

AUSTRALIAN SOLDIERS' REPATRIATION.

No. 39 of 1948.

An Act to amend the *Australian Soldiers' Repatriation Act 1920-1947*, and for other purposes.

[Assented to 22nd October, 1948.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Australian Soldiers' Repatriation Act 1948*.

(2.) The *Australian Soldiers' Repatriation Act 1920-1947** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian Soldiers' Repatriation Act 1920-1948*.

Commencement.

2.—(1.) Except as provided by the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Section nine of this Act shall come into operation on a date to be fixed by Proclamation.

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

3. Section eighty-five of the Principal Act is amended by omitting from sub-section (1.) the words "Forty-four shillings" and inserting in their stead the words "Forty-eight shillings".

4. Section eighty-six of the Principal Act is repealed and the following section inserted in its stead:—

Restrictions
as to dual
pensions.

"86.—(1.) Notwithstanding anything contained in this Division—

(a) a person shall not be entitled to receive at the same time a service pension under more than one section of this Division;

(b) a widow who is in receipt of a war pension, as defined by section ninety-one A of this Act, in respect of her husband's death shall not be entitled to receive a service pension at the same time;

(c) a person (other than a member of the Forces who is suffering from pulmonary tuberculosis) shall not be entitled to receive at the same time a service pension and an age or invalid pension under the *Social Services Consolidation Act 1947-1948*.

* Act No. 6, 1920, as amended by No. 34, 1921; No. 23, 1922; No. 14, 1929; No. 74, 1930; Nos. 10 and 47, 1931; No. 17, 1933; Nos. 16 and 32, 1934; No. 58, 1935; Nos. 29 and 67, 1936; Nos. 12, 24 and 42, 1937; No. 55, 1938; Nos. 37 and 96, 1940; No. 49, 1941; No. 22, 1943; No. 11, 1945; No. 49, 1946; and Nos. 1 and 29, 1947.

“(2.) A member of the Forces who is permanently unemployable and who would, but for the fact that he is receiving an age or invalid pension under the *Social Services Consolidation Act 1947-1948*, be eligible for a service pension may surrender the age or invalid pension, and, thereupon, a service pension may be granted to him as from the date of the surrender, and service pensions may be granted to the wife and children of that member as from the date of his application for a service pension in any case where the wife of the member is not in receipt of a pension under Part III. of the *Social Services Consolidation Act 1947-1948*.”.

5. Section eighty-nine of the Principal Act is repealed and the following section inserted in its stead :—

“89.—(1.) Where a service pensioner or an applicant for a service pension has accumulated property, the amount of the service pension which would, but for this sub-section, be payable to that person shall be reduced—

Reduction of service pensions where pensioner has accumulated property.

- (a) if the net capital value of the accumulated property of the pensioner or applicant exceeds One hundred pounds but does not exceed Four hundred and fifty pounds—by Nine pence per fortnight for every complete Ten pounds by which the net capital value of that property exceeds One hundred pounds ; or
- (b) if the net capital value of the accumulated property of the pensioner or applicant exceeds Four hundred and fifty pounds—by the sum of One pound six shillings and three pence per fortnight together with One shilling and six pence per fortnight for every complete Ten pounds by which the net capital value of that property exceeds Four hundred and fifty pounds.

“(2.) A service pension shall not be payable in any case to a person the net capital value of whose accumulated property exceeds Seven hundred and fifty pounds.”.

6. Section ninety of the Principal Act is amended—

- (a) by inserting after sub-section (1.) the following sub-sections :—

Net capital value of accumulated property.

“(1A.) Where a charge or encumbrance lawfully exists on property the value of which is disregarded under paragraph (b) of the last preceding sub-section and the same charge or encumbrance lawfully exists on other property of the pensioner or applicant or of his wife (whenever married to him), the amount to be deducted under paragraph (c) of that sub-section shall be the amount which bears to the amount of the charge or encumbrance the same proportion as the value (as determined by the Commission) of that other property bears to the value (as determined by the Commission) of all the property of the pensioner, applicant or wife on which the charge or encumbrance exists.

“(1B.) Where, in the opinion of the Commission, a charge or encumbrance is a collateral security, that charge or encumbrance, and the charge or encumbrance to which it is collateral (in this sub-section referred to as ‘the principal security’), shall, for the purposes of this section, be deemed to be one charge or encumbrance lawfully existing on any property on which either the collateral security or the principal security lawfully exists.”; and

- (b) by omitting from sub-section (2.) the words “the last preceding sub-section” and inserting in their stead the words “sub-section (1.) of this section”.

7. After section ninety-one of the Principal Act the following section is inserted :—

Maximum amount of services pension and war pension.

“91A.—(1.) Where, but for this section—

- (a) the rate of the service pension payable to a pensioner who is an unmarried person would be such that the aggregate of the rate of that service pension and of the rate of any war pension and of any civil pension payable to that person would exceed Six pounds five shillings per fortnight, the rate of that service pension shall be reduced by the amount of the excess ;
- (b) the rate of the service pension payable to a pensioner who is a married person and whose spouse is also a service pensioner or a civil pensioner would be such that the aggregate of the rates of the service pensions and civil pensions of that married person and of his spouse and of the rates of any war pensions payable to them would exceed Twelve pounds four shillings per fortnight, the rates of those service pensions shall be reduced by amounts equal in the aggregate to the amount of the excess ; and
- (c) the rate of the service pension payable to a pensioner who is a married person and whose spouse is not a service pensioner or a civil pensioner would be such that the aggregate of that service pension and of the rates of any war pensions payable to them would exceed Ten pounds per fortnight, the rate of that service pension shall be reduced by the amount of the excess.

“(2.) In this section—

‘civil pension’ means an age pension, an invalid pension, a wife’s allowance or a widow’s pension payable under the *Social Services Consolidation Act 1947-1948* ;

‘civil pensioner’ means a person who is in receipt of a civil pension ;

‘married person’ means a person in relation to whose income sub-section (2.) of section eighty-seven of this Act applies ;

'unmarried person' means a person who is not a married person and includes a widower or widow and a person whose marriage has been dissolved but who has not remarried;

'war pension' means—

- (a) a pension payable under this Act (but not including a service pension or an attendant's allowance payable under the Second Schedule or the Fifth Schedule to this Act);
- (b) a pension payable under the *Seamen's War Pensions and Allowances Act 1940-1946* (but not including an attendant's allowance payable under section twenty-one of that Act); or
- (c) a pension, or compensation of a periodical nature, payable under section thirteen of the *Defence (Transitional Provisions) Act 1946-1947* (but not including an attendant's allowance payable under that section),

and includes a pension which is payable under the law of some country other than Australia and, in the opinion of the Commission, is similar in character to a war pension."

8. Section ninety-nine of the Principal Act is amended by omitting from clause (2) of sub-paragraph (iii) of paragraph (b) of sub-section (2.) the words "(not being, in the case of an adopted child, an ex-nuptial child of the member)," Extension of application of Act to certain male members of the Forces.

9. Section one hundred and one of the Principal Act is amended by omitting paragraphs (d) and (e) of the proviso to sub-section (1.) and inserting in their stead the following paragraphs:— Liability of Commonwealth to pay pensions to certain male members of the Forces.

"(d) in the case of a member who was appointed or enlisted—

- (i) for service in any part of the Forces which was raised in time of war for war service, or solely for service in time of war or during that time and a definite time thereafter; or
- (ii) in the Citizen Forces and called up for continuous service for the duration of, and directly in connexion with, the war,

the liability of the Commonwealth to pay pension to or in relation to the member shall not arise until the termination of the service of the member; and

"(e) in the case of any other member who is serving at the date of commencement of this paragraph, the liability of the Commonwealth to pay pension to or in relation to the member shall arise only on such date as the Minister, by notice in the *Gazette*, specifies in relation to the class of members in which the member is included."

First Schedule.

10. The First Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

“THE FIRST SCHEDULE.

GENERAL PENSIONS RATES.

SCALE OF PENSIONS PAYABLE SUBJECT TO THE PROVISIONS OF THE THIRD SCHEDULE TO WIDOWED MOTHER OR WIDOW ON DEATH OF A MEMBER OF THE FORCES, OR TO A MEMBER UPON HIS TOTAL INCAPACITY.

COLUMN 1.		COLUMN 2.	COLUMN 3.	COLUMN 4.
Rate of Pay of the Member per Day.		Pension Payable to Widowed Mother on Death of Member.	Pension Payable to Widow on Death of Member.	Pension Payable to Member upon Total Incapacity.
		£ s. d. Per fortnight.	£ s. d. Per fortnight.	£ s. d. Per fortnight.
	<i>s. d.</i>			
	7 0 and under			
Exceeding	7 0 but not exceeding	8 0		
“	8 0 “ “ “	9 0	} 3 10 0	
“	9 0 “ “ “	10 0		
“	10 0 “ “ “	11 0	3 14 0	
“	11 0 “ “ “	12 0	3 17 0	
“	12 0 “ “ “	13 0	4 0 0	} 5 10 0
“	13 0 “ “ “	14 0	4 3 0	
“	14 0 “ “ “	15 0	4 5 6	} 6 0 0
“	15 0 “ “ “	16 0	4 8 0	
“	16 0 “ “ “	17 0	4 11 0	
“	17 0 “ “ “	18 0	4 13 6	
“	18 0 “ “ “	19 0	4 16 0	
“	19 0 “ “ “	20 0	4 18 0	5 10 6
“	20 0 “ “ “	22 6	5 2 0	5 10 6
“	22 6 “ “ “	27 6	5 8 0	5 14 6
“	27 6 “ “ “	35 0	5 19 0	6 4 6
“	35 0 “ “ “	42 6	6 11 0	6 14 6
“	42 6 “ “ “	50 0	7 3 0	7 3 6
“	50 0 “ “ “	7 6 0	7 6 0

Where a member of the Forces is temporarily totally incapacitated to such an extent as to be precluded from earning other than a negligible percentage of a living wage while he is so incapacitated, and where the aggregate of the rate of pension payable to that member under column 4 of the scale in this Schedule and the amount (if any) payable to him under the Fifth Schedule to this Act is less than the Special Rate of Pension specified in the Second Schedule to this Act, the Commission may, subject to such conditions as are prescribed, grant an additional pension to the member at a rate not exceeding the amount of the difference between that aggregate sum and that Special Rate of Pension for such period, whether in excess of six months or not, as the Commission determines.

The rate of pension (if any) which would, apart from this provision, be payable to the widow of a member of the Forces, who dies while serving as such, and her children until the expiration of the period of six months next succeeding the date on which the widow was first notified of the death of the member shall be increased to such extent as will ensure the payment of a pension in respect of herself and her children at an aggregate rate equivalent to the aggregate rate of payments which would have been made to her, by way of allotment and dependants allowance, during that period of six months if the member had not died, but not exceeding the aggregate rate of such payments by way of allotment at the standard rate, applying in respect of the member, and dependants allowance or, if there is no such standard rate, not exceeding such rate as is prescribed.”.

11. The Second Schedule to the Principal Act is amended—Second
Schedule.

- (a) by omitting the words “£10 2s. PER FORTNIGHT” and inserting in their stead the words “£10 12s. PER FORTNIGHT”; and
- (b) by omitting the second paragraph and inserting in its stead the following paragraph:—

“The Commission may grant a pension not exceeding the Special Rate of Pension to a member of the Forces who is suffering from tuberculosis and who has been for at least six months an inmate of an establishment for persons so suffering: Provided that pension under this paragraph shall not be payable after the member's discharge from the establishment unless the medical officer in charge of the establishment, or a medical practitioner approved by the Commission, has certified that his being discharged is not a menace to public health.”

12. The Third Schedule to the Principal Act is amended—Third
Schedule.

- (a) by omitting from paragraph (a) the words “100s. per fortnight” (wherever occurring) and inserting in their stead the words “120s. per fortnight”;
- (b) by omitting from that paragraph all the words from and including the words “Provided that, in the case of a dependant being a parent of an unmarried member” to and including the words “may be assessed in such cases as are prescribed” and inserting in their stead the following words:—

“Provided that, in the case of a dependant being a parent of an unmarried member, where the rate so specified is less than the amount of 120s. per fortnight, a rate per fortnight not exceeding that amount may be assessed in such cases as are prescribed:”; and

- (c) by omitting from paragraph (b) the words “44s. per fortnight” and inserting in their stead the words “48s. per fortnight”.

13. The Fifth Schedule to the Principal Act is amended—Fifth
Schedule.

- (a) by adding at the end of paragraph (b) of the proviso the word “and”;
- (b) by omitting paragraph (c) of the proviso;
- (c) by omitting from paragraph (d) of the proviso the word “and” (last occurring); and
- (d) by omitting paragraph (e) of the proviso.

Saving.

14.—(1.) Where, but for this sub-section, the amendment effected by section four or the amendment effected by section seven of this Act would have operated so as to reduce the rate, in force immediately prior to the date of commencement of this Act, of the service pension payable to a person, that amendment shall not operate so as to reduce that rate.

(2.) If the war pension payable to a person is increased, otherwise than by the operation of this Act, the last preceding sub-section shall not operate so as to prevent a reduction in the rate of the service pension payable to that person equal to the amount of that increase or, if the husband or wife of that person is also in receipt of a service pension, so as to prevent reductions of those service pensions equal in the aggregate to the amount of that increase.

Application of amendments.

15. The amendments effected by sections three, five, six, seven, ten, eleven, twelve and thirteen of this Act shall apply in relation to the instalment of pensions falling due on the first pension pay day occurring after the date of commencement of this Act and to all subsequent instalments.

APPROPRIATION 1948-49.

No. 40 of 1948.

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending the thirtieth day of June, One thousand nine hundred and forty-nine, and to appropriate the Supplies granted by the Parliament for that year.

[Assented to 30th October, 1948.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Short title.

1. This Act may be cited as the *Appropriation Act 1948-49*.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.