

# Repatriation Act 1973

No. 2 of 1973

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## AN ACT

To amend the *Repatriation Act* 1920–1972 so as to provide for Increases in the Rates of certain Pensions payable to certain persons, and for other Repatriation purposes, and to appropriate the Consolidated Revenue Fund for the purpose of certain payments resulting from those amendments.

[Assented to 16 March 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Repatriation Act* 1973.
- (2) The *Repatriation Act* 1920–1972\* 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* 1920–1973.

Commence-  
ment.

2. Subject to section 24, this Act shall come into operation on the day on which it receives the Royal Assent.

\* 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; Nos. 75 and 91, 1962; No. 47, 1963; Nos. 62 and 105, 1964; No. 64, 1965; No. 42, 1966; No. 64, 1967; Nos. 66 and 120, 1968; No. 95, 1969; Nos. 4 and 60, 1970; Nos. 17 and 68, 1971; and Nos. 15, 82 and 139, 1972.

3. Section 6 of the Principal Act is amended by omitting sub-section (2). Interpretation.

4. (1) Section 23 of the Principal Act is amended— Interpretation.

(a) by omitting from sub-paragraph (i) of paragraph (b) of the definition of “ Child ” the words “ but is under the age of twenty-one years ”;

(b) by adding at the end of the definition of “ Child ”, after paragraph (b), the words “ and includes such a child who is an ex-nuptial child of the member ”;

(c) by omitting paragraphs (c) and (d) of the definition of “ Dependant ” and substituting the following paragraph:—  
“ (c) a child of the member;”;

(d) by inserting after the definition of “ Dependant ” the following definition:—

“ ‘ Dependent female ’, in relation to a member of the Forces, means a woman who—

(a) is, or was at the time of the member’s death, living with the member as his wife on a permanent and *bona fide* domestic basis, although not legally married to him;

(b) has, at any time, so lived with him for a continuous period of not less than three years; and

(c) is, or was at the time of the death of the member, wholly or partly dependent on him;”;

(e) by omitting the definition of “ Member of a family ” and substituting the following definition:—

“ ‘ Member of a family ’ means wife, father, mother, adoptive father, adoptive mother, grandfather, grandmother, step-father, step-mother, foster-mother, son (including an adopted son and an ex-nuptial son), daughter (including an adopted daughter and an ex-nuptial daughter), grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, step-brother, step-sister, adoptive brother, adoptive sister or mother-in-law;”;

(f) by omitting from the definition of “ Pension ” the words “ Second, Fifth and Sixth ”;

(g) by inserting after the definition of “ The present war ” the following definition:—

“ ‘ Unmarried member of the Forces ’ does not include a member with respect to whom a dependent female is receiving a pension;” and

(h) by adding at the end thereof the following definitions:—

“ ‘ Widow ’ includes a dependent female of a deceased member;

‘ Wife ’ includes a dependent female of a living member.”.

(2) The amendment made by paragraph (g) of sub-section (1) does not affect a pension that was being paid immediately before the commencement of this section and that pension continues to be payable as if that amendment had not been made.

5. (1) Section 24A of the Principal Act is repealed and the following section substituted:—

Prosecution  
of claim of  
a deceased  
claimant.

“ 24A. On the death of a claimant for payment of a pension in accordance with this Division or, if the death occurred before the commencement of this section, on the commencement of this section, the legal personal representative of the claimant or, if there is no legal personal representative of the claimant, a person approved by the Commission as the representative of the claimant may, for the purpose of procuring payment of pension, or payment of pension at a higher rate, in respect of a period before the death of the claimant, take such action as the claimant could have taken after the commencement of this section if he had not died and, for that purpose, shall be treated as if he were the claimant.”.

(2) Proceedings taken by virtue of the section repealed by sub-section (1) that were pending immediately before the commencement of this section may be continued as if that section had not been repealed.

Pensions to  
dependants.

6. Section 35A of the Principal Act is amended by omitting from paragraph (a) of sub-section (2) the words “ or ex-nuptial child ”.

Inter-  
pretation.

7. Section 83 of the Principal Act is amended—

(a) by omitting the definition of “ Child ” in sub-section (1) and substituting the following definitions:—

“ ‘ Child ’, in relation to a member of the Forces, includes a person—

(a) who is a foster-son, foster-daughter or ward of the member; and

(b) who—

(i) in the case of a person who has not attained the age of sixteen years—is in the custody, care and control of the member; or

(ii) in any other case—is wholly or substantially dependent on the member;

‘ Dependent female ’, in relation to a member of the Forces, means a woman who has lived with the member as his wife on a permanent and *bona fide* domestic basis, although not legally married to him, for not less than three years immediately preceding the operation of any provision of this Division in relation to that woman or that member;”;

(b) by omitting paragraph (d) of the definition of “ Income ” in sub-section (1) and substituting the following paragraph:—

“ (d) a payment under Part V, VI, VII, VIIA or VIII of the *Social Services Act 1947-1973*;”;

(c) by adding at the end of sub-section (1) the following definition:—

“ ‘ Wife ’ includes a dependent female.”; and

(d) by inserting in paragraph (c) of sub-section (3), after the words “ other than ”, the words “ a child who has attained the age of sixteen years or ”.

8. Section 85 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:—

“ (2A) A woman is not entitled to receive at the same time a service pension under this section by reason that she is a member of the Forces and a service pension under this section by reason that she is the wife of a member of the Forces.”.

Pension in respect of a member permanently unemployable, &c.

9. (1) Section 86 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

Restrictions as to dual pensions.

“ (1) Notwithstanding anything contained in this Division—

(a) a person is not entitled to receive at the same time—

(i) a service pension under one section of this Division and a service pension under another section of this Division; or

(ii) a service pension and a pension under Part III or Part IV of the *Social Services Act 1947-1973*; and

(b) a widow who is in receipt of a war pension in respect of her husband’s death or a child who is in receipt of a war pension in respect of his father’s death is not entitled to receive a service pension under section 94 at the same time.”.

(2) Where a service pension that was being paid immediately before the commencement of this section would, but for this sub-section, cease to be payable by virtue of the amendment made by sub-section (1), that pension continues to be payable as if that amendment had not been made, but, unless that pension is payable by reason that the pensioner is suffering from pulmonary tuberculosis, the rate of that pension shall not, at any

time, exceed the rate at which that pension was being paid immediately before the day on which the *Social Services Act* 1973 received the Royal Assent.

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

10. Section 99 of the Principal Act is amended—

- (a) by inserting in paragraph (b) of sub-section (1A), after the word “ wife ”, the words “, as defined in sub-section (1) of section 83,”;
- (b) by omitting sub-paragraphs (iii) and (iiia) of paragraph (b) of sub-section (2) and substituting the following sub-paragraph:—  
“ (iii) a child of a member of the Forces;”;
- (c) by omitting sub-section (3).

Interpre-  
tation.

11. Section 100 of the Principal Act is amended by omitting the definitions of “ step-son ” and “ step-daughter ”.

Extension  
of applica-  
tion of Act to  
members of  
Women's  
Services.

12. Section 104 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “, ‘ step-son ’ and ‘ step-daughter ’ ”; and
- (b) by omitting sub-paragraphs (ii) and (iia) of paragraph (b) of sub-section (2) and substituting the following sub-paragraph:—  
“ (ii) a child of a member of the Forces; and ”.

Interpre-  
tation.

13. Section 105 of the Principal Act is amended by omitting the definitions of “ child ”, “ step-son ” and “ step-daughter ”.

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

14. Section 107A of the Principal Act is amended—

- (a) by inserting in paragraph (b) of sub-section (1A), after the word “ wife ”, the words “, as defined by sub-section (1) of section 83,”;
- (b) by omitting sub-paragraphs (iii) and (iiia) of paragraph (b) of sub-section (2) and substituting the following sub-paragraph:—  
“ (iii) a child of a member of the Forces;”;
- (c) by omitting sub-section (3).

Interpre-  
tation.

15. Section 107B of the Principal Act is amended by omitting the definitions of “ step-son ” and “ step-daughter ”.

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

16. Section 107E of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “, ‘ step-son ’ and ‘ step-daughter ’ ”;
- (b) by omitting sub-paragraphs (ii) and (iia) of paragraph (b) of sub-section (2) and substituting the following sub-paragraph:—  
“ (ii) a child of a member of the Forces; and ”;
- (c) by omitting sub-section (3).

17. Section 107F of the Principal Act is amended by omitting the definitions of "step-son" and "step-daughter". Interpretation.

18. Section 108 of the Principal Act is amended— Interpretation.

(a) by inserting in sub-section (1), after the definition of "medical treatment", the following definition:—

" 'spouse' includes—

(a) in relation to a deceased member of the Forces—  
a person who is a dependent female, as defined in section 23, of that member; or

(b) in relation to a living member of the Forces—  
a person who is a dependent female, as defined in section 23 or 83, of that member;"; and

(b) by adding at the end of sub-section (1) the following definitions:—

" 'widow', in relation to a deceased member of the Forces,  
includes a person who is a dependent female, as defined  
in section 23, of that member;

'wife', in relation to a living member of the Forces, includes a  
person who is a dependent female, as defined in section 23  
or 83, of that member."

19. After section 120B of the Principal Act the following section is inserted:—

" 120C. Where an amount of pension, allowance or other benefit under this Act or the regulations— Payment of pension, &c., on death of pensioner, &c.

(a) has accrued and is unpaid on the death of the person to whom that pension, allowance or other benefit is payable; or

(b) would have been payable to a deceased claimant in respect of a period before his death if the claimant had not died,

the Commission may pay that amount to—

(c) the legal personal representative of the deceased person; or

(d) if there is no legal personal representative of the deceased person and the Commission is satisfied that application will not be made for probate of the will, or for letters of administration of the estate, of the deceased person—the person whom the Commission determines to be best entitled to receive it,

and, if that amount is paid, the Commonwealth is not liable to any action, claim or demand for any further payment in respect of that amount."

First  
Schedule.

20. (1) The First Schedule to the Principal Act is amended by omitting the scale and substituting the following scale:—

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 on Total Incapacity
	\$ per fortnight	\$ per fortnight	\$ per fortnight
All ranks and ratings below Leading Seaman, Corporal and relative ranks and ratings .. .. .	9.00	43.00	32.00
Leading Seaman, Corporal and relative ranks and ratings .. .. .	10.00	43.00	32.00
Petty Officer, Sergeant and relative ranks and ratings .. .. .	10.30	43.00	32.00
Chief Petty Officer, Staff Sergeant, Flight Sergeant and relative ranks and ratings .. .. .	10.55	43.00	32.00
Warrant Officer and relative ranks .. .. .	11.35	43.00	32.00
All Commissioned ranks below Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks .. .. .	11.80	43.00	32.00
Lieutenant (Navy), Captain (Army), Flight Lieutenant (Air Force) and relative ranks .. .. .	12.80	43.00	32.00
Lieutenant-Commander, Major, Squadron Leader and relative ranks .. .. .	13.90	43.00	32.00
Commander, Lieutenant-Colonel, Wing Commander and relative ranks .. .. .	15.10	43.00	32.00
Captain (Navy), Colonel, Group Captain and relative ranks .. .. .	16.30	43.00	32.00
All ranks higher than Captain (Navy), Colonel, Group Captain and relative ranks .. .. .	16.60	43.10	32.00

(2) The First Schedule to the Principal Act is amended by omitting from paragraph 6 the words “Sixty-eight dollars” and substituting the words “Seventy-three dollars ten cents”.

Second  
Schedule.

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

“RATE FOR SPECIAL PENSIONS—NINETY-SIX DOLLARS  
PER FORTNIGHT.”;

and substituting the words—

“RATE FOR SPECIAL PENSIONS—ONE HUNDRED AND TWO DOLLARS  
TWENTY CENTS PER FORTNIGHT.”.

Third  
Schedule.

22. The Third Schedule to the Principal Act is amended—

- (a) by omitting from Table A the words “(including an ex-nuptial child)”; and
- (b) by omitting from Table B the words “(including an ex-nuptial child)”.

23. The Fifth Schedule to the Principal Act is amended by omitting the table in paragraph 1 and substituting the following table:—

Fifth  
Schedule.

Column 1 Description of Disability	Column 2 Amount	Column 3 Allowance
	\$ per fortnight	\$ per fortnight
Two arms amputated. . . . .	70.20	35.00
Two legs and one arm amputated . . . . .	70.20	21.00
Two legs amputated above the knee . . . . .	70.20	21.00
Two legs amputated and loss of eye . . . . .	70.20	..
One leg and one arm amputated and one eye destroyed . . . . .	70.20	..
One leg and one arm amputated . . . . .	70.20	..
One leg amputated above, and one leg amputated below, the knee . . . . .	23.50	..
Two legs amputated below the knee . . . . .	15.80	..
One arm amputated and one eye destroyed . . . . .	13.70	..
One leg amputated and one eye destroyed . . . . .	13.70	..
One leg amputated above the knee . . . . .	6.80	..
One leg amputated below the knee . . . . .	3.60	..
One arm amputated above the elbow . . . . .	6.80	..
One arm amputated below the elbow . . . . .	3.60	..
Loss of vision in one eye . . . . .	5.30	..

24. The amendments made by sections 20, 21 and 23—

Application  
of certain  
amendments.

- (a) shall be deemed to have come into operation on the seventh day of December, 1972; and
- (b) apply in relation to an instalment of a pension falling due on that date and to all subsequent instalments.

25. (1) The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of such expenditure in pursuance of the Principal Act as amended by this Act as results from this Act, being expenditure on or before the thirtieth day of June, 1973.

Appropriation.

(2) Sub-section (1) does not prevent the issue and application of moneys, for the purposes referred to in that sub-section, in pursuance of an appropriation made by an Act other than this Act (whether passed before or after the commencement of this Act).