

REPATRIATION.

No. 39 of 1955.

An Act to amend the *Repatriation Act 1920-1954*.

[Assented to 19th October, 1955.]

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
and citation.

1.—(1.) This Act may be cited as the *Repatriation Act 1955*.

(2.) The *Repatriation Act 1920-1954** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Repatriation Act 1920-1955*.

Commencement.

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

Definitions.

3. Section twenty-three of the Principal Act is amended by omitting the definition of "Child" and inserting in its stead the following definition :—

“ ‘Child’, in relation to a member of the Forces, means a child, under the age of sixteen years, of the member, being his son, daughter, step-son, step-daughter or adopted child ;”.

* 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 ; Nos. 1, 29 and 74, 1947 ; No. 39, 1948 ; No. 38, 1949 ; Nos. 34 and 80, 1950 ; No. 31, 1951 ; No. 58, 1952 ; No. 69, 1953 ; and No. 31, 1954.

4. Section thirty-nine of the Principal Act is amended by omitting sub-sections (4.) and (5.) and inserting in their stead the following sub-section :—

Pensions payable for limited period in certain cases.

“ (4.) Where—

- (a) a pension granted under this Division to a person, being a child, terminates ;
- (b) the person makes application for a further pension ; and
- (c) the Commission is satisfied that the person was, at the time at which the pension terminated, unable to earn a livelihood and has continued from that time to be unable to earn a livelihood,

the person shall be granted a pension at such rate as is assessed by the Commission, but not exceeding the rate specified in Column 2 of the scale in the First Schedule to this Act in relation to the rank or rating of the member of the Forces concerned.”.

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 Section fifty of the Principal Act is repealed and the following section inserted in its stead :—

“ 50.—(1.) Where a person is in receipt of, or is eligible for, pension by virtue of being a child of a member of the Forces and that person also is, or becomes, eligible for pension by virtue of being a child of another member of the Forces, that person shall not be paid pension in respect of both of those members but, if the rate of pension in respect of one of those members is higher than the rate of pension in respect of the other member, that person shall be paid pension at the higher rate.

Double pensions.

“ (2.) In this section, ‘ member of the Forces ’ includes a person who is a member of the Forces for the purposes of Division 6, 7, 8 or 9 of this Part.”.

6. Section sixty-four of the Principal Act is amended—

Appeals.

- (a) by omitting from sub-section (3.) the word “ consideration ” and inserting in its stead the word “ hearing ” ;
- (b) by omitting from sub-section (4.) the word “ consideration ” and inserting in its stead the word “ hearing ” ;
- (c) by omitting from sub-section (6.) the words “ consider and decide ” and inserting in their stead the words “ hear and decide ” ;
- (d) by inserting after sub-section (6.) the following sub-section :—
“ (6A.) A decision by an Appeal Tribunal under sub-section (3.) of this section, or under the last preceding sub-section, which is adverse to the appellant does not prevent the Commission reconsidering the claim of the appellant at any time when it appears to the Commission that there are sufficient grounds for so doing.” ;
- (e) by omitting from sub-section (7.) the word “ decide ” and inserting in its stead the words “ hear and decide ” ;
- (f) by omitting from sub-section (7AB.) the word “ decide ” and inserting in its stead the words “ hear and decide ” ; and
- (g) by omitting sub-section (7A.).

Decision of
appeals.

7. Section sixty-eight of the Principal Act is amended by omitting the word "considering" and inserting in its stead the word "hearing".

Effect of
decision of
Assessment
Appeal
Tribunals.

8. Section sixty-nine of the Principal Act is amended by omitting from sub-section (2.) the words "hear and determine" and inserting in their stead the words "hear and decide".

Right of
appellant to
appear.

9. Section seventy-two of the Principal Act is amended—

(a) by inserting in paragraph (a) of sub-section (3.), after the word "Tribunal", the words "at which his appeal is being heard";

(b) by inserting in paragraph (b) of sub-section (3.), after the word "hearing", the words "of his appeal,"; and

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

"(5.) In this section, 'appeal' includes a submission under paragraph (a) of sub-section (7AA.) of section sixty-four of this Act."

Hearing of
appeals.

10. Section seventy-seven of the Principal Act is amended by omitting from sub-section (1.) the word "consideration" and inserting in its stead the word "hearing".

Deceased or
mentally
afflicted
person.

11. Section seventy-nine of the Principal Act is amended by inserting in sub-section (1.), after the word "dies", the words "or becomes mentally afflicted".

Definitions.

12. Section eighty-three of the Principal Act is amended—

(a) by omitting from paragraph (i) of the definition of "Income" the word "or" (last occurring); and

(b) by adding at the end of the definition of "Income" the following word and paragraph:—

"or (k) an attendant's allowance payable under the Second Schedule or the Fifth Schedule to this Act;".

Restrictions as
to dual
pensions.

13. Section eighty-six of the Principal Act is amended—

(a) by omitting from paragraph (b) of sub-section (1.) the words "as defined by section ninety-one A of this Act,"; and

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

"(3.) In this section, '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 1940-1955* (but not including an attendant's allowance payable under section twenty-one of that Act); or

(c) pension, or compensation of a periodical nature, payable under section thirteen of the *Defence (Transitional Provisions) Act 1946-1951* (but not including an attendant's allowance payable under that section),

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

14. Section ninety-one A of the Principal Act is repealed.

Maximum amount of service pension and war pension.

15. Section one hundred and four of the Principal Act is amended by omitting sub-paragraph (ii) of paragraph (b) of sub-section (2.) and inserting in its stead the following sub-paragraph :—

Extension of application of Act to members of Women's Services.

" (ii) a child of a member of the Forces ; and "

16. Section one hundred and five of the Principal Act is amended by inserting before the definition of "dependant" the following definition :—

Interpretation.

" ' child ' , in relation to a member of the Forces, means a child, under the age of sixteen years, of the member, being her son, daughter, step-son, step-daughter, adopted child or ex-nuptial child, but does not include an ex-nuptial child born more than nine months after the termination of the member's war service, unless the member has adopted the child ; "

17. Section one hundred and six of the Principal Act is repealed and the following section inserted in its stead :—

" 106.—(1.) A pension shall not be granted or continued to a dependant of a member of the Forces, being a dependant who is not a child of the member, unless—

Pensions to dependants of members of Women's Services.

(a) where the pension is in respect of the incapacity of the member—the member is being paid, or, in the case of a deceased member, was, immediately before her death, being paid, a pension at a rate not less than fifty per centum of the rate for total incapacity and the dependant is wholly or substantially dependent upon the member or would, but for the death or incapacity of the member, be so dependent ; or

(b) where the pension is in respect of the death of the member—the dependant would, but for the death of the member, be so dependent,

and, where the dependant is the husband of the member, unless the husband is, by reason of physical or mental incapacity, unable to earn a livelihood, is without adequate means of support and is not separated from the member.

" (2.) A pension shall not be granted or continued to a dependant of a member of the Forces, being a dependant who is a child of the

member, unless the member is dead and the child is without adequate means of support or, if the member is not dead, unless—

- (a) the father or step-father of the child—
 - (i) is, by reason of physical or mental incapacity, unable to earn a livelihood and is without adequate means of support; or
 - (ii) is dead or is separated or divorced from, or has deserted, the member; and
- (b) the child is wholly or substantially dependent upon the member and is without adequate means of support.”.

Extension of application of Act to certain male members of the Forces.

18. Section one hundred and seven A of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1.) the words “who are males”; and
- (b) by omitting from paragraph (a) of sub-section (2.) the words “who is a male”.

Interpretation.

19. Section one hundred and seven B of the Principal Act is amended by omitting from the definition of “member of the Forces” in sub-section (1.) the words “a member” and inserting in their stead the words “a male member”.

Extension of Division in respect of other parts of the Queen's dominions.

Extension of application of Act to members of Women's Services.

20. Section one hundred and seven D of the Principal Act is amended by omitting the words “any member” and inserting in their stead the words “a male member”.

21. Section one hundred and seven E of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “(other than the definition of ‘dependant’)” and inserting in their stead the words “(other than the definitions of ‘dependant’ and ‘member of the Forces’)”;
- (b) by omitting from paragraph (a) of sub-section (1.) the words “Division 8 of this Part who are females” and inserting in their stead the words “section one hundred and seven F of this Act”;
- (c) by omitting from paragraph (a) of sub-section (2.) the words “Division 8 of this Part who is a female” and inserting in their stead the words “section one hundred and seven F of this Act”; and
- (d) by omitting sub-paragraph (ii) of paragraph (b) of sub-section (2.) and inserting in its stead the following sub-paragraph :—

“ (ii) a child, under the age of sixteen years, of a member, being her son, daughter, step-son, step-daughter, adopted child or ex-nuptial child, but not including an ex-nuptial child born more than nine months after the termination of the member's war service, unless the member has adopted the child; and ”.

22. Section one hundred and seven F of the Principal Act is repealed and the following section inserted in its stead :—

“ 107F. For the purposes of this Division—

Interpretation.

‘ dependant ’ means a dependant specified in paragraph (b) of sub-section (2.) of section one hundred and seven E of this Act ;

‘ member of the Forces ’ means a female member of the Naval, Military or Air Forces of the Commonwealth who served on war service.”

23. The First Schedule to the Principal Act is amended by omitting the scale and inserting in its stead the following scale :—

First Schedule.

COLUMN 1.	COLUMN 2.	COLUMN 3.	COLUMN 4.
Rank or Rating of the Member.	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.
All ranks and ratings below Leading Seaman, Corporal and relative ranks and ratings	4 10 0	9 0 0	9 10 0
Leading Seaman, Corporal and relative ranks and ratings	5 0 0	9 0 0	9 10 0
Petty Officer, Sergeant and relative ranks and ratings	5 3 0	9 0 0	9 10 0
Chief Petty Officer, Staff Sergeant, Flight Sergeant and relative ranks and ratings	5 5 6	9 0 0	9 10 0
Warrant Officer and relative ranks	5 13 6	9 0 0	9 10 0
All commissioned ranks below Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks	5 18 0	9 0 0	9 10 0
Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks	6 8 0	9 0 0	9 14 6
Lieutenant-Commander, Major, Squadron Leader and relative ranks	6 19 0	9 9 0	10 4 6
Commander, Lieutenant-Colonel, Wing Commander and relative ranks	7 11 0	10 1 0	10 14 6
Captain (Navy), Colonel, Group Captain and relative ranks	8 3 0	10 13 0	11 3 6
All ranks higher than Captain (Navy), Colonel, Group Captain and relative ranks	8 6 0	10 16 0	11 6 0

24.—(1.) The Second Schedule to the Principal Act is amended by omitting the words—

Second Schedule.

“ RATE FOR SPECIAL PENSIONS—EIGHTEEN POUNDS TEN SHILLINGS PER FORTNIGHT.”

and inserting in their stead the words—

“RATE FOR SPECIAL PENSIONS—NINETEEN POUNDS TEN SHILLINGS PER FORTNIGHT.”.

(2.) The Second Schedule to the Principal Act is amended by omitting from the second paragraph the words—

“for at least six months”.

(3.) The Second Schedule to the Principal Act is amended by omitting from the fourth paragraph the words—

“Three pounds ten shillings”

and inserting in their stead the words—

“Five pounds ten shillings”.

(4.) The Second Schedule to the Principal Act is amended by omitting from the fifth paragraph the words—

“Seven pounds”

and inserting in their stead the words—

“Nine pounds”.

Third Schedule. **25.—**(1.) The Third Schedule to the Principal Act is amended by omitting from Table A the words—

“The rate specified in Column 2 of the scale in the First Schedule, but, if that rate is less than the sum specified in paragraph (a) of sub-section (1.) of section ninety-one A of this Act, a rate not exceeding that sum but not less than the first-mentioned rate may be assessed in such cases as are prescribed”

and inserting in their stead the words—

“The rate specified in Column 2 of the scale in the First Schedule or, in prescribed cases, where the dependant is not in receipt of an age pension, an invalid pension or a widow's pension under the *Social Services Act 1947-1955*, a rate not exceeding the total of the rate specified in Column 2 of the scale in the First Schedule and the maximum rate per fortnight of an age or invalid pension under the *Social Services Act 1947-1955*”.

(2.) The Third Schedule to the Principal Act is amended by omitting from Table A the words—

“(b) Where a dependant is a parent of the member and the last-mentioned rate is less than the sum specified in paragraph (a) of sub-section (1.) of section ninety-one A of this Act, a rate per fortnight not exceeding that sum may be assessed in such cases as are prescribed”

and inserting in their stead the words—

“(b) In prescribed cases, where the dependant is a parent of the member and is not in receipt of an age pension, an invalid pension, a widow's pension or a wife's allowance under the *Social Services Act 1947-1955*, a rate not exceeding the total of the rate specified in Column 2 of the scale in the First Schedule and the maximum rate per fortnight of an age or invalid pension under the *Social Services Act 1947-1955*”.

(3.) The Third Schedule to the Principal Act is amended by omitting from Table A the words—

“(i) where another parent of a prescribed class is included—the difference between that rate and the sum specified in paragraph (b) of sub-section (1.) of section ninety-one A of this Act; or”

and inserting in their stead the words—

“(i) where another parent of a prescribed class is included—the maximum rate per fortnight of an age or invalid pension under the *Social Services Act 1947-1955*; or”.

26.—(1.) The Fourth Schedule to the Principal Act is amended by omitting the words— Fourth Schedule.

“Any member of the Forces who is incapacitated by reason of a disability specified in the first column of this Schedule shall receive the rate of pension shown in the second column of this Schedule opposite the description of the disability.”

and inserting in their stead the words—

“The rate of pension payable to a member of the Forces who is incapacitated by reason of a disability specified in the first column of this Schedule is a rate equal to such percentage of the General Rate of pension to which the member would be entitled under the Third Schedule to this Act if he were totally incapacitated as is set out in the second column of this Schedule opposite to the description of the disability.”.

(2.) The Fourth Schedule to the Principal Act is amended by omitting the heading to the second column of the table and inserting in its stead the following heading :—

“Percentage of General Rate.”.

27. The Fifth Schedule to the Principal Act is amended by omitting the table in paragraph 1 and inserting in its stead the following table :— Fifth Schedule.

COLUMN 1. Description of Disability.	COLUMN 2. Amount.	COLUMN 3. Allowances.
	£ s. d. Per fortnight.	£ s. d. Per fortnight.
Two arms amputated	10 0 0	9 0 0
Two legs and one arm amputated	10 0 0	5 10 0
Two legs amputated above the knee	10 0 0	5 10 0
Two legs amputated and loss of eye	10 0 0	—
One leg and one arm amputated and one eye destroyed	10 0 0	—
One leg and one arm amputated	10 0 0	—
One leg amputated above, and one leg amputated below, the knee	5 12 0	—
Two legs amputated below the knee	3 15 0	—
One arm amputated and one eye destroyed	3 4 0	—
One leg amputated and one eye destroyed	3 4 0	—
One leg amputated above the knee	1 13 0	—
One leg amputated below the knee	0 17 0	—
One arm amputated above the elbow	1 13 0	—
One arm amputated below the elbow	0 17 0	—
Loss of vision in one eye	1 6 0	—

Application of
amendments.

28. The amendments effected by sections twelve, fourteen, twenty-three, twenty-four, twenty-five and twenty-seven of this Act apply in relation to payments of pensions and allowances falling due on the first pension pay day occurring after the date of commencement of this Act and to all subsequent payments.
