

DEFENCE FORCES RETIREMENT BENEFITS.

No. 29 of 1951.

An Act to amend the *Defence Forces Retirement Benefits Act 1948-1950*, and for other purposes.

[Assented to 17th November, 1951.]

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 *Defence Forces Retirement Benefits Act 1951*.

(2.) The *Defence Forces Retirement Benefits Act 1948-1950** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Defence Forces Retirement Benefits Act 1948-1951*.

Commencement.

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

(2.) Notwithstanding anything contained in section two of the *Defence Forces Retirement Benefits Act 1950*—

(a) the amendments effected by paragraph (b) of section twenty-two and paragraph (b) of section twenty-three of that Act shall be deemed to have come into operation on the date of commencement of that Act; and

(b) the amendment effected by paragraph (c) of section twenty-two of that Act shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1948*.

Definitions.

3.—(1.) Section four of the Principal Act is amended—

(a) by omitting the definition of “approved authority”;

(b) by inserting after the definition of “officer” the following definition:—

“ ‘prescribed authority of the Commonwealth’ means an authority or body declared by the regulations to be a prescribed authority of the Commonwealth for the purposes of this Act; ”; and

* Act No. 31, 1948, as amended by No. 37, 1949; and No. 73, 1950.

(c) by omitting the definition of "service for pension" and inserting in its stead the following definition :—

" 'service for pension' means full-time continuous service as a member after attaining the age of twenty years, but, in the case of a member not being an officer, does not include any such service—

(a) not served under engagement for a definite term ; or .

(b) in respect of which the member is not permitted or required to contribute to the Fund ; " .

(2.) An authority or body which was, immediately before the date of commencement of paragraph (b) of sub-section (1.) of this section, specified in the regulations as an approved authority for the purposes of the Principal Act shall, until otherwise provided by the regulations, be a prescribed authority of the Commonwealth for the purposes of the Principal Act as amended by this Act.

(3.) The amendment effected by paragraph (c) of sub-section (1.) of this section shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act* 1948.

4. Section twenty-three of the Principal Act is amended by omitting sub-section (3.) and inserting in its stead the following sub-section :—

Commencement
and cessation
of contributions.

" (3.) A member (not being an officer) shall not contribute to the Fund unless he is serving or has served under an engagement or re-engagement for a period of six years or a period exceeding six years."

5. Section twenty-six of the Principal Act is amended—

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

Counting of
previous
service.

" (1A.) Where a person became or becomes a member after the thirtieth day of June, One thousand nine hundred and fifty-one, and prior to the thirtieth day of June, One thousand nine hundred and fifty-two, that person may elect to have the whole or any part of any period of full-time service by him as a member of the Defence Force of the Commonwealth after attaining the age of twenty years, being service commencing after the second day of September, One thousand nine hundred and thirty-nine, and ending before the third day of September, One thousand nine hundred and forty-five, taken into account for the purposes of pension under this Act, and, on his so electing, that period of service or part of that period, as the case may be, shall be taken into account for the purposes of pension only." ; and

- (b) by omitting from sub-section (2.) the words " the last preceding sub-section " and inserting in their stead the words " either of the last two preceding sub-sections ".

Pension on
retiring at age
sixty or over.

6. Section forty-five of the Principal Act is amended by omitting paragraph (a) and inserting in its stead the following paragraph :—

- " (a) if a member to whom any of those sections applies retires on or after attaining the age of sixty years, he shall be entitled on retirement, in lieu of a pension or payment under any of those sections, to a pension at the rate of Thirty-nine pounds per annum for each unit in respect of which contributions have been completed up to the age of sixty years ; and "

Pension
payable on
incapacity.

7. Section fifty-two of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section :—

" (1.) A member who is retired prior to attaining the retiring age for the rank held by him and is classified as Class A under the last preceding section shall, on retirement, be entitled to a pension at the rate of Thirty-nine pounds per unit per annum in respect of the units or part of a unit for which contributions were being paid by him immediately prior to his retirement and in respect of each fully paid unit or part of a unit credited to him under sub-section (4.) of section seventy-eight of this Act." ;

- (b) by omitting paragraph (c) of sub-section (2.) and inserting in its stead the following paragraph :—

" (c) if he is a member who has not completed twenty years' service for pension—be entitled to—

- (i) the pension to which he would have been entitled under this sub-section if he had been retired after completing twenty years' service for pension ; or
- (ii) a pension at the rate of Nineteen pounds ten shillings per unit per annum in respect of the units or part of a unit for which contributions were being paid by him immediately prior to his retirement and in respect of each fully paid unit or part of a unit credited to him under sub-section (4.) of section seventy-eight of this Act,

whichever is the lesser." ; and

- (c) by omitting sub-section (4.) and inserting in its stead the following sub-section :—

“(4.) Notwithstanding anything contained in the last preceding sub-section, a member to whom paragraph (a) or (b) of that sub-section applies may elect to receive benefit in accordance with paragraph (c) of that sub-section in lieu of the pension to which he would otherwise have been entitled and, on his so electing, he shall be entitled to that benefit accordingly.”.

8. Section fifty-five of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section :—

Pension on death of married member.

“(1.) On the death before retirement of a married member who is a contributor, pension shall be paid to his widow as follows :—

- (a) during her life—a pension at the rate of Nineteen pounds ten shillings per unit per annum in respect of the units or part of a unit for which contributions were being paid by the member immediately prior to his death and in respect of each fully paid unit or part of a unit credited to him under sub-section (4.) of section seventy-eight of this Act ; and
- (b) in respect of each of her or the member's children (except children of her re-marriage) who are under the age of sixteen years—a pension at the rate of Nineteen pounds ten shillings per annum.”.

9. Section fifty-seven of the Principal Act is amended—

Pension on death of pensioner.

- (a) by omitting from paragraph (b) of sub-section (1.) the words “Thirteen pounds” and inserting in their stead the words “Nineteen pounds ten shillings” ; and
- (b) by omitting sub-section (3.) and inserting in its stead the following sub-section :—

“(3.) If the male pensioner, at the time of his death, was in receipt of a pension under section fifty-two or fifty-three of this Act, and the Board is satisfied that his death was due to the disease or injury which was the cause of his retirement, the pension payable to his widow shall be at the rate of Nineteen pounds ten shillings per unit per annum in respect of the units or part of a unit for which contributions were being paid by the pensioner immediately prior to his retirement and in respect of each fully paid unit or part of a unit credited to him under sub-section (4.) of section seventy-eight of this Act.”.

10. Section fifty-eight of the Principal Act is amended by omitting from sub-section (1.) the words “Twenty-six pounds” and inserting in their stead the words “Thirty-two pounds ten shillings”.

Pensions payable in respect of orphans.

Children's
pensions
payable to
guardian.

11. Section sixty-four of the Principal Act is amended by omitting from sub-section (1.) the words "Twenty-six pounds" and inserting in their stead the words "Thirty-two pounds ten shillings".

Re-employment
of pensioner.

12. Section sixty-nine of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-sections :—

"(1.) Subject to the next succeeding sub-section, where a pensioner in receipt of a pension at a rate in excess of Three hundred and twelve pounds per annum is employed by the Commonwealth or by a prescribed authority of the Commonwealth, the pension payable to the pensioner during any period for which he is paid salary or wages in respect of that employment is, in lieu of the pension which would otherwise have been payable under this Act, a pension at the rate of—

(a) Three hundred and twelve pounds per annum ; or

(b) one half of the pension which would otherwise have been payable under this Act,

whichever is the greater.

"(1A.) Where a pensioner—

(a) again becomes a member for the purposes of this Act ; or

(b) serves on full-time continuous service in the Service and receives pay in respect of that full-time service,

so much of the pension as is equivalent to the amount payable by the Commonwealth under section thirty-two of this Act shall be cancelled during the period of that full-time continuous service in excess of twenty-eight working days in any period of twelve months." ; and

(b) by adding at the end thereof the following sub-sections :—

"(6.) A person who is in receipt of a pension under this Act and is employed by the Commonwealth or by a prescribed authority of the Commonwealth shall, within fourteen days after the commencement of the employment, notify the Board in writing that he is so employed.

Penalty : Ten pounds.

"(7.) A person who is in receipt of a pension under section fifty-five or fifty-seven of this Act and becomes an employee as defined by section four of the *Superannuation Act* 1922–1951, shall, within fourteen days after becoming such an employee, notify the Board in writing accordingly.

Penalty : Ten pounds.

“(8.) Where, by reason of the failure of a pensioner to notify the Board as required by sub-section (6.) or (7.) of this section, the Board has paid to a pensioner an amount which, under the provisions of this section, should not have been paid, the Board may—

- (a) deduct the amount so paid from future payments of pension by such instalments as the Board thinks fit; or
- (b) recover the amount so paid by action in a court having civil jurisdiction to the extent of that amount.”.

13.—(1.) Section seventy-eight of the Principal Act is amended by omitting from sub-section (7A.) the words “the last preceding sub-section” and inserting in their stead the words “sub-section (6.) of this section”.

Elections by members entitled to deferred pay.

(2.) The amendment effected by the last preceding sub-section shall be deemed to have come into operation on the date of commencement of the *Defence Forces Retirement Benefits Act 1950*.

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

Fourth Schedule.

THE FOURTH SCHEDULE.

Section 39.

DEDUCTION FROM PENSION FOR EACH YEAR OR PART OF A YEAR NOT SERVED.

Pension per annum—	Deduction for each year or part thereof—
	£
Exceeds £695 10s.	30
Exceeds £445 10s. but does not exceed £695 10s.	20
Exceeds £345 10s. but does not exceed £445 10s.	15
Exceeds £232 10s. but does not exceed £345 10s.	10
Does not exceed £232 10s.	5

15. Pensions at the rates prescribed by the Principal Act as amended by this Act shall be paid as from the fortnightly payment of pensions made on the eleventh day of October, One thousand nine hundred and fifty-one.

Date of increase in pensions.

16.—(1.) The amount of pension payable to a person who is, at the date of commencement of this Act, in receipt of, or entitled to, a pension under the Principal Act shall be increased by such amount (if any) as is necessary to raise the amount of pension to the amount which would have been payable if the pension had been granted under the Principal Act as amended by this Act.

Increase in certain pensions.

(2.) The Commonwealth shall pay to the Fund the amount of the increase and the Consolidated Revenue Fund is, to the necessary extent, hereby appropriated accordingly.

(3.) Sub-section (1.) of this section shall be deemed to have commenced to apply in respect of the payment of pension which fell due on the eleventh day of October, One thousand nine hundred and fifty-one.
