
WAR PENSIONS.

No. 34 of 1914.

An Act to provide for the grant of Pensions upon the death or incapacity of Members of the Defence Force of the Commonwealth and Members of the Imperial Reserve Forces resident in Australia, whose death or incapacity results from their employment in connexion with warlike operations.

[Assented to 21st December, 1914.]

BE it enacted by the King'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 *War Pensions Act 1914*.^(a)

Definitions.

2. In this Act, unless the contrary intention appears—

“Child” means any dependant under the age of sixteen years, being a son, daughter, step-son, step-daughter, or adopted child of a member of the Forces ;

^(a) This Act has since been amended by Act No. 28, 1915 (*infra*, p. 130). For a copy of this Act as so amended see *infra*, p. 324.

- “Dependants” means such of the members of the family of a member of the Forces, whose death or incapacity results from his employment in connexion with warlike operations, as were wholly or in part dependent upon his earnings at the time of his death, or who would, but for such incapacity, have been so dependent, and includes parents who though not dependent upon the earnings of the member at the time of his death are, at any time within five years after such death, without adequate means of support; and where the member—
- (a) being the parent or grandparent of an ex-nuptial child, leaves the child so dependent upon his earnings, or
 - (b) being an ex-nuptial child, leaves a parent or grandparent so dependent upon his earnings,
- includes such an ex-nuptial child and parent or grandparent respectively;
- “Incapacity” includes incapacity of a member of the Forces arising from disease, not due to the default of the member, contracted by him while employed on active service;
- “Instalment” means an instalment of a pension;
- “Member of the Forces” means a member of the Commonwealth Naval or Military Forces enlisted or appointed for or employed on active service outside Australia or employed on a ship of war;
- “Member of a family” means wife, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister, adopted child, or mother-in-law;
- “Minister” means the Treasurer of the Commonwealth;
- “Other dependants” means dependants of a member of the Forces other than his wife (or widow) and children;
- “Pension” means a pension under this Act;
- “The Pensions Board” means the Pensions Board appointed in pursuance of this Act;
- “The rate of pay of the member” means the rate of pay received by the member of the Forces as a member at the time of the occurrence of the casualty or the contraction of the disease which resulted in his death or incapacity, and includes such allowances as are prescribed by the regulations under this Act;
- “This Act” includes all regulations made thereunder.

3. Upon the death or incapacity of any member of the Forces whose death or incapacity results or has resulted from his employment in connexion with warlike operations in which His Majesty is, or has since the commencement of the present state of war been, engaged, the Commonwealth shall subject to this Act be liable to pay to the member or his dependants, or both, as the case may be, pensions in accordance with this Act.

Pensions upon death or incapacity in consequence of warlike operations.

Provided that—

(a) a claim for payment of a pension in accordance with this Act is made—

(i) in case of the death of a member of the Forces—
by a dependant not more than six months after the date of the public notification by the Minister in the *Gazette* of the death of the member, or, by parents who though not dependent upon the earnings of the member at the time of his death are at any time within five years after such death, without adequate means of support, within five years after such death ; and

(ii) in case of the incapacity of a member of the Forces—by the member or a dependant not more than six months after the termination of the appointment or discharge of the member ; and

(b) if the member or his dependants is or are entitled under any other Act to receive any payment by way of compensation, pension, retiring allowance, superannuation or gratuity, the right to payment by way of pension in accordance with this Act shall be taken to be substituted for the right of the member or his dependants to any payment by the Commonwealth under such other Act and the right of the member or his dependants under that other Act shall be by force of this Act determined ; and

(c) if the member or his dependants is or are entitled under any Imperial Act or State Act to receive any payment by way of compensation, pension, retiring allowance, superannuation, or gratuity, the rate or amount of that payment shall be taken into account in assessing the rate of pension payable under this Act.

Appointment
and constitution
of board.

4.—(1.) There shall be a Pensions Board of three persons constituted in the prescribed manner.

(2.) The members of the Pensions Board shall be appointed by the Minister, and shall hold office as prescribed.

(3.) One of the members of the Pensions Board shall be a qualified medical practitioner.

(4.) The Pensions Board shall be charged with the duties of—

(a) determining whether the death or incapacity of a member of the Forces in fact resulted from his employment in connexion with warlike operations, and in the case of incapacity the nature and extent thereof ;

(b) determining the extent to which persons alleged to be dependent upon a member of the Forces were in fact so dependent ;

(c) assessing the rates of pensions of members of the Forces and their dependants ; and

(d) such other duties as are prescribed.

5.—(1.) The Pensions Board or any member thereof may—

- (a) summon witnesses ;
- (b) take evidence on oath ; and
- (c) require the production of documents.

Powers of
Pensions
Board.

(2.) No person who has been summoned to appear as a witness before the Pensions Board or any member thereof shall, without lawful excuse, and after tender of reasonable expenses, fail to appear in answer to the summons.

Penalty : Twenty pounds.

(3.) No person who appears before the Pensions Board or any member thereof as a witness shall, without lawful excuse, refuse to be sworn, or to make an affirmation, or to produce documents, or to answer questions which he is lawfully required to answer.

Penalty : Fifty pounds.

6. Any assessment or determination of the Pensions Board under this Act shall be subject to the approval of the Minister.

Assessment or
determination
subject to
Minister's
approval.
Review by
Pensions
Board.

7. Whenever it appears to the Pensions Board that under this Act sufficient reason exists for reviewing any assessment or determination under this Act the Pensions Board may review the assessment or determination.

8. The rates of pensions payable under this Act shall not exceed the following :—

Rates of
pensions.

(A) In case of the death of a member of the Forces—

- (i) to the widow, the rate specified in column two of the Schedule opposite to the rate of pay of the member, and
- (ii) to each child, the rate of Thirteen pounds per annum, and
- (iii) to the other dependants such rates as are assessed by the Pensions Board, but not exceeding in the aggregate the rate specified in column two of the Schedule opposite to the rate of pay of the member plus Fifty-two pounds per annum :

Provided that the maximum rate of pension payable to any one dependant of a member shall not in any case exceed the amount specified in column two of the Schedule opposite to the rate of pay of the member.

(B) In case of the total incapacity of a member of the Forces—

- (i) to the member, the rate specified in column three of the Schedule opposite to the rate of pay of the member, and
- (ii) to the wife of the member, fifty per centum of that rate, and
- (iii) to each child of the member, the rate of Thirteen pounds per annum.

(C) In case of the partial incapacity of a member of the Forces, such less rates than those referred to in paragraph (B) as are assessed by the Pensions Board, having regard to the nature and probable duration of the incapacity.

Payment of lump sum may be substituted in certain cases.

9. Where the Pensions Board is satisfied that in the case of any member of the Forces the rate of pension payable under this Act is not more than thirty per centum of the rate which would be payable as for the total incapacity of the member, the Pensions Board may, with the sanction of the Minister, assess the lump sum which would in its opinion be equivalent to the payment of a pension under this Act, and in that case the liability to payment of the lump sum so assessed shall be substituted for the liability to payment of a pension under this Act.

Pensions payable to widows only during widowhood. Pensions to be approved by Governor-General.

10. A pension payable under this Act to the widow of a member of the Forces shall cease upon her re-marriage.

Pensions payable from moneys appropriated.

11. A pension under this Act shall not be payable until approved by the Governor-General.

Pension absolutely inalienable, No. 17, 1908, s. 41.

12. Pensions granted pursuant to this Act shall be payable out of moneys from time to time appropriated by Parliament for the purpose.

13. Subject to this Act, a pension shall be absolutely inalienable whether by way or in consequence of sale, assignment, charge, execution, insolvency, or otherwise howsoever.

Offences.

14. Any person who—

- (a) obtains any pension or instalment which is not payable ;
- (b) obtains payment of any pension or instalment by means of any false or misleading statement ; or
- (c) makes or presents to the Minister or to the Pensions Board or to any officer doing duty in relation to this Act or the regulations, any statement or document which is false in any particular,

shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for one year.

Extension of Act to British Reservists.

15. The provisions of this Act shall extend to the case of any soldier of the Imperial Reserve Forces called up for active service who at the commencement of the present state of war was *bonâ fide* resident in Australia, as if that soldier were a member of the Forces as defined in this Act :

Provided that where the soldier or his dependants is or are entitled to any pension or compensation under any Imperial Act the rate or amount of that pension or compensation shall be taken into account in assessing the rate of pension payable under this Act :

Provided further that a pension shall not be payable under this section to any person who is not *bonâ fide* resident in Australia.

16. 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 in giving effect to this Act, and in particular for prescribing the manner in which pensions or instalments due to persons who are under any incapacity or disability may be dealt with. Regulations.

THE SCHEDULE.

SCALE OF PENSIONS PAYABLE TO WIDOW ON DEATH OF A MEMBER OF THE FORCES OR TO A MEMBER UPON TOTAL INCAPACITY.

COLUMN ONE. Rate of pay of the member per day.	COLUMN TWO. Pension payable to widow on death of member.	COLUMN THREE. Pension payable to member upon total incapacity.
s. d.	£ s. d.	£ s. d.
6 0	52 0 0 per annum	52 0 0 per annum
7 0	56 0 0 " "	56 0 0 " "
9 0	64 0 0 " "	64 0 0 " "
10 0	68 0 0 " "	68 0 0 " "
10 6	70 0 0 " "	70 0 0 " "
11 6	73 0 0 " "	73 0 0 " "
12 0	74 10 0 " "	74 10 0 " "
13 0	77 10 0 " "	77 10 0 " "
17 6	91 0 0 " "	91 0 0 " "
22 6	101 0 0 " "	101 0 0 " "
30 0	116 0 0 " "	116 0 0 " "
37 6	131 0 0 " "	131 0 0 " "
45 0	146 0 0 " "	146 0 0 " "
50 0	156 0 0 " "	156 0 0 " "
and upwards.		

Where the rate of pay of a member of the Forces exceeds a rate shown in column one of this Schedule and is less than the next higher rate in that column, the rates of pensions payable for the purposes of columns two and three shall be computed by adding to the rate of pension shown in those columns opposite to the next lower rate of pay the sum which bears to the difference between that rate of pension and the next higher rate of pension shown in those columns the proportion which the difference between the rate of pay received by the member and the next lower rate of pay shown in column one bears to the difference between the next lower and the next higher rates of pay in that column.