

## WAR PENSIONS.

### No. 28 of 1915.

An Act to amend the *War Pensions Act 1914*.

[ Assented to 2nd September, 1915.]

**B**E 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  
and citation.

1.—(1.) This Act may be cited as the *War Pensions Act 1915*.

(2.) The *War Pensions Act 1914* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *War Pensions Act 1914–1915*.

Commencement.

2. This Act shall be deemed to have commenced on the same day as the Principal Act.

Amendment  
of s. 2.

3. Section two of the Principal Act is amended—

(a) by omitting the definition of “Dependants” and inserting in its stead the following definition:—

“‘Dependants’ means the wife or widow and children or ex-nuptial children of a member of the Forces, whose death or incapacity results from his employment in connexion with warlike operations, and includes such other members of the family of that member of the Forces as were wholly or in part dependent upon his earnings at any time during the period of twelve months prior to his enlistment, or who would, but for such incapacity, have been so dependent, and parents who though not dependent upon the earnings of the member at any time during the period of twelve months prior to his enlistment are, at any time within five years after his death, without adequate means of support; and where the member—

(i) being the grandparent of an ex-nuptial child, leaves the child so dependent upon his earnings, or

(ii) 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.”

- (b) by inserting after the definition of "Dependants" the words "'Deputy Commissioner' means a Deputy Commissioner of Pensions under this Act;"
- (c) by adding at the end of the definition of "Member of the Forces" the words ", and includes a member of the Army Medical Corps Nursing Service who is accepted or appointed by the Director-General of Medical Services for service outside Australia;" ; and
- (d) by omitting the definition of "The Pensions Board" and inserting in its stead the following definitions:—
- " 'Registrar' means a Registrar of Pensions under this Act ;
- 'The Commissioner' means the Commissioner of Pensions under this Act ;"

4. Paragraph (b) of the proviso to section three of the Principal Act is amended— Amendment  
of s. 3.

- (a) by omitting the words "under any other Act", and inserting in their stead the words "under any Act (other than the *Invalid and Old-age Pensions Act* 1908–1912, or any Act amending or substituted for that Act,)" ;
- (b) by inserting after the word "gratuity" the words "(but not including any payment in lieu of furlough under the *Commonwealth Public Service Act* 1902–1913 or the *Defence Act* 1903–1915)," ;
- (c) by omitting the words "such other" and inserting in their stead the word "that" ; and
- (d) by omitting the word "other" (last occurring).

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

" 4. There shall be a Commissioner of Pensions, who shall, subject to the control of the Minister, have the general administration of this Act. Commissioner.

" 4A.—(1.) There may be an Assistant Commissioner of Pensions, who shall have such powers as are delegated by the Commissioner or as are prescribed. Assistant  
Commissioner.

" (2.) The Commissioner may, by writing under his hand, delegate to the Assistant Commissioner all or any of his powers under this Act.

" (3.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Commissioner.

" 4B. There shall be a Deputy Commissioner for each State, who shall, subject to the control of the Commissioner, have the powers conferred on him by this Act. Deputy  
Commissioners.

" 4C. The Governor-General may appoint a Deputy Commissioner at any place outside the limits of the Commonwealth and any Deputy Deputy  
Commissioners  
outside  
Commonwealth.

Commissioner so appointed shall for the purposes of this Act have, in addition to the powers conferred on him by this Act, the powers and functions of a Registrar or a Special Magistrate.

Registrars. "4D. The Governor-General may appoint such Registrars of Pensions as he thinks necessary for the purposes of this Act.

Special Magistrates. "4E. The Governor-General may appoint such Special Magistrates of the Commonwealth as he thinks necessary for the purposes of this Act.

Officers under Invalid and Old-age Pensions Act to be officers under this Act. "4F. The persons for the time being holding the offices of Commissioner of Pensions, Assistant Commissioner of Pensions, Deputy Commissioner of Pensions, Registrar of Pensions, or Special Magistrate, under the *Invalid and Old-age Pensions Act* 1908-1912 shall be deemed to have been appointed to the offices under this Act corresponding respectively to the offices held by them under that Act.

Powers and duties of Registrars. "4G.—(1.) Each Registrar shall have power to administer oaths and shall have such other powers and such duties and functions as are conferred or imposed upon him by this Act.

"(2.) In particular, it shall be the duty of each Registrar—

- (a) to receive pension claims ;
- (b) to investigate pension claims as prescribed ; and
- (c) generally, to keep such books and registers, and do all such things, as are prescribed or as the Commissioner or the Deputy Commissioner directs."

Powers of Commissioner and Deputy Commissioners. 6. Section five of the Principal Act is amended by omitting the words "the Pensions Board or any member thereof" (wherever occurring) and inserting in their stead the words "the Commissioner or a Deputy Commissioner".

7. After section five of the Principal Act the following section is inserted :—

Duties of Deputy Commissioners. "5A.—(1.) Each Deputy Commissioner 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 determining the dates of the commencement of such pensions ; and
- (d) such other duties as are prescribed.

"(2.) The Commissioner may at any time direct that any particular case or cases of a particular class be referred to him for assessment or determination."

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

“ 6. An appeal shall lie to the Commissioner from any assessment or determination of a Deputy Commissioner under this Act.” Appeal to  
Commissioner.

9. Section seven of the Principal Act is amended by omitting the words “ the Pensions Board ” (wherever occurring) and inserting in their stead the words “ the Commissioner ”. Review by  
Commissioner.

10. After section seven of the Principal Act the following section is inserted :—

“ 7A. If any pensioner is convicted of an offence and sentenced to any term of imprisonment, the Commissioner or a Deputy Commissioner may suspend his pension during the term of his imprisonment or any portion thereof or forfeit any instalment thereof accruing during such term or portion : Provided that in the case of a pensioner with dependants upon him the amount forfeited during the term of his imprisonment shall be paid to such dependants.” Suspension  
of pension or  
forfeiture of  
instalment.

11. Section eight of the Principal Act is amended—

(a) by omitting the words “ shall not exceed the following ”, and inserting in their stead the words “ shall be as follows ” ;

(b) by omitting the words “ the Pensions Board ” (wherever occurring) and inserting in their stead the words “ the Commissioner or the Deputy Commissioner, as the case may be,” ;

(c) by adding at the end of sub-paragraph (iii) of paragraph (B) the words “ and

(iv) to the other dependants such rates as are assessed by the Commissioner or the Deputy Commissioner, as the case may be, 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.” ;  
and

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

“ (2.) Notwithstanding anything contained in this section, the maximum rate of pension payable to a child both of whose parents are dead, or whose mother is dead and whose father is totally or partially incapacitated, shall be Nineteen pounds ten shillings per annum.”

Amendment  
of s. 8.

12. After section eight of the Principal Act the following section is inserted:—

Payment of  
pension  
instalments.

“8A.—(1.) Pensions shall be paid in fortnightly instalments.

“(2.) In order to ascertain the amount of an instalment of a pension covering a period of a fortnight the annual pension shall be divided by twenty-six.

“(3.) The instalment of a pension covering a period of less than a fortnight shall be in proportion to the number of days of a fortnight.”

Amendment  
of s. 9.

13. Section nine of the Principal Act is amended—

(a) by omitting the words “the Pensions Board” (wherever occurring), and inserting in their stead the words “the Commissioner”;

(b) by omitting the words “with the sanction of the Minister”; and

(c) by omitting the word “its” and inserting in its stead the word “his”.

14. After section nine of the Principal Act the following section is inserted:—

Pensions  
payable for  
limited period  
in certain cases.

“9A.—(1.) A pension payable to any dependant who at the date of the granting of the pension is under sixteen years of age shall cease upon the pensioner attaining that age, or after the expiration of two years from the date of the commencement of the pension, whichever occurs later.

“(2.) Except in the case of a child, or of the wife, widow, father, mother, grandfather or grandmother of a member of the Forces, no pension shall be payable for a period exceeding two years to any dependant who in the opinion of the Commissioner or the Deputy Commissioner, as the case may be, is able to earn a livelihood.

“(3.) A child to whom a pension has been granted, who on attaining the age of sixteen years is, in the opinion of the Commissioner, unable to earn a livelihood, may then be granted a pension at such rate as may be assessed by the Commissioner, but not exceeding the rate specified in column two of the Schedule opposite the rate of pay of the member.

Provided that an application for the pension shall be made to the Commissioner or a Deputy Commissioner within six months of the child attaining the age of sixteen years.”

Pensions to  
female  
dependants to  
cease upon  
marriage or  
re-marriage.

15. Section ten of the Principal Act is amended—

(a) by omitting the words “the widow”, and inserting in their stead the words “any female dependant”; and

(b) by inserting after the word “her” the words “marriage or”.

Repeal  
of s. 11.

16. Section eleven of the Principal Act is repealed.

Amendment  
of s. 14.

17. Section fourteen of the Principal Act is amended by omitting from paragraph (c) thereof the words “or to the Pensions Board”.

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18. Section sixteen of the Principal Act is amended by omitting the word "in" (first occurring). Amendment of s. 16.

19. The Schedule to the Principal Act is amended by inserting in column one thereof, after the figures "6. 0.", the words "and under". Amendment of the Schedule.