

REPATRIATION.

No. 47 of 1963.

An Act to amend the *Repatriation Act 1920-1962*.

[Assented to 25th September, 1963.]

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 1963*.
(2.) The *Repatriation Act 1920-1962** 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 1920-1963*.

Commence-
ment.

- 2.—(1.) Subject to the next succeeding sub-section and to sub-section (2.) of section twenty-four of this Act, this Act shall come into operation on the day on which it receives the Royal Assent.
(2.) The amendment effected by paragraph (a) of section ten of this Act shall come into operation on the date fixed under sub-section (2.) of section two of the *Social Services Act 1963*.

Date of
operation of
determination
of Commission
on appeal.

3. Section twenty-nine of the Principal Act is amended by inserting after the word “date” the words “of lodgment”.

Offences.

4. Section fifty-three of the Principal Act is amended by inserting in sub-section (2.), after the word “him”, the words “, or by any other person,”.

Appeals.

- 5.—(1.) Section sixty-four of the Principal Act is amended—
(a) by inserting in sub-section (1.), after the words “service pension”, the words “or a pension payable by virtue of sub-section (3.) of section thirty-seven of this Act”;
(b) by inserting after sub-section (1.) the following sub-section:—
“(1A.) A person who has claimed a pension under this Act arising out of the incapacity or death of a member of the Forces, being a pension payable by virtue of sub-section (3.) of section thirty-seven of

* 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. 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; No. 31, 1954; No. 39, 1955; Nos. 68 and 97, 1956; No. 44, 1957; No. 47, 1958; No. 58, 1959; No. 44, 1960; No. 46, 1961; and Nos. 75 and 91, 1962.

this Act, and whose claim has been refused by the Commission on any ground relating to the medical condition of the member or to the cause of his death, may lodge with the prescribed person, in the prescribed form, an appeal to an Appeal Tribunal against the determination of the Commission.”; and

- (c) 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”.

(2.) The amendments made by the last preceding sub-section do not affect an appeal to an Appeal Tribunal pending immediately before the commencement of this section.

6.—(1.) After section eighty of the Principal Act the following section is inserted:—

“ 80A. Where—

- (a) an Appeal Tribunal or an Assessment Appeal Tribunal decides an appeal adversely to the appellant;
- (b) the appellant makes application to the Tribunal, within three months after the decision, for the Tribunal to set aside the decision under this section; and
- (c) the Tribunal is satisfied that the appellant, or a person representing the appellant, was unable to make any submission, or present any evidence, to the Tribunal by reason that the appellant or that person was, due to circumstances outside his control, prevented from attending the sittings, or a part of the sittings, at which the appeal was heard,

Tribunal may set aside decisions in certain circumstances.

the Tribunal shall set aside its decision, and shall fix a time and place for the further hearing of the appeal and notify the appellant and the Commission of the time and place so fixed.”.

(2.) The section inserted in the Principal Act by the last preceding sub-section applies in relation to a decision of an Appeal Tribunal or of an Assessment Appeal Tribunal made within three months before the date of commencement of this section and, for the purposes of that application, the decision shall be deemed to have been made on that date.

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

Interpretation.

- (a) by inserting before the definition of “Income” the following definitions:—

“ ‘Benevolent home’ has the same meaning as in Part III. of the *Social Services Act 1947–1963*;
‘Child’, in relation to a member of the Forces, means—

- (a) a son, daughter, step-son, step-daughter or adopted child of the member who has not attained the age of sixteen years; or

(b) a son, daughter, step-son, step-daughter or adopted child of the member who—

- (i) has attained the age of sixteen years but is under the age of eighteen years;
- (ii) is receiving full-time education at a school, college or university; and
- (iii) is not in receipt of an invalid pension under Part III. of the *Social Services Act 1947–1963*; ”; and

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

“(2.) For the purposes of sub-paragraph (i) of paragraph (b) of the definition of ‘Child’ in the last preceding sub-section, a person who attains the age of eighteen years on a day other than the thirty-first day of December shall be deemed to be under that age until the expiration of the thirty-first day of December next following the day on which he attains that age.”.

Service pension
in respect of
members
permanently
unemployable,
&c.

8. Section eighty-five of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “One hundred and twenty-three pounds ten shillings ” and inserting in their stead the words “One hundred and fifty-six pounds ”; and

(b) by omitting from sub-section (3B.) the words “or of his failure to comply with the requirements of section ninety-six of this Act ”.

Net capital
value of
accumulated
property.

9. Section ninety of the Principal Act is amended by omitting from sub-sections (1.) and (1A.) the word “wife ” (wherever occurring) and inserting in its stead the word “spouse ”.

Service
pensioner in
a public
institution.

10. Section ninety-five of the Principal Act is amended—

(a) by omitting from sub-sections (1.) and (1A.) the words “an amount equal to the amount payable under section fifty of the *Social Services Act 1947–1960* to an age or invalid pensioner who is an inmate of a benevolent home ” and inserting in their stead the words “the rate of age pension specified in paragraph (a) of sub-section (1.) of section fifty of the *Social Services Act 1947–1963* that would be applicable to him if he were an age pensioner who had become an inmate of a benevolent home ”; and

(b) by omitting from sub-section (1A.) the words “as defined by section eighteen of the *Social Services Act 1947–1960* ”.

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

“96.—(1.) Except as prescribed, whenever a service pensioner becomes the owner of property he shall, within twenty-eight days after becoming the owner of that property, notify the Commission, or the Board for the State or Territory in which he resides, accordingly.

Acquisition of property, &c., to be notified.

“(2.) Where the average weekly rate of any income, other than service pension, received in any prescribed period by a service pensioner who—

- (a) is not married, or is married but is living apart from his spouse; and
- (b) is not a person in receipt of an allowance under section ninety-eight A of this Act,

is higher than the prescribed rate and is higher than the average weekly rate of the income last specified by him in an application, statement or notification under this Division, the pensioner shall, within fourteen days after the expiration of that period, notify the Commission, or the Board for the State or Territory in which he resides, of the amount of the income received by him in that period.

“(3.) Where the average weekly rate of the sum of—

- (a) any income, other than service pension, received in any prescribed period by a service pensioner who—
 - (i) is married and is not living apart from his spouse; and
 - (ii) is not a person in receipt of an allowance under section ninety-eight A of this Act; and
- (b) any income, other than service pension, received by his spouse,

is higher than the prescribed rate and is higher than the average weekly rate of the sum of the income of the pensioner and the income of his spouse last specified by him in an application, statement or notification under this Division, the pensioner shall, within fourteen days after the expiration of that period, notify the Commission, or the Board for the State or Territory in which he resides, of the amount of the income received by him, and the amount of the income received by his spouse, in that period.

“(4.) For the purposes of the last two preceding subsections—

- ‘prescribed period’, in relation to a service pensioner, means—
 - (a) any period of such number of consecutive weeks as the Commission from time to time determines and causes to be notified, in writing, to the pensioner; or

(b) in the absence of such determination and notification—any period of eight consecutive weeks;

‘ prescribed rate ’, in relation to a service pensioner, means—

(a) such rate as the Commission from time to time determines and causes to be notified, in writing, to the pensioner; or

(b) in the absence of such determination and notification—

(i) if the pensioner is married and is not living apart from his spouse—the rate specified in sub-paragraph (i) of paragraph (b) of the definition of ‘ prescribed rate ’ in sub-section (4.) of section forty-five of the *Social Services Act 1947-1963*; or

(ii) in any other case—the rate specified in sub-paragraph (ii) of paragraph (b) of that definition.

“(5.) A notification for the purposes of the last preceding sub-section may be given by sending it by post to the address of the pensioner last known to the Commission.

“(6.) In the event of—

(a) the marriage or remarriage of a service pensioner;

(b) the dissolution of the marriage of a service pensioner;

(c) a married service pensioner ceasing to live with his spouse or ceasing to live apart from his spouse;

(d) the death of the spouse of a service pensioner;

(e) a service pensioner ceasing to reside in a home owned by him or his spouse;

(f) a service pensioner becoming an inmate of a benevolent home; or

(g) a service pensioner disposing of any property the value of which—

(i) is, by virtue of paragraph (b) of sub-section (1.) of section ninety of this Act, disregarded in the computation of the net capital value of accumulated property for the purposes of this Division; and

(ii) exceeds One hundred pounds,

the pensioner shall notify the Commission, or the Board for the State or Territory in which he resides, accordingly within fourteen days after the occurrence of the event.

“(7.) A service pensioner—

(a) shall not leave Australia, except to go to a Territory of the Commonwealth outside Australia; or

(b) shall not leave a Territory of the Commonwealth outside Australia, except to go to Australia or to another Territory of the Commonwealth outside Australia, without first giving notice to the Commission, or the Board for the State or Territory in which he resides, of his intention so to leave Australia or the Territory.

“(8.) Where a member of the Forces is in receipt of a service pension and a child of the member who is in the custody, care and control of the member—

- (a) ceases to be in the custody, care or control of the member; or
- (b) being a child referred to in paragraph (b) of the definition of ‘Child’ in sub-section (1.) of section eighty-three of this Act—
 - (i) ceases to be wholly or substantially dependent on the member; or
 - (ii) ceases to receive full-time education at a school, college or university,

the member shall, within fourteen days after the child so ceases, notify the Commission, or the Board for the State or Territory in which the child resides, accordingly.

“(9.) Where a child of a member of the Forces who—

- (a) is not in the custody, care and control of the member;
- (b) is a child referred to in paragraph (b) of the definition of ‘Child’ in sub-section (1.) of section eighty-three of this Act; and
- (c) is in receipt of a service pension,

ceases to receive full-time education at a school, college or university, the person to whom the service pension is paid on behalf of, or as trustee of, the child shall, within fourteen days after the child so ceases, notify the Commission, or the Board for the State or Territory in which the child resides, accordingly.

Penalty: Twenty pounds.”.

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

- (a) by omitting from sub-section (1.) the words “Divisions 1 to 5” and inserting in their stead the words “Divisions 1 to 4”;
- (b) by inserting after sub-section (1.) the following sub-section:—

“(1A.) Subject to the provisions of this Division, the provisions of Division 5 of this Part shall extend to and in relation to—

- (a) a member of the Forces within the meaning of section one hundred of this Act;
- (b) the wife of such a member; and

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

(c) a child, as defined in sub-section (1.) of section eighty-three of this Act, of such a member.”; and

(c) by omitting from sub-section (2.) the words “ last preceding sub-section ” and inserting in their stead the words “ last two preceding sub-sections ”.

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

13. Section one hundred and two of the Principal Act is amended by omitting the word and figure “ sub-section (1.) ” and inserting in their stead the words and figures “ sub-sections (1.) and (1A.) ”.

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

14. Section one hundred and four of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ Divisions 1 to 5 ” and inserting in their stead the words “ Divisions 1 to 4 ”;

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

“ (1A.) Subject to the provisions of this Division, the provisions of Division 5 of this Part shall extend to and in relation to—

(a) a member of the Forces within the meaning of section one hundred and five of this Act; and

(b) a child, as defined in sub-section (1.) of section eighty-three of this Act, of such a member.”; and

(c) by omitting from sub-section (2.) the words “ last preceding sub-section ” and inserting in their stead the words “ last two preceding sub-sections ”.

Interpretation.

15. Section one hundred and five of the Principal Act is amended by inserting after the word “ Division ” the words “, unless the contrary intention appears ”.

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

16. Section one hundred and seven of the Principal Act is amended by omitting the word and figure “ sub-section (1.) ” and inserting in their stead the words and figures “ sub-sections (1.) and (1A.) ”.

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

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

(a) by omitting from sub-section (1.) the words “ Divisions 1 to 5 ” and inserting in their stead the words “ Divisions 1 to 4 ”;

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

“ (1A.) Subject to the provisions of this Division, the provisions of Division 5 of this Part shall extend

to and in relation to—

- (a) a member of the Forces within the meaning of this Division;
 - (b) the wife of such a member; and
 - (c) a child, as defined in sub-section (1.) of section eighty-three of this Act, of such a member.”; and
- (c) by omitting from sub-section (2.) the words “last preceding sub-section” and inserting in their stead the words “last two preceding sub-sections”.

18. Section one hundred and seven D of the Principal Act is amended by omitting the word and figure “sub-section (1.)” and inserting in their stead the words and figures “sub-sections (1.) and (1A.)”.

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

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

- (a) by omitting from sub-section (1.) the words “Divisions 1 to 5” and inserting in their stead the words “Divisions 1 to 4”;
- (b) by inserting after sub-section (1.) the following sub-section:—

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

“(1A.) Subject to the provisions of this Division, the provisions of Division 5 of this Part shall extend to and in relation to—

- (a) a member of the Forces within the meaning of section one hundred and seven F of this Act; and
 - (b) a child, as defined in sub-section (1.) of section eighty-three of this Act, of such a member.”; and
- (c) by omitting from sub-section (2.) the words “last preceding sub-section” and inserting in their stead the words “last two preceding sub-sections”.

20. Section one hundred and seven G of the Principal Act is amended by omitting the word and figure “sub-section (1.)” and inserting in their stead the words and figures “sub-sections (1.) and (1A.)”.

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

21. After section one hundred and twenty A of the Principal Act the following section is inserted:—

“120AA. Where, in consequence of a false statement or representation or of a failure or omission to comply with any provision of this Act or the regulations, an amount has been paid by way of pension, allowance or benefit that would not have been paid but for the false statement or representation or the failure or omission, the amount so paid is recoverable in a court of competent jurisdiction from the person to whom, or on whose account, the amount was paid, or from the estate of that person, as a debt due to the Commonwealth.”.

Recovery of over-payments.

Deduction from pensions, allowances or benefits of certain amounts.

22. Section one hundred and twenty B of the Principal Act is amended by omitting from sub-section (2.) the words " pension or allowance " (wherever occurring) and inserting in their stead the words " pension, allowance or benefit ".

Second Schedule.

23. The Second Schedule to the Principal Act is amended by omitting the words—

" RATE FOR SPECIAL PENSIONS—TWENTY-SIX POUNDS TEN SHILLINGS PER FORTNIGHT."

and inserting in their stead the words—

" RATE FOR SPECIAL PENSIONS—TWENTY-SEVEN POUNDS TEN SHILLINGS PER FORTNIGHT."

Third Schedule.

24.—(1.) The Third Schedule to the Principal Act is amended by omitting Table A and inserting in its stead the following Table:—

TABLE A.

PENSIONS PAYABLE IN THE CASE OF DEATH OF A MEMBER OF THE FORCES.

| Class of Person Eligible for Pension. | Rate of Pension Payable. |
|--|--|
| Widow of the member | The rate specified in Column 3 of the scale in, or in paragraph 4 of, the First Schedule, whichever is applicable |
| Widowed mother of— (a) unmarried member; or (b) unmarried member who was born out of wedlock and who was brought up by her, who became a widow before, or within three years after, the death of the member Unmarried mother of an unmarried member who was brought up by her | 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 <i>Social Services Act 1947-1963</i> , such rate as is assessed, being a rate that does not exceed the total of the rate specified in Column 2 of the scale in the First Schedule and the rate per fortnight of age pension that would be payable to the dependant if the dependant were entitled to an age pension and that pension were payable at the maximum rate applicable to the dependant under sub-section (1A.) of section twenty-eight of the <i>Social Services Act 1947-1963</i> |
| Child (including an ex-nuptial child) of the member— (a) where (in the case of a child other than an ex-nuptial child) both the member and the wife or husband of the member are dead | £7 3s. per fortnight |
| (b) where the last preceding paragraph does not apply in relation to the child and the Commission is satisfied that the child is not being maintained by a parent, adoptive parent or step-parent of the child | £7 3s. per fortnight |
| (c) in any other case— First child | £3 18s. per fortnight |
| Second and each subsequent child | £2 15s. per fortnight |

TABLE A—continued.

| Class of Person Eligible for Pension. | Rate of Pension Payable. |
|--|---|
| Widower or any other dependant of the member | <p>(a) Subject to the succeeding paragraphs of this item, such rate as is assessed, being a rate that does not exceed the rate specified in Column 2 of the scale in the First Schedule</p> <p>(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 <i>Social Services Act 1947-1963</i>, such rate as is assessed, being a rate that does not exceed the total of the rate specified in Column 2 of the scale in the First Schedule and the rate per fortnight of age pension that would be payable to the dependant if the dependant were entitled to age pension and that pension were payable at the maximum rate applicable to the dependant under sub-section (1A.) of section twenty-eight of the <i>Social Services Act 1947-1963</i></p> <p>(c) Where there is more than one dependant, none being a parent of a prescribed class, the aggregate amount payable in respect of those dependants shall not exceed the rate specified in Column 2 of the scale in the First Schedule plus £2 per fortnight</p> <p>(d) Where there is more than one dependant, including a parent of a prescribed class, the aggregate amount payable in respect of those dependants shall not exceed the maximum rate that may be assessed under paragraph (b) of this item in respect of a parent to whom that paragraph applies plus—</p> <p>(i) where another parent of a prescribed class is included— the rate per fortnight of age pension that would be payable to the dependant if the dependant were entitled to an age pension and that pension were payable at the maximum rate applicable to the dependant under sub-section (1A.) of section twenty-eight of the <i>Social Services Act 1947-1963</i>, plus £2 per fortnight; or</p> <p>(ii) in any other case—£2 per fortnight</p> |

(2.) Notwithstanding the amendment made by the last preceding sub-section, the provisions of Table A in the Third Schedule to the Principal Act, except in so far as those provisions relate to rates of pension payable to the child of a member of the Forces, continue to have effect until the date referred to in sub-section (2.) of section two of this Act.

Fifth
Schedule.

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

| Column 1. Description of Disability. | Column 2. Amount. | Column 3. Allowances. |
|---|----------------------|--------------------------|
| | £ s. d. | £ s. d. |
| | Per fortnight. | Per fortnight. |
| Two arms amputated | 16 0 0 | 10 10 0 |
| Two legs and one arm amputated | 16 0 0 | 6 10 0 |
| Two legs amputated above the knee | 16 0 0 | 6 10 0 |
| Two legs amputated and loss of eye | 16 0 0 | — |
| One leg and one arm amputated and one eye destroyed .. | 16 0 0 | — |
| One leg and one arm amputated | 16 0 0 | — |
| One leg amputated above, and one leg amputated below, the knee | 7 2 0 | — |
| Two legs amputated below the knee | 4 15 0 | — |
| One arm amputated and one eye destroyed | 4 4 0 | — |
| One leg amputated and one eye destroyed | 4 4 0 | — |
| One leg amputated above the knee | 2 3 0 | — |
| One leg amputated below the knee | 1 7 0 | — |
| One arm amputated above the elbow | 2 3 0 | — |
| One arm amputated below the elbow | 1 7 0 | — |
| Loss of vision in one eye | 1 16 0 | — |

Application of
amendments.

26. The amendments made by paragraph (a) of section eight, and by sections twenty-three and twenty-five, of this Act, in so far as they affect instalments of pensions or of allowances, apply in relation to an instalment of pension or of an allowance, as the case may be, falling due on the first pension pay day after the day on which this Act receives the Royal Assent and to all subsequent instalments.