

NATIVE MEMBERS OF THE FORCES BENEFITS.

No. 89 of 1957.

An Act to make special provision for the granting of Pensions and other Benefits to certain Natives who served in the Defence Force during the War and their Dependants, and for purposes connected therewith.

[Assented to 12th December, 1957.]

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

- Short title.** 1. This Act may be cited as the *Native Members of the Forces Benefits Act 1957*.
- Commence-
ment.** 2. This Act shall come into operation on a date to be fixed by Proclamation.
- Definitions.** 3. In this Act, unless the contrary intention appears—
- “ native member of the Forces ” means a male aboriginal native of the Territory of Papua or the Territory of New Guinea or of an island in Torres Strait or the Pacific Ocean who served during the war in the Defence Force at a rate of pay less than the minimum rate of pay that was prescribed as payable to a male member of the Australian Military Forces and whose service has been terminated by discharge or death;
- “ the Defence Force ” has the same meaning as in the *Defence Act 1903–1941*;
- “ the Minister ” means—
- (a) in relation to native members of the Forces who are or were aboriginal natives of the Territory of Papua or the Territory of New Guinea or of an island in the Pacific Ocean and their dependants—the Minister of State for Territories; or
- (b) in relation to native members of the Forces who are or were aboriginal natives of an island in Torres Strait and their dependants—the Minister of State for Repatriation;

“the war” means the war which commenced on the third day of September, One thousand nine hundred and thirty-nine, and includes any other war in which His late Majesty became engaged after that date and before the third day of September, One thousand nine hundred and forty-five.

4. The benefits, advantages and assistance for which a native member of the Forces and his dependants are, or shall be deemed at any time to have been, eligible under the law of the Commonwealth by reason of, and after the completion of, the service of the member in the Defence Force during the war are those which are provided—

Benefits, &c.,
of native
members of
the Forces.

- (a) by and under this Act; and
- (b) by and under the *War Gratuity Act 1945–1947*,
and no others.

5.—(1.) Where the incapacity or death of a native member of the Forces—

Pensions or
compensation
for incapacity
or death.

- (a) has resulted from any occurrence that happened during the period of his service in the Defence Force during the war; or

- (b) has arisen out of or is attributable to that service,

the Commonwealth is, subject to such conditions as are prescribed, liable to pay or grant to the native member of the Forces and, subject to the regulations, to his dependants pension or compensation at such rates or of such amounts as are provided for in the regulations.

(2.) Where—

- (a) a native member of the Forces is suffering from an incapacity or has died;
- (b) the origin of the cause of the incapacity or death existed before the commencement of his service in the Defence Force during the war; and
- (c) the incapacity was contributed to in any material degree, or was aggravated, by the conditions of that service, or the death was contributed to in any material degree by those conditions,

the incapacity or death, as the case may be, shall be deemed to be attributable to that service.

(3.) The Commonwealth is not liable under the preceding provisions of this section if the incapacity or death of the native member of the Forces—

- (a) was due to his serious default or wilful act;
- (b) arose from intentionally self-inflicted injuries; or

(c) arose from, or from an occurrence that happened during the commission of, a serious breach of discipline by the native member of the Forces.

Other benefits,
&c.

6. In addition to the benefits for which provision is made by the last preceding section, native members of the Forces and their dependants are, subject to such conditions as are prescribed, eligible for such other benefits, advantages and assistance as are prescribed.

Prior grants
of benefits.

7. Any pension, compensation or other benefit that has been paid to or provided for a native member of the Forces or the dependant of a native member of the Forces by the Commonwealth before the commencement of this Act shall be deemed to have been validly paid or provided, and the amount or value of that pension, compensation or other benefit may be taken into account for the purposes of this Act.

Pension
inalienable.

8. Subject to this Act, a pension is absolutely inalienable, whether by way or in consequence of sale, assignment, charge, execution, bankruptcy, or otherwise.

Regulations.

9.—(1.) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing matters for or in relation to—

- (a) the making and determination of claims for pensions, compensation or other benefits under this Act;
- (b) determination of the persons who shall, for the purposes of any of the provisions of this Act and the regulations, be deemed to be dependants of native members of the Forces; and
- (c) prescribing a penalty of a fine not exceeding Twenty-five pounds or of imprisonment for a period not exceeding three months for any offence against the regulations.

(2.) The regulations may make provision for different pensions, compensation, benefits, advantages or assistance in respect of different classes of native members of the Forces or dependants of native members of the Forces.

(3.) In lieu of specifying a rate of pension or an amount of compensation the regulations may, in respect of persons within any prescribed class of native members of the Forces or dependants of native members of the Forces, authorize the Minister to determine a rate or amount not exceeding such rate or amount as is specified in the regulations.

(4.) The regulations may make provision for or in relation to—

- (a) the payment of any pension, compensation or monetary benefit under this Act to a person on behalf of, or as trustee for, the person to whom the pension, compensation or benefit is payable under this Act where a prescribed authority is satisfied that, having regard to the age, infirmity, ill-health or improvidence of the person to whom the pension, compensation or benefit is payable, it is expedient that payment of the pension, compensation or benefit should be so made, or where the person to whom the pension, compensation or benefit is payable consents to payment of the pension, compensation or benefit being so made; and
 - (b) the disbursement or accumulation of pension, compensation or benefit so paid for the benefit of the person to whom it is payable under this Act or for the benefit of persons dependent on that person.
-