Defence Forces Retirement Benefits

No. 55 of 1968


[Assented to 25 June 1968]

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

PART I.—PRELIMINARY.

1.—(1.) This Act may be cited as the Defence Forces Retirement Benefits Act 1968.

(2.) The Defence Forces Retirement Benefits Act 1948–1966* 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 1948–1968.

2.—(1.) Sections 1, 2 and 42 of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

* Act No. 31, 1948, as amended by No. 37, 1949; No. 73, 1950; No. 29, 1951; No. 93, 1952; No. 80, 1953; No. 20, 1954; No. 19, 1955; No. 24, 1956; No. 95, 1957; No. 46, 1958; No. 103, 1959; No. 67, 1962; No. 103 1963; Nos. 25, 98 and 135, 1965; and No. 70, 1966.
3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–3).
Part II.—Amendments of the Principal Act (Sections 4–29).
Part III.—Miscellaneous (Sections 30–42).

PART II.—AMENDMENTS OF THE PRINCIPAL ACT.

4. The title of the Principal Act is amended by omitting the words "Permanent Defence Forces" and inserting in their stead the words "Defence Force".

5. Section 3 of the Principal Act is amended by omitting the words and figures—

"Division 4.—Contributions by the Commonwealth (Sections 32–33)."

and inserting in their stead the words and figures—

"Division 4.—Contributions by the Commonwealth (Sections 32–34)."

6. Section 4 of the Principal Act is amended—

(a) by inserting in sub-section (1.), before the definition of "annual pay", the following definition:—

"'Air Force' means the Air Force of the Commonwealth;"

(b) by omitting from sub-section (1.) the definition of "member" and inserting in its stead the following definitions:—

"'member' means a member of the Defence Force on continuous full time service, but does not include an indigenous inhabitant of the Territory of Papua or of the Territory of New Guinea who, at the time he engaged to serve, or was appointed, as such a member was a resident of the Territory of Papua or of the Territory of New Guinea;

'Military Forces' means the Military Forces of the Commonwealth;

'Naval Forces' means the Naval Forces of the Commonwealth;"

(c) by omitting from the definition of "officer" in sub-section (1.) the word "Permanent" (wherever occurring);

(d) by omitting from the definition of "officer" in sub-section (1.) the words "a cadet enrolled at a Naval, Military or Air Force College" and inserting in their stead the words "a cadet enrolled at the Royal Australian Naval College or at the Royal Military College or a member enlisted in the Permanent Air Force as an air cadet";

(e) by inserting in the definition of "period of non-effective service" in sub-section (1.), after the word "means", the words ", subject to sub-section (5.) of section four AA of this Act,";
(f) by omitting from paragraph (a) of the definition of "rank" in sub-section (1.) the words "Permanent Naval Forces" and inserting in their stead the words "Naval Forces";

(g) by omitting from paragraph (b) of the definition of "rank" in sub-section (1.) the words "Permanent Military Forces" and inserting in their stead the words "Military Forces";

(h) by omitting from paragraph (c) of the definition of "rank" in sub-section (1.) the words "Permanent Air Force" and inserting in their stead the words "Air Force";

(i) by omitting from the definition of "Reserve" in sub-section (1.) the word "Permanent" (wherever occurring);

(j) by omitting from paragraph (b) of the definition of "Reserve" in sub-section (1.) the word "Australian";

(k) by omitting from the definition of "retiring age for the rank held" in sub-section (1.) the word "Permanent" (wherever occurring);

(l) by omitting from the definition of "Service Board" in sub-section (1.) the word "Permanent" (wherever occurring);

(m) by omitting from the definition of "service for pension" in sub-section (1.) the words "full-time continuous service" and inserting in their stead the words "continuous full time service";

(n) by omitting from the definition of "Service Minister" in sub-section (1.) the word "Permanent" (wherever occurring);

(o) by omitting the definition of "Service Regulations" from sub-section (1.) and inserting in its stead the following definition:

"'short service commission' means a commission that is a short service commission as defined by the regulations;"

(p) by omitting from the definition of "the Service" in sub-section (1.) the word "Permanent" (wherever occurring); and

(q) by omitting sub-section (2.) and inserting in its stead the following sub-sections:

"(2.) For the purposes of this Act, but subject to sub-section (4.) of section four AA of this Act, a member of the Defence Force on continuous full time service shall not be deemed to have ceased to be on continuous full time service during any period when he is—

(a) absent with or without leave;

(b) awaiting or undergoing trial on any charge; or

(c) undergoing punishment, detention or imprisonment,

and any such period shall be deemed to be a period of service.

"(2A.) Where a member of the Defence Force not on continuous full time service commences continuous full time service, then, for the purposes of this Act—

(a) if he is an officer on the day on which he so commences—

he shall be deemed to have been appointed as an officer on
Defence Forces Retirement Benefits

that day for the period for which he is to serve on continuous full time service; and

(b) if he is a member other than an officer on the day on which he so commences—he shall be deemed to have engaged to serve as a member of the Defence Force on that day for the period for which he is to be on continuous full time service.

"(2B.) Where a member of the Defence Force on continuous full time service ceases to be on continuous full time service but continues to be a member of the Defence Force, he shall, for the purposes of this Act, be deemed to have retired on the day on which he ceases to be on continuous full time service."

7. After section 4 of the Principal Act the following section is inserted:—

"4AA.—(1.) In this section, 'national serviceman' means a member who is a national serviceman or a national service officer for the purposes of the National Service Act 1951-1968.

(2.) Where a national serviceman has been absent on leave of absence without pay for a continuous period that exceeds thirty days, he is not permitted, and shall not be required, to contribute to the Fund in respect of such part of the period during which he is so absent as extends beyond thirty days.

(3.) Where a national serviceman dies or is discharged during any period in respect of which, by virtue of the last preceding sub-section, he is not permitted or required to contribute to the Fund, pension under this Act, or gratuity under section fifty-two of this Act, is not payable to or in respect of him.

(4.) In determining the period of service for pension of a national serviceman for the purposes of this Act, any period in respect of which, by virtue of sub-section (2.) of this section, the national serviceman was not permitted or required to contribute to the Fund shall not be treated as a period of service, but service of the national serviceman immediately before such a period and service of the national serviceman immediately after that period shall be deemed to be continuous.

(5.) In the application of this Act to or in respect of a national serviceman, 'period of non-effective service' does not include a period during which the national serviceman is absent on leave of absence without pay."

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

"(4.) In this section, 'the prescribed amount' means such amount, being a multiple of One hundred and thirty dollars, as is specified in the regulations for the purposes of this section."
9. Section 5 of the Principal Act is amended by omitting from sub-section (1.) the word “Permanent” (wherever occurring).

10. Section 23 of the Principal Act is amended—
(a) by omitting from sub-section (3.) the words “six years” (wherever occurring) and inserting in their stead the words “one year”;
(b) by omitting sub-section (4.) and inserting in its stead the following sub-section:
“(4.) An officer who is not a member of the Permanent Naval Forces, the Australian Regular Army or the Permanent Air Force shall not contribute to the Fund unless he is serving or has served under an appointment or a re-appointment for a period of service of not less than one year.”.

11. Section 30 of the Principal Act is amended—
(a) by omitting from sub-section (1.) the word “Permanent” (wherever occurring);
(b) by omitting from sub-section (1.) the word “factor” and inserting in its stead the word “amount”; and
(c) by omitting from sub-section (1.) the words “five hundredths” and inserting in their stead the words “Five cents”.

12. After section 33 of the Principal Act the following section is inserted in Division 4 of Part IV.:

“34.—(1.) Where the Treasurer, after receiving a report from the Board in respect of a period to which this section applies, is of the opinion that, by reason of contributors having died, having been injured, having contracted a disease or otherwise having suffered any disability while on active service on or after the fourteenth day of December, One thousand nine hundred and fifty-nine, the number of pensions that have become payable under this Act during that period by reason of the death of contributors during that period, or the retirement of contributors during that period on the ground of invalidity or incapacity, is greater than the number of pensions that would otherwise have become so payable during that period, the Treasurer may direct that there shall be paid by the Commonwealth to the Fund, in addition to any amounts that have or may become payable to the Fund under Division 4 of Part IV. of this Act, such amount as the Treasurer considers appropriate.

“(2.) The Board shall, before furnishing a report to the Treasurer for the purposes of this section, consult with the Commonwealth Actuary.

“(3.) In this section—
active service’ means service that is active service for the purposes of the Defence Act 1903–1956 or that Act as amended and in force from time to time;
period to which this section applies’ means the period commencing on the fourteenth day of December, One thousand nine hundred and fifty-nine, and ending on the thirtieth day of June, One thousand nine hundred and sixty-seven, the financial year commencing on the first day of July, One thousand nine hundred and sixty-seven, and each subsequent financial year.”.
13. Section 42 of the Principal Act is amended—
(a) by omitting the table from paragraph (a) of sub-section (2.) and inserting in its stead the following table:—

<table>
<thead>
<tr>
<th>Number of completed years of service for pension</th>
<th>Amount of gratuity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male members</td>
</tr>
<tr>
<td>1</td>
<td>$40</td>
</tr>
<tr>
<td>2</td>
<td>$80</td>
</tr>
<tr>
<td>3</td>
<td>$120</td>
</tr>
<tr>
<td>4</td>
<td>$160</td>
</tr>
<tr>
<td>5</td>
<td>$200</td>
</tr>
<tr>
<td>6</td>
<td>$240</td>
</tr>
<tr>
<td>7</td>
<td>$340</td>
</tr>
<tr>
<td>8</td>
<td>$440</td>
</tr>
<tr>
<td>9</td>
<td>$540</td>
</tr>
<tr>
<td>10</td>
<td>$760</td>
</tr>
<tr>
<td>11</td>
<td>$980</td>
</tr>
</tbody>
</table>

(b) by omitting from sub-section (4.) the words “six years” and inserting in their stead the words “one year”.

14. Section 42A of the Principal Act is repealed and the following section inserted in its stead:—

"42A.—(1.) Where a male member (other than an officer or a member, whether an officer or not, who, before the commencement of this section, had completed three years’ service for pension) has completed a period of service for pension of three years or more but less than six years and, without having ceased to be on continuous full time service since the commencement of that period of service for pension, is serving under an engagement for a period that will end not earlier than six years after the commencement of that period of service for pension, then, subject to sub-section (3.) of this section, he is entitled to receive, by way of benefit under this Act, a payment of Two hundred dollars unless, by notice in writing given to the Board before the time when the entitlement arose or within such period after that time as the Board allows, he elects not to receive that payment.

"(2.) Where a male member (other than an officer or a member, whether an officer or not, who, before the fourteenth day of December, One thousand nine hundred and fifty-nine, had completed six years’ service for pension) has completed a period of service for pension of six years or more and, without having ceased to be on continuous full time service since the commencement of that period of service for pension, is serving under an engagement for a period that will end not earlier than twelve years after the commencement of that period of service for pension, then, subject to the next succeeding sub-section, he is entitled to receive, by way of benefit under this Act, a payment of an amount equal to Eight hundred dollars less the amount of any payment to which he became entitled under the last preceding sub-section unless, by notice in writing given to the Board before the time when the entitlement under
Defence Forces Retirement Benefits

this sub-section arose or within such period after that time as the Board allows, he elects not to receive the payment under this sub-section.

"(3.) Where the amount of any payment to which a member becomes entitled under sub-section (1.) or (2.) of this section would, but for this sub-section, be greater than an amount equal to the sum of—

(a) the amount of the contributions made, or required to be made, by him to the Fund before he became entitled to the payment; and

(b) the amount of any gratuity that would have become payable to him under this Act if he had been discharged, otherwise than on the ground of invalidity or of physical or mental incapacity to perform his duties, at the time he became so entitled,

the amount of that payment shall be an amount equal to the sum of the amounts referred to in paragraphs (a) and (b) of this sub-section.

"(4.) Where a period of service for pension of a member includes a period of non-effective service, that period of service for pension shall, for the purposes of sub-sections (1.) and (2.) of this section, be deemed to be reduced by the period of the non-effective service.

"(5.) Where a period of service of a member includes a period (in this sub-section referred to as 'the period of non-qualifying service') that is a period of non-effective service or a period in respect of which the member was not permitted or required by sub-section (2.) of section four AA of this Act to contribute to the Fund—

(a) sub-section (1.) of this section applies in relation to the member as if the second reference in that sub-section to a period of six years were a reference to a period equal to the aggregate of six years and the period of non-qualifying service; and

(b) sub-section (2.) of this section applies in relation to the member as if the reference in that sub-section to a period of twelve years were a reference to a period equal to the aggregate of twelve years and the period of non-qualifying service.

"(6.) Where a member, before the completion of the engagement under which he is serving, agrees to engage to serve, on completion of the engagement under which he is serving, for a further period, he shall be deemed, for the purposes of sub-sections (1.) and (2.) of this section, to be serving under an engagement for a period that will end at the end of that further period.

"(7.) Where—

(a) a member who has received a payment or payments under this section ceases, otherwise than by death, to be a member; and

(b) pension or invalidity benefit is not payable to or in respect of the member,

an amount equal to the payment or the aggregate of the payments, as the case may be, shall be deemed to have been payable by the member to the Board immediately before he ceased to be a member and that amount—

(c) shall, to the extent that it does not exceed the amount of any benefit payable to or in respect of the member, be deducted by the Board from the benefit; and
(d) may, to the extent, if any, that it exceeds the amount of that benefit, be recovered by the Board in a court of competent jurisdiction.

“(8.) Where—

(a) an amount is deducted by the Board under the last preceding sub-section from any benefit; and

(b) the benefit consists of a refund of contributions and a gratuity, the deduction shall be made successively from the gratuity and the amount of the refund.

“(9.) Where, on retirement, a member who has received a payment or payments under this section is entitled to a pension under this Act, not being invalidity benefit, the rate of that pension shall be reduced by such rate as is determined by the Board on the advice of the Commonwealth Actuary to be the actuarial equivalent of that payment or the aggregate of those payments, as the case may be, unless, not later than twelve months after the date of his retirement, the member pays to the Fund an amount equal to that payment or the aggregate of those payments, as the case may be.

“(10.) Where—

(a) in pursuance of sub-section (7.) of this section, an amount is deducted from a refund of a member’s contributions or recovered in a court by the Board; or

(b) an amount is paid by a member to the Fund for the purposes of the last preceding sub-section,

there shall be paid from the Fund to the Commonwealth an amount equal to the amount so deducted or recovered, or to the amount so paid to the Fund, as the case may be.

“(11.) Where, by reason of sub-section (9.) of this section, a payment of pension is reduced, the amount that, but for this sub-section, the Commonwealth would be required to pay to the Fund in respect of that payment of pension shall be the amount that the Commonwealth would have been required to pay to the Fund if the payment of pension had not been reduced less an amount equal to the reduction.

“(12.) In this section, ‘service for pension’ means service that is service for pension for the purposes of the last preceding section.”.

15. Section 44 of the Principal Act is amended by omitting sub-sections (2.), (3.), (4.) and (5.) and inserting in their stead the following sub-section:

“(2.) Where a member, before the completion of his engagement, or, if he has had successive and continuous engagements, before the completion of the last of those engagements—

(a) retires with the approval of the Service Board; or

(b) is retrenched or is otherwise discharged for reasons other than disciplinary reasons,
he shall, for the purposes of sub-section (1.) of section forty-two of this Act, be deemed to have completed his engagement or the last of those engagements, as the case may be, but, for the purposes of sub-section (2.) of that section, he shall not be deemed to have completed a period of service for pension longer than the period completed by him immediately before his retirement or discharge.”.

16. Section 51 of the Principal Act is amended—
(a) by omitting from sub-section (1.) the word “Where” and inserting in its stead the words “Subject to sub-section (3.) of this section, where”;
(b) by inserting in paragraph (a) of sub-section (1.), after the word “member”, the words “who is a contributor”;
(c) by omitting from paragraph (b) of sub-section (1.) the words “a member, being an officer,” and inserting in their stead the words “an officer who is a contributor”;
(d) by omitting from paragraph (c) of sub-section (1.) the words “a member, not being an officer,” and inserting in their stead the words “an officer who is a contributor”;
(e) by omitting from paragraph (d) of sub-section (1.) the words “a member, not being an officer,” and inserting in their stead the words “an officer who is a contributor”;
(f) by omitting from sub-section (1.) the words “two succeeding sections” and inserting in their stead the words “three succeeding sections”;
(g) by inserting in sub-section (2.), after the word “person” (first occurring), the words “(not being a person to whom section fifty-two A of this Act applies)”;
(h) by adding at the end thereof the following sub-section:

“(3.) Where—
(a) a member, within three months after becoming a contributor, is retired on the ground of invalidity or of physical or mental incapacity to perform his duties; and
(b) the Board is satisfied that—
(i) the invalidity or incapacity was caused, or was substantially contributed to, by a physical or mental condition that existed at the time he became a contributor; and
(ii) the condition was not aggravated, or was not materially aggravated, by his service as a member,
sub-section (1.) of this section does not apply in relation to him.”.

17. Section 52 of the Principal Act is amended by omitting from sub-section (9.) the words “six years” and inserting in their stead the words “one year”.
18. After section 52 of the Principal Act the following section is inserted:

"52A.—(1.) This section applies to a member who becomes entitled to benefit by virtue of sub-section (1.) of section fifty-one of this Act and who, at the time he becomes so entitled, is an employee for the purposes of the Superannuation Act 1922–1968 whose liability to make contributions to the Superannuation Fund is deferred by virtue of section thirty-five A of that Act or is a person whose entitlement to a pension under that Act is suspended by force of sub-section (1.) of section forty-eight C of that Act.

(2.) Notwithstanding anything contained in the last preceding section, the invalidity benefit to which a person to whom this section applies is entitled is, in addition to a refund under section sixty of this Act of the amount of contributions paid by him under this Act, the gratuity to which he would have been entitled if—

(a) this section had not applied to him; and

(b) he had been classified as Class C under sub-section (2.) of section fifty-one of this Act.”.

19. Section 53 of the Principal Act is amended by omitting from sub-sections (2.) and (3.) the words “the last preceding section” and inserting in their stead the words “section fifty-two of this Act”.

20. Section 55 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “On the death” and inserting in their stead the words “Subject to sub-section (4.) of this section, on the death”; and

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

“(4.) Pension is not payable under this section in respect of a member who, at the time of his death, was an employee for the purposes of the Superannuation Act 1922–1968 whose liability to make contributions to the Superannuation Fund was deferred by virtue of section thirty-five A of that Act or was a person whose entitlement to a pension under that Act was suspended by force of sub-section (1.) of section forty-eight C of that Act.”.

21. Section 56 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “a commission which is a short service commission within the meaning of the appropriate Service Regulations” and inserting in their stead the words “a short service commission”; and

(b) by omitting from paragraph (a) of sub-section (2.) the words “a commission which is a short service commission within the meaning of the Service Regulations” and inserting in their stead the words “a short service commission”.

Invalidity benefit payable to certain contributors under Superannuation Act.

Reclassification of percentage incapacity.

Pension on death of married member.

Alternative benefits for officers serving under short service commissions.
22. Section 56A of the Principal Act is repealed and the following section inserted in its stead:

" 56A.—(1.) This section applies to—

(a) an officer who—

(i) is a member of the Permanent Naval Forces, the part of the Permanent Military Forces known as the Australian Regular Army or the Permanent Air Force; and

(ii) is serving under a short service commission; and

(b) an officer who is not a member of the Permanent Naval Forces, the part of the Permanent Military Forces known as the Australian Regular Army or the Permanent Air Force,

but does not apply to a medical officer or a dental officer.

(2.) Where—

(a) an officer to whom this section applies, being a contributor, retires;

(b) if he is an officer referred to in paragraph (a) of the last preceding sub-section—

(i) he has, on retirement, attained the retiring age for the rank held by him or completed his short service commission or an extension of that commission;

(ii) he retired with the approval of the Service Board; or

(iii) he was retrenched or was otherwise retired for reasons other than disciplinary reasons;

(c) if he is an officer referred to in paragraph (b) of the last preceding sub-section—

(i) he has, on retirement, attained the retiring age for the rank held by him or, where paragraph (a) of sub-section (2A.) of section four of this Act applies to him, completed the period for which he was to serve on continuous full time service;

(ii) he retired with the approval of the Service Board; or

(iii) he was retrenched or was otherwise retired for reasons other than disciplinary reasons;

(d) he has completed not less than one year’s service for pension; and

(e) but for this section, he would not be entitled to any benefit under this Act other than to a refund of the amount of the contributions paid by him under this Act,

he is entitled, in addition to that refund, to a gratuity in accordance with this section.

(3.) Subject to this section, the gratuity payable to an officer under this section is an amount calculated at the rate of One hundred dollars if the officer is a male, or Fifty dollars if the officer is a female, for each completed year of the officer’s service for pension.

(4.) Subject to the next succeeding sub-section, where the period of service for pension of an officer entitled to a gratuity under this section
includes a period during which he served as a member other than an
officer, the gratuity is an amount equal to the sum of the following
amounts:—

(a) if the officer had completed twelve years’ service for pension
before his appointment as an officer, an amount calculated at the
rate of One hundred dollars if the officer is a male, or Fifty dollars
if the officer is a female, for each year of service for pension
completed by the officer before that appointment or, if the officer
had not completed twelve years’ service for pension before
appointment as an officer, an amount determined in accordance
with the following table having regard to the number of years of
service for pension completed by the officer before that appoint-
ment:—

<table>
<thead>
<tr>
<th>Number of completed years of service for pension</th>
<th>Amount of gratuity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male members</td>
</tr>
<tr>
<td>1</td>
<td>$40</td>
</tr>
<tr>
<td>2</td>
<td>$80</td>
</tr>
<tr>
<td>3</td>
<td>$120</td>
</tr>
<tr>
<td>4</td>
<td>$160</td>
</tr>
<tr>
<td>5</td>
<td>$200</td>
</tr>
<tr>
<td>6</td>
<td>$240</td>
</tr>
<tr>
<td>7</td>
<td>$340</td>
</tr>
<tr>
<td>8</td>
<td>$440</td>
</tr>
<tr>
<td>9</td>
<td>$540</td>
</tr>
<tr>
<td>10</td>
<td>$760</td>
</tr>
<tr>
<td>11</td>
<td>$980</td>
</tr>
</tbody>
</table>

(b) an amount calculated at the rate of One hundred dollars per
annum if the officer is a male, or Fifty dollars per annum if the
officer is a female, in respect of the period that is equal to the
difference between—

(i) the period comprising the years of service for pension
completed by the officer on his retirement; and

(ii) the period comprising the years of service for pension
completed by the officer before his appointment as an
officer.

“(5.) Where an officer entitled to a gratuity under this section is, on
retirement, requested by the Service Board to serve on the Reserve
maintained by the Service of which the officer was a member and the
officer—

(a) does not agree so to serve; or

(b) having agreed so to serve, is released at his own request from the
agreement,

the references in sub-section (3.) of this section and in paragraph (b)
of the last preceding sub-section, whichever is applicable, to One hundred
dollars and Fifty dollars shall, in relation to the officer, be read as references
to Sixty dollars and Thirty dollars, respectively.
"(6.) Where an officer has been paid, or is entitled to be paid, a gratuity otherwise than under this Act in respect of his service as a member of the Defence Force, a gratuity shall not be paid to him under this section except to the extent that it exceeds the amount of that other gratuity.

"(7.) For the purposes of this section, 'service for pension' includes service before attaining the age of twenty years, but does not include service under an initial engagement of less than one year."

23. Section 59 of the Principal Act is amended by inserting after the word "retirement," the words "or sub-section (4.) of section fifty-five of this Act applies in relation to a member who dies before retirement."

24. After section 60 of the Principal Act the following section is inserted:

"60A. Where—

(a) the liability of a person to make contributions to the Superannuation Fund has been deferred by virtue of section thirty-five A of the Superannuation Act 1922-1968;

(b) the amount of the deferred contributions has become payable to the Superannuation Fund but the whole or any part of the amount so payable has not been paid to that Fund; and

(c) a refund of the contributions made by the person under this Act, or a refund of such contributions together with a gratuity, becomes payable out of the Defence Forces Retirement Benefits Fund,

the amount so payable out of the Defence Forces Retirement Benefits Fund shall, to the extent that it does not exceed the amount of deferred contributions payable to the Superannuation Fund, be paid to the Superannuation Fund and, upon being so paid, the amount of deferred contributions payable to that Fund shall, to the extent of that payment, be deemed to have been paid accordingly."

25. Section 69 of the Principal Act is amended—

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

"(1A.) Where a pensioner, other than a pensioner under section fifty-five or fifty-seven of this Act—

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

(b) serves on continuous full time 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 to the Fund in respect of the pension shall be cancelled during the period of that service."

and

(b) by omitting paragraph (b) of sub-section (7.) and inserting in its stead the following paragraph:—

"(b) commences to serve on continuous full time service in the Service and receives pay in respect of that full time service,"

"..."
26. Section 70 of the Principal Act is repealed.

27. Section 73 of the Principal Act is amended by omitting from sub-section (1.) the words "who is a cadet or apprentice, or who is serving under an initial engagement for a period of not less than six years," and inserting in their stead the words "who, by reason only of sub-section (2.) of section twenty-three of this Act, is not contributing to the Fund ".

28. Section 82f of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

"(2.) In the application of sub-sections (3.) and (4.) of section twenty-three of this Act to a person to whom this Part applies, any reference to engagement, re-engagement, appointment or re-appointment shall be read as not including a reference to an engagement, re-engagement, appointment or re-appointment of that person before the person again became a member."

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

FIRST SCHEDULE.

<table>
<thead>
<tr>
<th>Age (in years)</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 or less</td>
<td>5 cents</td>
</tr>
<tr>
<td>25</td>
<td>5½ cents</td>
</tr>
<tr>
<td>26</td>
<td>6 cents</td>
</tr>
<tr>
<td>27</td>
<td>6½ cents</td>
</tr>
<tr>
<td>28</td>
<td>7 cents</td>
</tr>
<tr>
<td>29</td>
<td>7½ cents</td>
</tr>
<tr>
<td>30</td>
<td>8 cents</td>
</tr>
</tbody>
</table>

PART III.—MISCELLANEOUS.

30. In this Part, unless the contrary intention appears—

"deceased former member" means a person, other than a contributor, who—

(a) at any time on or after the twenty-eighth day of June, One thousand nine hundred and sixty-five, was a member of the Defence Force but was not a member as defined by sub-section (1.) of section 4 of the Defence Forces Retirement Benefits Act but would have been a member as so defined, and would have been required to contribute to the Defence Forces Retirement Benefits Fund, if the amendments made by this Act had been in force at that time; and

(b) died—

(i) before the commencing date; and
(ii) before retirement from the Defence Force, or after retirement from the Defence Force, being retirement on the ground of invalidity or of physical or mental incapacity to perform his duties, not being, in the opinion of the Board, invalidity or incapacity due to wilful action on his part,

but does not include such a person who, at the time of his death, was a contributor to the Superannuation Fund or was in receipt of a pension under the Superannuation Act;

“former member” means a person, other than a contributor, who—

(a) at any time on or after the twenty-eighth day of June, One thousand nine hundred and sixty-five, was a member of the Defence Force but was not a member as defined by subsection (1.) of section 4 of the Defence Forces Retirement Benefits Act but would have been a member as so defined, and would have been required to contribute to the Defence Forces Retirement Benefits Fund, if the amendments made by this Act had been in force at that time; and

(b) retired from the Defence Force before the commencing date on the ground of invalidity or of physical or mental incapacity to perform his duties, not being, in the opinion of the Board, invalidity or incapacity due to wilful action on his part,

but does not include such a person who, at the time of his retirement, was a contributor to the Superannuation Fund or was in receipt of a pension under the Superannuation Act;

“notional service for pension”, in relation to a serving member, means a period equal to the sum of his period of service for pension and any period served by him as a member of the Defence Force before the commencing date that, under the Naval Financial Regulations, the Military Financial Regulations or the Air Force Regulations as in force immediately before the commencing date, was service to be taken into account in calculating any gratuity provided for in those regulations as so in force;

“serving member” means a person who—

(a) is serving as a member of the Defence Force on the commencing date and has served as such a member on continuous full time service from a date before the commencing date; and

(b) is, on the commencing date, a member as defined by subsection (1.) of section 4 of the Principal Act as amended by this Act but was not, before that date, a member as defined by sub-section (1.) of section 4 of the Principal Act;

“the commencing date” means the date fixed under sub-section (2.) of section 2 of this Act;

“the Commonwealth Employees’ Compensation Act” means the Commonwealth Employees’ Compensation Act 1930 as amended and in force from time to time before the commencing date;
"the Defence Forces Retirement Benefits Act" means the Defence Forces Retirement Benefits Act 1948 as amended and in force from time to time before the commencing date;

"the Social Services Act" means the Social Services Consolidation Act 1947 as amended and in force from time to time before the commencing date;

"the Superannuation Act" means the Superannuation Act 1922 as amended and in force from time to time before the commencing date.

31.—(1.) Where the Defence Forces Retirement Benefits Board is satisfied that, if the amendments made by this Act had come into operation on the twenty-eighth day of June, One thousand nine hundred and sixty-five, pension would, in respect of any period commencing on or after that date and ending before the commencing date, have been payable under the Defence Forces Retirement Benefits Act to or in respect of a member of the Defence Force, other than a member as defined by sub-section (1.) of section 4 of the Principal Act but including a member who is a former member or deceased former member, the Board may approve the payment to the person who, in the opinion of the Board, would have been entitled to the pension of an amount equal to the aggregate of the amounts of pension that, in the opinion of the Board, would have been so payable less, where the Board is satisfied that any amount or amounts has or have been paid or is or are payable in respect of that period to or in respect of that person under the Social Services Act, the Superannuation Act or the Commonwealth Employees’ Compensation Act or the person has been paid, or is entitled to be paid, a gratuity under the Naval Financial Regulations, the Military Financial Regulations or the Air Force Regulations, such amount as the Board considers proper in the circumstances.

(2.) Where—
(a) the Defence Forces Retirement Benefits Board has approved the payment of an amount under the last preceding sub-section;
(b) the member of the Defence Force to whom the approval relates died before the commencing date; and
(c) pension is not payable by virtue of section 33 or 34 of this Act in respect of him,
he shall be deemed to have been liable, immediately before his death, to pay to the Defence Forces Retirement Benefits Fund one contribution of an amount equal to the last contribution that he would have been liable to make to the Fund if, before he died, he had been a contributor.

(3.) Where the Defence Forces Retirement Benefits Board has approved the payment of an amount under sub-section (1.) of this section, the Principal Act as amended by this Act applies to and in relation to the amount as if it were benefit, other than pension or a refund of contributions, payable under that Act as so amended.

32.—(1.) Where, if a former member—
(a) had not retired until immediately before the commencing date; and
(b) had been a contributor immediately before that date,
he would have become entitled, on the commencing date, to a pension
under the Defence Forces Retirement Benefits Act by virtue of section 51
of that Act, the Principal Act as amended by this Act applies to and in
respect of him, from and including the commencing date, as if he had not
retired until immediately before that date and as if he had, immediately
before that date, been a contributor.

(2.) For the purposes of the application, by virtue of the last preceding
sub-section, of the Principal Act as amended by this Act to and in respect
of a former member—

(a) the former member shall be deemed to have been retired from the
Defence Force on the ground of invalidity or of physical or mental
incapacity to perform his duties not due, in the opinion of the
Board, to wilful action on his part for the purpose of obtaining
pension or other benefit;

(b) the classification of the member by reference to the percentage of
his total incapacity in relation to civil employment shall be deemed
to have been, immediately before the commencing date, such
classification as the Board considers would have been his classi-
fication immediately before that date if he had been in receipt
of a pension by virtue of section 51 of the Defence Forces Retire-
ment Benefits Act on that date; and

(c) he shall be deemed to have had a category number under the
Defence Forces Retirement Benefits Act immediately before the
commencing date the same as the number that would have been
his category number under that Act on the day on which he
actually retired if he had been a contributor on that day.

(3.) Nothing in this section entitles a person to a gratuity under the
Principal Act as amended by this Act.

(4.) Where a former member becomes entitled to a pension by virtue
of this section, he shall be deemed to have been liable, immediately before
his retirement from the Defence Force, to pay to the Defence Forces
Retirement Benefits Fund one contribution of an amount equal to the
last contribution that he would have been liable to make to the Fund if,
before he retired, he had been a contributor.

(5.) Where a former member who retired from the Defence Force before
the thirtieth day of June, One thousand nine hundred and sixty-seven,
becomes entitled to a pension by virtue of this section, the
Defence Forces Retirement Benefits (Pension Increases) Act 1967 applies in relation to the
pension as if the former member were an eligible pensioner for the purposes
of that Act.

33.—(1.) This section applies to a deceased former member who died
before retirement from the Defence Force.

(2.) Where, if a deceased former member to whom this section applies—
(a) had not died until immediately before the commencing date; and
(b) had been a contributor immediately before that date,
Defence Forces Retirement Benefits

a person would have become entitled, on the commencing date, to a pension under the Defence Forces Retirement Benefits Act by reason of his death, the Principal Act as amended by this Act applies in respect of him, from and including the commencing date, as if he had not died until immediately before that date and as if he had, immediately before that date, been a contributor.

(3.) For the purposes of the application, by virtue of the last preceding sub-section, of the Principal Act as amended by this Act in respect of a deceased former member to whom this section applies, the member shall be deemed to have had a category number under the Defence Forces Retirement Benefits Act immediately before the commencing date the same as the number that would have been his category number under that Act on the day on which he actually died if he had been a contributor on that day.

(4.) Where the widow of a deceased former member to whom this section applies remarried before the commencing date, she is not entitled to a pension by virtue of this section except in respect of children.

(5.) Where a person becomes entitled to a pension by virtue of this section by reason of the death of a deceased former member, the deceased former member shall be deemed to have been liable, immediately before his death, to pay to the Defence Forces Retirement Benefits Fund one contribution of an amount equal to the last contribution that he would have been liable to make to the Fund if, before he died, he had been a contributor.

(6.) Where a widow becomes entitled to a pension by virtue of this section by reason of the death of a deceased former member who died before the thirtieth day of June, One thousand nine hundred and sixty-seven, section 8 of the Defence Forces Retirement Benefits (Pension Increases) Act 1967 applies in relation to the pension as if it were a pension of the kind referred to in paragraph (a) of sub-section (1.) of that section.

34.—(1.) This section applies to a deceased former member who died after retirement from the Defence Force.

(2.) Where, if a deceased former member to whom this section applies—

(a) had been a contributor immediately before his retirement from the Defence Force;

(b) upon his retirement had become entitled to a pension by virtue of section 51 of the Defence Forces Retirement Benefits Act; and

(c) had not died until immediately before the commencing date,
a person would have become entitled, on the commencing date, to a pension under the Defence Forces Retirement Benefits Act by reason of his death, the Principal Act as amended by this Act applies in respect of him, from and including the commencing date, as if he had been such a contributor, had so become entitled to a pension and had not died until immediately before the commencing date.
(3.) For the purposes of the application, by virtue of the last preceding sub-section, of the Principal Act as amended by this Act in respect of a deceased former member to whom this section applies—

(a) the member shall be deemed to have been retired from the Defence Force on the ground of invalidity or of physical or mental incapacity to perform his duties not due, in the opinion of the Board, to wilful action on his part for the purpose of obtaining pension or other benefit;

(b) the classification of the member by reference to the percentage of his total incapacity in relation to civil employment shall be deemed to have been, immediately before the commencing date, such classification as the Board considers would have been his classification immediately before his death if he had been in receipt of a pension by virtue of section 51 of the Defence Forces Retirement Benefits Act at the time of his death; and

(c) the member shall be deemed to have had, at the time of his retirement, a category number under the Defence Forces Retirement Benefits Act the same as the number that would have been his category number under that Act at that time if he had been a contributor.

(4.) Where the widow of a deceased former member to whom this section applies remarried before the commencing date, she is not entitled to a pension by virtue of this section except in respect of children.

(5.) Where a person becomes entitled to a pension by virtue of this section by reason of the death of a deceased former member, the deceased former member shall be deemed to have been liable, immediately before his retirement, to pay to the Defence Forces Retirement Benefits Fund one contribution of an amount equal to the last contribution that he would have been liable to make to the Fund if, at the time of his retirement, he had been a contributor.

(6.) Where a widow becomes entitled to a pension by virtue of this section by reason of the death of a deceased former member who retired before the thirtieth day of June, One thousand nine hundred and sixty-seven, section 8 of the Defence Forces Retirement Benefits (Pension Increases) Act 1967 applies in relation to the pension as if it were pension of the kind referred to in paragraph (b) of sub-section (1.) of that section.

35. Division 4 of Part IV. of the Principal Act as amended by this Act applies to each payment of pension that is payable by virtue of section 32, 33 or 34 of this Act as if the payment were a payment of benefit other than pension.

36. Where a contribution is paid to the Fund by virtue of sub-section (2.) of section 31, sub-section (4.) of section 32, sub-section (5.) of section 33 or sub-section (5.) of section 34 of this Act, an amount equal to that contribution shall be paid from the Fund to the Commonwealth.
37.-(1.) Where a serving member becomes entitled to a gratuity under section 42 of the Principal Act as amended by this Act, the amount of the gratuity is, subject to sub-section (3.) of that section, in lieu of the amount that, but for this sub-section, would be payable—

(a) in the case of a member who, on retirement, has not completed seven years’ notional service for pension—an amount determined in accordance with the following table, having regard to the number of years of notional service for pension completed by him on his retirement:—

<table>
<thead>
<tr>
<th>Number of years of notional service for pension completed on retirement</th>
<th>Male members</th>
<th>Female members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>40</td>
<td>30</td>
</tr>
<tr>
<td>2</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>3</td>
<td>120</td>
<td>90</td>
</tr>
<tr>
<td>4</td>
<td>160</td>
<td>120</td>
</tr>
<tr>
<td>5</td>
<td>200</td>
<td>150</td>
</tr>
<tr>
<td>6</td>
<td>240</td>
<td>180</td>
</tr>
</tbody>
</table>

(b) in the case of a male member who, on retirement, has completed seven years’ notional service for pension—an amount determined in accordance with the following table, having regard to the number of years of notional service for pension completed by him before the commencing date and before his retirement, respectively, together with, if he has completed thirteen years’ notional service for pension, an amount calculated at the rate of One hundred dollars for each year of notional service for pension completed by him in excess of twelve years:—

<table>
<thead>
<tr>
<th>Number of years of notional service for pension completed before retirement</th>
<th>Male members</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>340</td>
</tr>
<tr>
<td>1</td>
<td>340</td>
</tr>
<tr>
<td>2</td>
<td>340</td>
</tr>
<tr>
<td>3</td>
<td>340</td>
</tr>
<tr>
<td>4</td>
<td>340</td>
</tr>
<tr>
<td>5</td>
<td>340</td>
</tr>
<tr>
<td>6</td>
<td>340</td>
</tr>
<tr>
<td>7</td>
<td>280</td>
</tr>
<tr>
<td>8</td>
<td>320</td>
</tr>
<tr>
<td>9</td>
<td>360</td>
</tr>
<tr>
<td>10</td>
<td>400</td>
</tr>
<tr>
<td>11</td>
<td>440</td>
</tr>
<tr>
<td>12</td>
<td>480</td>
</tr>
</tbody>
</table>

(c) in the case of a female member who, on retirement, has completed seven years’ notional service for pension—an amount determined in accordance with the following table, having regard to the number of years of notional service for pension completed by her before the commencing date and before her retirement, respectively, together with, if she has completed thirteen years’ service
for pension, an amount calculated at the rate of Fifty dollars for
each year of service for pension completed by her in excess of
twelve years:—

| Number of years of notional service for pension completed before commencing date | Number of years of notional service for pension completed before retirement |
|---|---|---|---|---|---|---|
| 7 | 8 | 9 | 10 | 11 | 12 |
| $ | $ | $ | $ | $ | $ |
| 0 | 210 | 240 | 270 | 300 | 330 | 360 |
| 1 | 210 | 240 | 270 | 300 | 330 | 360 |
| 2 | 210 | 240 | 270 | 300 | 330 | 360 |
| 3 | 210 | 240 | 270 | 300 | 330 | 360 |
| 4 | 210 | 240 | 270 | 300 | 330 | 360 |
| 5 | 210 | 240 | 270 | 300 | 330 | 360 |
| 6 | 210 | 240 | 270 | 300 | 330 | 360 |
| 7 | 210 | 240 | 270 | 300 | 330 | 360 |
| 8 | 210 | 240 | 270 | 300 | 330 | 360 |
| 9 | 210 | 240 | 270 | 300 | 330 | 360 |

(2.) Where a serving member has been paid, or is entitled to be paid, a gratuity under the Naval Financial Regulations, the Military Financial Regulations or the Air Force Regulations in respect of his service as a member of the Defence Force, a gratuity shall not be paid to him under section 42 of the Principal Act as amended by this Act except to the extent that it exceeds the amount of that other gratuity.

38.—(1.) Notwithstanding the repeal effected by section 14 of this Act, section 42A of the Principal Act continues to apply to and in relation to a payment made under that section before the commencing date or a payment made on or after that date in pursuance of an entitlement that arose under that section before that date.

(2.) A person who, before the commencing date, became entitled to receive a payment under section 42A of the Principal Act is not entitled to receive a payment under section 42A of the Principal Act as amended by this Act.

(3.) Where—

(a) a person is serving as a member of the Defence Force on the commencing date under an engagement that commenced before that date;

(b) he is, on that date, a member as defined by sub-section (1.) of section 4 of the Principal Act as amended by this Act but was not, before that date, a member as defined by sub-section (1.) of section 4 of the Principal Act; and

(c) he would, if the amendments made by this Act had come into operation at the commencement of the engagement under which he is serving on the commencing date, become entitled on or after
that date to receive a payment under sub-section (1.) or (2.) of section 42A of the Principal Act as amended by this Act, that section applies in relation to him as if he were so entitled, but nothing in this sub-section shall be construed as entitling a person to receive a payment under sub-section (1.), or under sub-section (2.), of that section more than once.

39.—(1.) Sub-section (3.) of section 51 of the Principal Act as amended by this Act does not apply in relation to a person who is a member of the Defence Force on the commencing date and has been on continuous full time service as such a member for a period of not less than three months before that date.

(2.) In the application of sub-section (3.) of section 51 of the Principal Act as amended by this Act in relation to a person who is a member of the Defence Force on the commencing date and has been on continuous full time service as such a member for a period of less than three months before that date, the reference in that sub-section to the period of three months after he becomes a contributor shall be read as a reference to the period of three months after the commencement of that continuous full time service.

40.—(1.) In the application of this section to a serving member—

(a) a reference in this section to the officer pre-commencement rate shall be read as a reference to the rate of One hundred dollars per annum in the case of a male member and Fifty dollars per annum in the case of a female member;

(b) a reference in this section to the non-officer pre-commencement rate shall be read as a reference to the rate of Forty dollars per annum in the case of a male member, and Thirty dollars per annum in the case of a female member, in respect of the first twelve years included in the period to which the rate is applicable, and to the rate of One hundred dollars per annum in the case of a male member, and Fifty dollars per annum in the case of a female member, in respect of any subsequent part of that period;

(c) a reference in this section to the officer post-commencement rate shall be read as a reference to the rate of One hundred and fifty dollars per annum in the case of a male member and Seventy-five dollars per annum in the case of a female member; and

(d) a reference in this section to the non-officer post-commencement rate shall be read as a reference to the rate of One hundred dollars per annum in the case of a male member and Fifty dollars per annum in the case of a female member.

(2.) Where a serving member becomes entitled to a gratuity under section 52 of the Principal Act as amended by this Act, the amount of the gratuity is, in lieu of the amount that, but for this section, would be payable, an amount equal to the sum of—

(a) an amount calculated at the officer pre-commencement rate if the member was an officer on his retirement, or at the non-officer
Defence Forces Retirement Benefits

pre-commencement rate if the member was not an officer on his retirement, in respect of the period of notional service for pension completed by the member before the commencing date; and

(b) an amount calculated at the officer post-commencement rate if the member is an officer on his retirement, or at the non-officer post-commencement rate if the member is not an officer on his retirement, in respect of the period that is equal to the difference between—

(i) the period comprising the years of notional service for pension completed by the member on his retirement; and

(ii) the period of notional service for pension completed by the member before the commencing date,

or, if either of the next two succeeding sub-sections applies to the member, the amount provided for in that sub-section.

(3.) Where the serving member is an officer on his retirement and was an officer on the commencing date, but the period of his notional service for pension includes a period served by him before the commencing date as a member other than an officer, the amount of the gratuity is the sum of—

(a) an amount calculated at the non-officer pre-commencement rate in respect of the period of notional service for pension completed by the member as a member other than an officer;

(b) an amount calculated at the officer pre-commencement rate in respect of the period of notional service for pension completed by the member after he became an officer and before the commencing date; and

(c) an amount calculated at the officer post-commencement rate in respect of the period that is equal to the difference between—

(i) the period comprising the years of notional service for pension completed by the member on his retirement; and

(ii) the period of notional service for pension completed by the member before the commencing date.

(4.) Where the serving member is an officer on his retirement but was not an officer on the commencing date, the amount of the gratuity is the sum of—

(a) an amount calculated at the non-officer pre-commencement rate in respect of the period of notional service for pension completed by the member before the commencing date;

(b) an amount calculated at the non-officer post-commencement rate in respect of the period of notional service for pension completed by the member after the commencing date and before he became an officer; and

(c) an amount calculated at the officer post-commencement rate in respect of the period that is equal to the difference between—

(i) the period comprising the years of notional service for pension completed by the member on his retirement; and
(ii) the period of notional service for pension completed by the member before he became an officer.

(5.) Where a serving member has been paid, or is entitled to be paid, a gratuity under the Naval Financial Regulations, the Military Financial Regulations or the Air Force Regulations in respect of his service as a member of the Defence Force, a gratuity shall not be paid to him under section 52 of the Principal Act as amended by this Act except to the extent that it exceeds the amount of that other gratuity.

41. In the application of section 56A of the Principal Act as amended by this Act to a serving member, any reference in that section to the service for pension of a member shall be read as a reference to the notional service for pension of the serving member.

42. At any time after this Act receives the Royal Assent and before the date fixed under sub-section (2.) of section 2 of this Act, regulations may be made under the Principal Act as amended by this Act as if the provisions of this Act referred to in that sub-section had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation before the date fixed under that sub-section.