

# AUSTRALIAN SOLDIERS' REPATRIATION.

## No. 67 of 1936.

An Act to amend sections forty-five F, forty-five L, forty-five AC, forty-five AD, forty-five AE and forty-five AG of the *Australian Soldiers' Repatriation Act 1920-1935*, to repeal sections forty-five AF, forty-five AN and forty-five AO of that Act and to enact other sections in lieu thereof, and to insert in that Act a new section forty-five AGA.

[Assented to 3rd December, 1936.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1.—(1.) This Act may be cited as the *Australian Soldiers' Repatriation Act 1936*. Short title and citation.

(2.) The *Australian Soldiers' Repatriation Act 1920-1935\**, as amended by the *Financial Relief Act (No. 2) 1936†*, is in this Act referred to as the Principal Act.

(3.) Section eighteen of the *Financial Relief Act (No. 2) 1936* is amended by omitting sub-section (2.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Australian Soldiers' Repatriation Act 1920-1936*.

2. Section forty-five F of the Principal Act is amended by omitting from sub-section (1.) the words "for a further term not exceeding five years". Tenure of members of Appeal Tribunal.

3. Section forty-five L of the Principal Act is amended by omitting from sub-section (5.) the words "for a further term not exceeding five years". Assessment Appeal Tribunals.

\* Act No. 6, 1920, as amended by No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; No. 10, 1931; No. 47, 1931; No. 17, 1933; No. 16, 1934; No. 32, 1934; and No. 58, 1935.

† Act No. 29, 1936.

## Definitions.

4. Section forty-five AC of the Principal Act is amended—

- (a) by omitting from paragraph (d) of the definition of "income" the word "or"; and  
 (b) by inserting in that definition, after paragraph (e), the following paragraph:—

" ; or (f) by way of board and lodging received by a member of the Forces who is suffering from pulmonary tuberculosis and who receives that board and lodging while undergoing treatment for that disease as an inmate of a hospital, sanatorium, or similar institution ;".

## Grant of service pensions.

5. Section forty-five AD of the Principal Act is amended—

- (a) by omitting the words " who served in a theatre of war and " ;  
 (b) by inserting in paragraph (a), after the word " has ", the words " served in a theatre of war and has " ; and  
 (c) by inserting in paragraph (b), after the word " has ", the words " served abroad or embarked for service abroad and has ".

## Service pension in respect of a member permanently unemployable or suffering from pulmonary tuberculosis.

6. Section forty-five AE of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

" (2.) A pension under this section shall not be granted to a member of the Forces unless the member, in the opinion of the Commission or a Board—

(a) is permanently unemployable and—

(i) in the case of a man—has served in a theatre of war ; or

(ii) in the case of a woman—has served abroad or embarked for service abroad ; or

(b) is suffering from pulmonary tuberculosis.

" (3.) A pension under this section shall not be granted to the wife or child of a member of the Forces unless—

(a) a pension under this Division is payable to or in respect of that member ; or

(b) the member would, in the opinion of the Commission or a Board, have been granted a pension under this Division, but for his death prior to the determination of an application made by him prior to his death.

“(3A.) In deciding, for the purposes of paragraph (b) of the last preceding sub-section, whether a member would have been granted a pension but for his death, the question whether or not the member was, at the time of his application, in receipt of a pension under the law of the Commonwealth relating to invalid and old-age pensions shall not be taken into account.

“(3B.) For the purposes of sub-section (3.) of this section, a pension shall be deemed to be payable to a member during any period during which the member is, by reason only of his failure to comply with the requirements of section forty-five AF of this Act, ineligible, by virtue of that section, to receive a pension.”.

7. Section forty-five AF of the Principal Act is repealed and the following section inserted in its stead :—

“45AF. Notwithstanding anything contained in this Act, no person shall receive at the same time a service pension under more than one section of this Division of this Part, and no person, other than a member of the Forces who is suffering from pulmonary tuberculosis, shall receive at the same time a service pension and a pension under the law of the Commonwealth relating to invalid and old-age pensions :

Restriction as to dual pensions.

Provided that a service pension on the ground that he is permanently unemployable may be granted to a member of the Forces who is receiving a pension under the law of the Commonwealth relating to invalid and old-age pensions as from the date of the surrender by such member of the last mentioned pension and, upon such surrender, service pensions may be granted to the wife and children of such member as from the date of the application for service pension by the member.”.

8.—(1.) Section forty-five AG of the Principal Act is amended by adding at the end thereof the following sub-section :—

Limit of service pension and income.

“(3.) Notwithstanding anything contained in this Act, in the computation of income for the purposes of the assessment of the rate of service pension payable under this Division to a member of the Forces who is not in receipt of an invalid pension or an old-age pension under the law of the Commonwealth relating to invalid and old-age pensions, any pension payable under that law to the wife of the member (whenever such wife was married to him) or to the husband of the member shall not be included as income.”.

(2.) This section shall be deemed to have commenced on the first day of January, One thousand nine hundred and thirty-six.

9.—(1.) After section forty-five AG of the Principal Act the following section is inserted :—

“45AGA.—(1.) Notwithstanding anything contained in the law of the Commonwealth relating to invalid and old-age pensions, in the computation of income for the purposes of the assessment of the rate of pension payable under that law to the wife of a member of the

Income of member and wife for the purposes of the law relating to invalid and old-age pensions.

Forces (whenever such wife was married to him) or to the husband of the member, where the member is not in receipt of a pension under that law, a service pension payable to the member under this Division shall not be included as income.

“(2.) Notwithstanding anything contained in the law of the Commonwealth relating to invalid and old-age pensions, in the computation of income for the purposes of the assessment of the rate of pension payable under that Act to a member of the Forces who is suffering from pulmonary tuberculosis and who is undergoing treatment for that disease as an inmate of a hospital, sanatorium, or similar institution, the value of board and lodging received by him therein shall not be included as income.”

(2.) Sub-section (1.) of section forty-five AGA, inserted in the Principal Act by this section, shall be deemed to have commenced on the first day of January, One thousand nine hundred and thirty-six.

**10.** Section forty-five AN of the Principal Act is repealed and the following section inserted in its stead :—

Pension to widow and children of service pensioner.

“45AN. Upon the death of a member of the Forces the service pension previously payable, or granted subsequent to his death, to the wife and children of the member may, subject to this Act, be continued at such rates, not exceeding the maximum rate payable under this Act to the wife or children as the case may be, as the Commission or a Board determines, but, if the wife re-marries, all such pensions shall be cancelled as from the date of the re-marriage.”

**11.** Section forty-five AO of the Principal Act is repealed and the following section inserted in its stead :—

Limit of pension where pensioner in a public institution.

“45AO.—(1.) If an applicant for service pension is an inmate, or a service pensioner becomes an inmate, of an asylum for the insane, a hospital, sanatorium, benevolent home or similar institution, the rate of service pension payable to the applicant or pensioner so long as he remains an inmate, shall not, subject to this section, in any case exceed twelve shillings per fortnight.

(2.) The rate specified in this section shall commence—

- (a) where it is granted in pursuance of an application made by a person who is an inmate as specified in this section—as from the date of the application ; and
- (b) where a service pensioner becomes such an inmate—as from the day upon which the first periodical payment of pension is made after the date upon which he became such an inmate.

(3.) This section shall not apply to a member of the Forces who is suffering from pulmonary tuberculosis and is undergoing treatment for that disease in any institution specified in sub-section (1.) of this section.”