteran who receives an above general rate disability pension (this eligibility category commenced only from 9 December 2008).

Note: In certain circumstances, the partner or widow(er) may instead need to meet the age for the Centrelink age pension. See topic B4.7 for more details.

For the purposes of partner service pension eligibility, above general rate disability pension is:

- Intermediate Rate Disability Pension
- Extreme Disablement Adjustment
- Temporarily Totally Incapacitated
- Additional Disability Pension for Specific Disabilities items 1 to 6
- 80 or more impairment points under the MRCA

#### **B4.4 Effect of Separation**

Where a couple are separated for illness or respite care reasons, the partner of the veteran retains eligibility for Partner Service Pension. (See topic A9.7)

The effect of non-illness separation on the eligibility of a partner will depend on whether the couple are married or were in a de facto relationship. (See topic A9.8.1)

If they are married, the partner of the veteran will retain eligibility for Partner Service Pension for 12 months or until such time as he or she divorces the veteran, or enters into a marriage-like relationship with another person, whichever occurs first. Eligibility as a former partner will cease after a 12 month period starting from the date of separation, unless the non-illness separated spouse is Centrelink pension age (see Table B4.7) at the end of the 12 month period; or special domestic circumstances apply (See topic B4.5).

If they were living in a de facto relationship, the partner of the veteran will lose eligibility for Partner Service Pension from the date of separation from the veteran (s 38(2A)).

#### **B4.5 Special Domestic Circumstances**

A person will not lose eligibility for partner service pension 12 months after non-illness separation from the veteran if special domestic circumstances apply. Special domestic circumstances are where, at the date of separation, the veteran has a psychological or mental health condition recognised by DVA and there is supporting information of an unsafe or abusive domestic environment in respect of the person or their family prior to separation.

An unsafe or abusive domestic environment means there was conduct, whether actual or threatened, by the veteran partner that causes the person to fear for their, or their family's, well-being or safety.

#### **B4.6 Effect of Widow(er) Entering New Relationship**

Where the widow(er) of a veteran continues to receive Partner Service Pension and he or she marries another person, or enters into a marriage-like relationship with another person, his or her eligibility for Partner Service Pension will in all cases cease (ss. 38(3) and 38(3A)).

#### **B4.7 Qualification for Centrelink Age Pension**

Where a veteran has qualifying service, but is under pension age, or dies before reaching pension age, the veteran's partner may be eligible for Partner Service Pension. However, for the partner to be eligible in these circumstances, he or she also need to be qualified for age pension from Centrelink. For a person to be qualified for age pension from Centrelink, he or she must:

- meet certain residency requirements
- be Centrelink pension age or over which is 65 years for men. For females the pension age is being gradually increased to 65 years. The table below sets out the age a female must be to be Centrelink pension age.

<b>Date of birth</b>	<b>Age</b>
Born before 1 Jan 1946	eligible
1 Jan 1946 – 30 Jun 1947	64
1 Jul 1947 – 31 Dec 1948	64.5
1 Jan 1949 and later	65

#### **B4.8 Retention of Eligibility when Veteran ceases to be Paid**

The partner of a veteran is able to retain eligibility for Partner Service Pension in some circumstances where the veteran ceases to be paid. This applies only where the veteran loses payability (i.e. the rate of pension is reduced to NIL) without losing eligibility. Where the veteran loses eligibility, the partner's eligibility for Partner Service Pension will be lost. If a veteran dies during such a period where his or her Service Pension is reduced to nil, the widow(er) of the veteran will retain eligibility for Partner Service Pension.

### **B.5 Income Support Supplement**

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Information concerning income support supplement can be found in the following Fact Sheets:

#### **Income Support Supplement Overview ..... IS 03**

*This fact sheet explains what an income support supplement is, what the eligibility criteria are, and provides information on associated benefits.*

#### **How to Claim Income Support Supplement Overview..... IS 04**

*This fact sheet explains how to claim an income support supplement.*

#### **Income Support Supplement Rates ..... IS 22**

*This fact sheet provides a brief description and the current rates of income support supplement (ISS) and allowances related to ISS. The rates quoted are fortnightly amounts unless otherwise indicated.*

#### **B5.1 Overview**

The Income Support Supplement (ISS) is an income support payment payable by Veterans' Affairs to eligible war widow(er)s with limited means.

#### **B5.2 Eligibility for ISS**

To be eligible for ISS, the person must be eligible for a war widows' pension or a war widowers' pension paid under the VEA, or be a wholly dependent partner eligible to receive compensation under the *Military Rehabilitation and Compensation Act 2004* (MRCA). There is no age requirement on the eligibility for ISS. However, even if the person meets the eligibility criteria, ISS may not be payable because of income or assets in excess of the limits.

The recipient of a war widow's or widower's pension paid by a country other than Australia is not eligible for ISS, unless they also have eligibility for an Australian war widow's or widower's pension.

#### **B5.3 Invalidity ISS**

ISS is treated as income for taxation purposes, except if ISS is granted on the grounds of invalidity and the person has not yet reached Centrelink age pension age (see table

at B4.7). War widow(er)s may choose to apply for Invalidity ISS if they are permanently incapacitated for work (See topic B.3 for more details):.

#### **B5.4 Rates of ISS**

The rate of ISS payable is limited to a ceiling rate. For ISS purposes, the War Widow(er)s Pension is considered to be income. Subject to the income and assets tests, a war widow(er), receiving ISS may be paid at a rate *lower* than the ceiling rate.

#### **B5.5 How to Claim Income Support Supplement**

As ISS is only payable to war widow(er)s, the grant of ISS in most cases is an automatic process, particularly if the war widow(er) was receiving a Service Pension prior to the death of the veteran.

War widow(er)s must complete an application form if:

- they were not previously receiving a Service Pension; or
- when due to the death of the veteran, the service pensioner spouse was prevented from receiving ISS because of assessment of income and assets as a single person, and then later the level of income and assets was reduced enough to allow ISS to be paid.

### **B.6 Defence Force Income Support Allowance (DFISA)**

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Information about the DFISA can be obtained from the following Fact Sheet:

#### **Defence Force Income Support Supplement Allowance (DFISA): Age Pension Administered by DVA .....IS19**

*This Factsheet explains what the Defence Force Income Support Allowance (DFISA) is, who will receive it and how it is calculated.*

DFISA is an income support payment made by the Department of Veterans' Affairs. It may be paid to people whose social security income support payment is reduced, or not payable, because of adjusted disability pension (adjusted DP). It is not payable to recipients of war widows/ers' or orphans' pensions.

DFISA is the difference between the actual rate of the person's income support payment and what the payment would be if adjusted DP was exempt from the assessment, (but included in the calculation of any rent assistance entitlements).

If Centrelink pays the person's income support payment, then Centrelink calculates the amount of DFISA payable. If DVA pays the age pension or partner pension, DVA calculates the amount of DFISA payable. Regardless of which agency calculates DFISA, it is paid by DVA.

See the above fact sheet for the definition of 'adjusted DP'.

## B.7 Income and Assets Tests

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Information concerning Income and Asset Tests can be found in the following Fact Sheets:

**Income Test Overview ..... IS 87**

*This fact sheet explains what income is, and how the income test is applied when working out the rate of income support pension—that is, the service pension, income support supplement and age pension.*

**Assets Test Overview ..... IS 88**

*This fact sheet explains what assets are, and how the assets test is applied while working out the rate of income support pension—that is, the service pension, income support supplement and age pension.*

### B7.1 Overview

The amount of Service Pension and ISS paid depends on the person's income and assets. The pension is calculated under two separate tests, an income test and an asset test. A person may have a certain amount of income and assets and still receive the maximum rate of pension. The test that pays the lower rate of pension applies.

Veterans or their spouses in receipt of Service Pension because of blindness are not subject to the income and assets tests and special rules apply to the assessment of other payments. This exemption applies only to the blinded person.

## B.8 Rates of Pension

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Information concerning the rates of pension payable can be found in the following Fact Sheets:

**Service Pension & DSS Age Pensions Rates..... IS 21**

*This fact sheet provides a brief description and the current rates of service pension, age pension and allowances. The rates quoted are fortnightly amounts unless otherwise indicated.*

**Income Support Supplement Rates ..... IS 22**

*This fact sheet provides a brief description and the current rates of income support supplement (ISS) and allowances related to ISS. The rates quoted are fortnightly amounts unless otherwise indicated.*

**Service Pension Changes Effective 20 September 2009..... IS 171**

*This Factsheet is a summary of the changes to Service Pensions effective from 20 September 2009 only.*

**War Widows Pension Changes Effective 20 September 2009 .....IS 172**

*This Factsheet is a summary of the changes to War Widows Pension and ISS effective from 20 September 2009 only.*

**Indexation of Income Support Pensions and Allowances.....IS 159**

*This Factsheet describes the indexation of Income Support pensions and allowances. It covers how and when the indexation is calculated and applied.*

**B8.1 Overview**

There are two different rates of Service Pension:

- a partnered (or married) rate; and
- a standard (or single) rate.

Both rates are usually increased in March and September each year to reflect increases in the cost of living.

When a couple is separated because of ill health or during a period of respite care, they may be both paid at the standard rate.

A widowed or non-illness separated spouse, who is not a veteran, may receive a Service Pension at the single rate.

The rate of Service Pension paid to a member of a couple is limited to the partnered (married) rate where only one member is eligible to receive, or chooses to receive, an income support pension.

Pension Supplement is a component of service pension or income support supplement that is paid to assist in meeting the cost of prescriptions, rates, telephone and internet connections, energy, water and sewerage.

The following allowances may also be added to the rate of Service Pension:

- Rent Assistance; and
- Remote Area Allowance.

**B.9 Allowances and Other Benefits**

Information concerning other benefits, services and allowances available can be found in the following Fact Sheets:

**Supplements & Allowances.....IS 12**

*This Factsheet explains: pension supplement, remote area allowance and seniors supplement.*

**Pension Supplement..... IS 16**

*This factsheet explains what the pension supplement is, who is eligible for it, how much it is and how it is paid. It is relevant to you if you receive a service, invalidity or age pension from DVA.*

**Bereavement Payment ..... BR 02**

*It is a payment that helps a bereaved pensioner meet financial demands that may follow the death of a partner. It gives a bereaved pensioner time to adjust their finances before any changes are made to the rate of pension they get. It is not taxable.*

**Commonwealth Seniors Health Card..... IS 126**

*This fact sheet explains who is eligible for a Commonwealth Seniors Health Card (CSHC), and what the card entitles them to.*

**Financial Hardship ..... IS 117**

*The hardship rules can assist people who are in severe financial hardship to receive a pension or increase their rate of pension. The hardship rules apply only to people whose pension is assessed under the assets test.*

**Health Care Eligibility for Service Pensioners ..... IS 15**

*This fact sheet explains which service pension recipients are eligible for the Gold Card.*

**Lump Sum Advance..... IS 115**

*If you are receiving a pension from DVA and you require additional funds for any purpose you might be able to get some of your pension paid in advance.*

**Pensioner Concession Card ..... IS 125**

*Persons in receipt of an income support payment are issued with a Pensioner Concession Card. This card provides the pensioner and any dependent children with a range of Commonwealth, State and Local Government benefits and concessions. These concessions vary from State to State. (NSW—SOI 01; VIC—SOI 11; QLD—SOI 21; SA—SOI 31; WA—SOI 41; TAS—SOI 51; NT—SOI 61; ACT—SOI 71)*

**Pension Loans Scheme..... IS 116**

*The Pension Loans Scheme provides fortnightly income payments at a reasonable rate of interest to people who receive a reduced rate of income support pension, or do not receive any income support pension because of the income and assets tests.*

**Remote Area Allowance.....IS 14; RR 01; IS 21; IS 22; DP 43**

*Remote area allowance is a fortnightly, non taxable payment made to pensioners to help offset the higher than normal costs, such as transport and communication, incurred whilst living in remote areas of Australia.*

**Renting and Rent Assistance ..... IS 74; IS 75; IS 21; IS 22; DP 43**

*Rent assistance is a non-taxable allowance to help meet the cost of your rented accommodation.*

**Repatriation Health Card—For all Conditions (Gold)..... HSV 60**

*This fact sheet describes the health care you can access with your Repatriation Health Card—For All Conditions (Gold Card).*

**Repatriation Pharmaceutical Benefits Scheme ..... HSV 92**

*The Repatriation Pharmaceutical Benefits Scheme (RPBS) provides a wide range of pharmaceuticals for the treatment of eligible veterans, war widow(er)s and dependants.*

**Seniors Supplement.....IS 17**

*Seniors supplement is a payment made to a Commonwealth Seniors Health Card holder or an eligible gold card holder to assist with payment of energy, telephone, internet, rates, water and sewerage expenses.*

## Part C Making a Claim

### C.1 Claims—General

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An application should be lodged at least a month before the person requires the pension. The applicant will be forwarded an application kit comprising a Claim Form and Supplementary Claim Forms. Veterans should, if possible, apply to the Department to see if they have qualifying service before lodging their claim for Service Pension.

Although a person may meet the eligibility criteria for Service Pension, such a pension will not be granted unless they lodge a proper claim.

A formal claim is not required where a person who was previously in receipt of Partner Service Pension is granted a War Widow(er)s Pension following the death of their partner. In this situation, an automatic grant of ISS can be made. However, a formal claim must be lodged for invalidity ISS.

In processing claims for Service Pension and ISS, DVA liaise with Centrelink if the claimant has claimed or is receiving a Centrelink pension or benefit, or was recently in receipt of such a pension or benefit. The purpose of such liaison is to obtain a clearance from Centrelink that enables DVA to calculate any arrears payable to the claimant, or overpayment that must be recovered from the claimant.

Provision exists for DVA to pay prescribed travelling expenses to a person if they are required to attend an examination in relation to a claim for service pension or ISS.

#### C1.1 Qualifying Service Claims

A person may make a claim for a qualifying service determination some time prior to actually claiming Service Pension. This is of use to people who wish to confirm their eligibility for service pension to assist with planning their retirement. A claim for a qualifying service determination is treated in similar fashion to a claim for pension.

Claims should be lodged using DVA Form D2673: Application to Determine Qualifying Service by a Veteran or Mariner. Certified copies of any documents that support the claim, such as a discharge certificate, should also be provided. A qualifying service determination is subject to the same appeal rights as a claim for service pension or ISS.

#### C1.2 Lodgement of Claim

Legislation in respect of claims for Service Pension and ISS require a claim to be:

- a) made in writing;
- b) in accordance with a form approved by the Commission;

- c) accompanied by any evidence that the person making the claim considers may be relevant to the claim; and
- d) must be lodged with the Department.

A claim for Service Pension or ISS is considered to be lodged with the Department if it is lodged:

- a) at an office of the Department in Australia; or
- b) at a place approved for this purpose by the Commission; or
- c) with a person approved for this purpose by the Commission.

Generally, a claim for pension should be lodged by the claimant (the person to whom the pension will be paid). However, another person can lodge the claim provided they have the authority of the claimant to do so. In situations where a person is physically or mentally disabled such that they are unable to authorise another person to make a claim on their behalf, the Commission may authorise another person to make the claim for them.

### **C1.3 Date of Lodgement**

A claim for Service Pension or ISS is taken to be lodged with the Department on the day it is received:

- a) at an office of the Department in Australia; or
- b) at a place approved for the purpose of receiving claims by the Commission; or
- c) with a person approved for the purpose of receiving claims by the Commission.

The date of lodgement is often the effective date for grant of pension. However, in some instances a person who has lodged a proper claim for pension may have made preliminary inquiries that can be treated as an initial claim for pension. In this situation, the date on which the person made the initial claim may be the effective date of grant of pension.

### **C1.4 Initial Claims**

If a person lodges a written application for Service Pension or ISS on other than an approved form, or advises the Department in writing, or by telephone, of their intention to apply for a Service Pension or ISS, they have made an initial claim. Where this happens, pension may be granted from the date on which the initial claim was made, provided the person subsequently lodges a proper claim:

- a) within 3 months of being notified that the initial claim was not a proper claim; or
- b) at any time if the person was not so notified.

### **C1.5 Investigation of Claim**

The VEA obliges the Secretary to investigate a proper claim and submit it to the Commission for determination. The VEA gives the Commission authority to request any information from the claimant that it may need in order to determine the claim.

### **C1.6 Claims made before Retirement Benefits are known**

Under certain circumstances an assessment of Service Pension or ISS and grant of such pension may be made when it is known that a person's circumstances are likely to change in the near future, i.e. as the result of a grant of superannuation. In these situations pension is assessed on the known assets and income. This is a full decision with appeal rights. The advice letter will include the person's obligation to advise of any change of circumstances.

### **C1.7 Notification of Decision**

When a claim is decided, the applicant will be notified in writing. This notification will explain the right of review.

If the client has been granted an income support payment, the notification will also advise the grant of pension, the rate of payment and the date of grant. The letter will also notify of their obligations to Veterans' Affairs and any medical and other benefits available to them. They will be sent a Pensioner Concession Card.

### **C1.8 Rejected Claims—Eligibility for Centrelink Pension or Benefit**

A person who has claimed Service Pension or ISS but has had that claim rejected, may be eligible for pension or benefit from Centrelink. Such people should be advised to lodge a claim with Centrelink as soon as possible.

### **C1.9 Death of a Claimant**

The death of a claimant for Service Pension or ISS does not affect the obligation of the Commission to determine the claim. The claim is investigated as far as possible under the circumstances in accordance with normal procedures and referred to a delegate or decision maker for consideration. A pension will only be granted in these circumstances where the effective date of grant is prior to the date of death.

Situations may arise where a person in receipt of pension dies but their partner has lodged a claim for Partner Service Pension that has not yet been determined. In this situation, the partner may be granted Partner Service Pension, provided the effective date of grant of the partner's pension is prior to the date of death of the person in receipt of pension. Following grant of pension, a bereavement payment may be made to the partner.

It may happen that the person who dies is not yet actually in receipt of pension, but has made a claim that has not yet been determined. In this circumstance, Partner Service Pension will only be granted to the partner as outlined above, if pension is granted to the person who has died. This will only happen where the effective date of grant of pension to the deceased person is prior to the date of his or her death.

Where a person lodges an initial claim for Service Pension or ISS and dies before the formal claim is lodged, the legal personal representative or such other person as the Commission approves, may lodge the formal claim.

### **C1.10 Clients' Obligations**

Service pensioners and ISS recipients must tell Veterans' Affairs within 14 days (28 days if they live overseas or receive remote area allowance) of any changes that may affect the rate of their income support payment. Such changes may include changes in their address, changes to income and/or assets, changes in marital status, etc. If they do not advise of changes, their income support payment may be paid at an incorrect rate. Recovery action will be considered in all cases where an income support payment is overpaid.

### **C1.11 Payment of Service Pension and ISS**

Income support payments are paid every second Thursday into the clients' bank, building society or credit union account in Australia. If clients want to change the account their pension is paid into, they should not close the old account until the first payment has been received in their new account.

### **C1.12 Review of Rate of Pension**

Clients may request a review of the rate of their income support payment at any time. The Department may also decide to review their circumstances at any time.

### **C1.13 Returning Overseas**

If eligible veterans or widow(er)s have recently lived overseas and have returned to Australia and lodged a claim for an income support payment, they may lose that payment if they return overseas within 12 months of the payment being granted.

### **C1.14 Centrelink Payments**

Clients cannot receive an income support payment from DVA and a similar pension or benefit from Centrelink at the same time. Centrelink Age and Disability Support Pensions are paid at the same maximum rates as Service Pensions.

## **C.2 Taxation**

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Information concerning tax can be found in the following Fact Sheet:

### **Taxation and Your Pension .....PAT 11**

*This fact sheet contains information about which pensions are income for income tax purposes, group certificates issued by the Department of Veterans' Affairs, Medicare levy exemption and taxation instalments.*

### **C2.1 Overview**

Most Service Pensions and ISS are taxable, however a Pensioner Tax Offset (see below) may apply.

The following pensions and allowances are not income for taxation purposes:

- Invalidity Service Pension until the veteran reaches Centrelink Age Pension age;
- Service Pension paid to a partner of an Invalidity Service Pensioner while both the partner and the veteran are under Centrelink Age Pension age;
- Income Support Supplement paid on the grounds of invalidity, until the person reaches Centrelink pension age; and
- Rent Assistance and Remote Area Allowance.

Centrelink pension age is 65 years for males and subject to age equalisation for females (see Table B4.7).

If a person receives a taxable Service Pension or ISS, DVA will forward a payment summary at the end of each financial year. The pensioner will need to lodge a tax return if their other taxable income plus the amount shown on their DVA Payment Summary is higher than the thresholds set by the Australian Taxation Office. If the payment received from DVA is the only taxable income earned in the financial year, it is likely that they will not need to lodge a tax return. If in any doubt, contact the Australian Taxation Office.

If the pensioner is exempt from the Medicare Levy, the number of days he or she is exempt will be included on his or her payment summary or Medicare Levy exemption certificate.

## **C2.2 The Pensioner Tax Offset**

Whilst most income support payments are income for taxation purposes, allowances and invalidity pensions are not. The tax-free threshold is increased for pensioners by their Pensioner Tax Offset. This ensures that if a person is wholly or mainly dependant on the pension, the tax liability is reduced or cancelled. A payment summary will be issued at the end of each financial year for taxable income support payments only.

## **C2.3 Tax File Numbers**

Applicants for all types of pensions are required to provide appropriate documentation including their tax file number (TFN). If they do not have a TFN they will generally have to apply for a TFN, or in certain circumstances, an exemption.

## **C.3 Privacy and Freedom of Information**

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Information concerning Freedom of Information and Privacy can be found in the following Fact Sheets:

### **Access to Information About You ..... FIP 01**

*The purpose of this fact sheet is to explain your right of access to information about you and how you obtain this information.*

**Privacy ..... FIP 02**

*This fact sheet explains what principles under the Privacy Act 1988 the Department of Veterans' Affairs (DVA) must apply to personal information collected about you.*

**Records Relating to Veterans ..... FIP 03**

*This fact sheet explains where records relating to veterans are kept and how to apply to obtain access to those records.*

**Confidentiality of Social Security Pension Information ..... FIP 04**

*This fact sheet explains the obligations on DVA staff concerning the handling of personal information relevant to the payment of Social Security Act age pension to Australian veterans (and their eligible partners) receiving disability pension.*

## **C.4 The Review Process**

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Information concerning the review process can be found in the following Fact Sheet:

**Requesting a Review of Our Decision..... IS 135**

*This fact sheet contains information about: which decisions in relation to service pension or income support supplement can be reviewed and what you need to do to have a decision reviewed.*

**C4.1 Overview**

If the client does not agree with a decision regarding their eligibility for an income support payment, or their rate of payment, they may apply to have the decision reviewed by the Service Pension Review Officer. A request for a review of a decision must be in writing stating the reasons for requesting a review and must be lodged with Veterans' Affairs within 3 months of notification of the decision to be reviewed.

**C4.2 Levels of Review**

Decisions in respect of matters of fact in relation to Service Pension, ISS and Qualifying Service determinations may be reviewed by:

- a) a Senior Delegate within DVA; or
- b) the Administrative Appeals Tribunal.

Matters of law may be reviewed by:

- a) a Single Judge of the Federal Court;
- b) the Full Federal Court; or
- c) the High Court.

#### **C4.3 Persons Able to Apply**

The claimant for a pension, a pensioner or the legal personal representative (LPR) of a deceased person is entitled to request a review of a decision made by a Delegate of the Repatriation Commission.

Although a person may be dissatisfied with only one aspect of a decision, the whole decision is subject to review, not just that part about which the person feels aggrieved.

#### **C4.4 Decisions Subject to Review**

Claimants and pensioners may seek review of decisions including those in relation to:

- a) a claim for Service Pension or ISS;
- b) a claim for a qualifying service determination;
- c) a decision to increase, reduce, cancel or suspend a Service Pension or ISS; or
- d) financial hardship, or
- e) a Commonwealth Seniors health Card.

#### **C4.5 Time Limits**

A written request for the review of a decision must be made within three months of a notification of the Commission's decision.

Dates of notification and lodgement are as for reviews of Disability Pension.

If a request for review is received after the three month period allowed, the person is advised that the time has expired and:

- a) if no Service Pension or ISS is in payment, the request for review may be regarded as an informal claim for pension or for a decision on qualifying service in respect of Service Pension; or
- b) where Service Pension or ISS is in payment, the request for review shall be treated as an application for increase in pension, and investigated and determined accordingly.

#### **C4.6 Decision on Review**

If details contained in a request for review reveal administrative error or inaccuracies, and the review relates to the rate of pension payable, the current rate of pension may be reviewed by a Delegate. If the decision of the Delegate fully resolves the matter(s) in dispute, the claimant will be advised and offered the opportunity to withdraw the request for review.

On review of a decision a Senior Delegate may affirm, vary or set aside the original decision.

**C4.7 Reasons for the Decision**

The decision and a statement of reasons must be served on the person who requested the review. That person must also be advised of their right to review by the Administrative Appeals Tribunal (AAT).

The copy of the statement of reasons is not to contain or refer to any information that, in the opinion of the Commission:

- a) is of a confidential nature; or
- b) might be prejudicial to the physical or mental health of the person on whom the statement is served.

**C4.8 Expenses Incurred by an Applicant**

The Commission may pay an amount for expenses incurred in the production of certificates, reports or other documents from a medical practitioner or from a hospital or similar institution in which the person had received medical treatment.

These articles must be reasonably used for the purposes of a review of a decision which the Senior Delegate:

- a) grants a claim for Service Pension or ISS; or
- b) sets aside a decision to cancel or suspend a Service Pension or ISS.

**C4.9 Appeals to the AAT**

If a person is dissatisfied with a Senior Delegate's review, that person may appeal to the AAT under similar conditions to those of Disability Pension. However, the person is not entitled to Veterans' Legal Aid under the Veterans' Legal Aid Scheme.

The time allowed for lodging an application for review with the AAT is three months from the date the Commission's statement of decision and reasons was served on the applicant.

## Part D Veterans' Vocational Rehabilitation Scheme

Information concerning Veterans' Vocational Rehabilitation Scheme can be found in the following Fact Sheet:

**Veterans' Vocational Rehabilitation Scheme.....HSV108**

*This fact sheet describes the vocational services available to veterans under the Veterans' Vocational Rehabilitation Scheme and how to access them.*

(Alternatively, you can go to [www.dva.gov.au/rehabilitation](http://www.dva.gov.au/rehabilitation) and follow the link to VVRS.)

The Veterans' Vocational Rehabilitation Scheme assists veterans (with or without an injury) to find, or continue in, suitable paid employment. All veterans can receive assistance to obtain a suitable and sustainable employment outcome, based on assessed needs. This outcome may be paid employment, an increase in hours of paid work, or retention of employment that a veteran is at risk of losing.

The Scheme provides a safety net for veterans receiving a pension from the Department of Veterans' Affairs. Participation in the scheme is totally voluntary.

For further information about the Scheme, contact the Veterans' Affairs Network for a brochure called '*How to find that job and keep that job*' on free-call 1800 113 304

